

THIS IS A COURTESY COPY OF THE HIGHLANDS WATER PROTECTION AND PLANNING ACT, N.J.S.A. 13:20-1 ET SEQ. THE OFFICIAL VERSION IS PUBLISHED IN THE NEW JERSEY STATUTES. IF THERE ARE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE STATUTE, THE OFFICIAL VERSION WILL GOVERN.

“Highlands Water Protection and Planning Act”

UPDATED THROUGH P.L. 2016, ch.32, and JR 3 of 2016

13:20-1 Short title.

1. This act shall be known, and may be cited, as the "Highlands Water Protection and Planning Act."

13:20-2 Findings, declarations relative to the "Highlands Water Protection and Planning Act."

2. The Legislature finds and declares that the national Highlands Region is an area that extends from northwestern Connecticut across the lower Hudson River Valley and northern New Jersey into east central Pennsylvania; that the national Highlands Region has been recognized as a landscape of special significance by the United States Forest Service; that the New Jersey portion of the national Highlands Region is nearly 800,000 acres, or about 1,250 miles, covering portions of 88 municipalities in seven counties; and that the New Jersey Highlands Region is designated as a Special Resource Area in the State Development and Redevelopment Plan.

The Legislature further finds and declares that the New Jersey Highlands is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the State's population, including communities beyond the New Jersey Highlands, from only 13 percent of the State's land area; that the New Jersey Highlands contains other exceptional natural resources such as clean air, contiguous forest lands, wetlands, pristine watersheds, and habitat for fauna and flora, includes many sites of historic significance, and provides abundant recreational opportunities for the citizens of the State.

The Legislature further finds and declares that the New Jersey Highlands provides a desirable quality of life and place where people live and work; that it is important to ensure the economic viability of communities throughout the New Jersey Highlands; and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the New Jersey Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities.

The Legislature further finds and declares that there are approximately 110,000 acres of agricultural lands in active production in the New Jersey Highlands; that these lands are important resources of the State that should be preserved; that the agricultural industry in the region is a vital component of the economy, welfare, and cultural landscape of the Garden State; and, that in order to preserve the agricultural industry in the region, it is necessary and important to recognize and reaffirm the goals, purposes, policies, and provisions of the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.) and the protections afforded to farmers thereby.

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The Legislature further finds and declares that, since 1984, 65,000 acres, or over 100 square miles, of the New Jersey Highlands have been lost to development; that sprawl and the pace of development in the region has dramatically increased, with the rate of loss of forested lands and wetlands more than doubling since 1995; that the New Jersey Highlands, because of its proximity to rapidly expanding suburban areas, is at serious risk of being fragmented and consumed by unplanned development; and that the existing land use and environmental regulation system cannot protect the water and natural resources of the New Jersey Highlands against the environmental impacts of sprawl development.

The Legislature further finds and declares that the protection of the New Jersey Highlands, because of its vital link to the future of the State's drinking water supplies and other key natural resources, is an issue of State level importance that cannot be left to the uncoordinated land use decisions of 88 municipalities, seven counties, and a myriad of private landowners; that the State should take action to delineate within the New Jersey Highlands a preservation area of exceptional natural resource value that includes watershed protection and other environmentally sensitive lands where stringent protection policies should be implemented; that a regional approach to land use planning in the preservation area should be established to replace the existing uncoordinated system; that such a new regional approach to land use planning should be complemented by increased standards more protective of the environment established by the Department of Environmental Protection for development in the preservation area of the New Jersey Highlands; that the new regional planning approach and the more stringent environmental regulatory standards should be accompanied, as a matter of wise public policy and fairness to property owners, by a strong and significant commitment by the State to fund the acquisition of exceptional natural resource value lands; and that in the light of the various pressures now arrayed against the New Jersey Highlands, these new approaches should be implemented as soon as possible.

The Legislature further finds and declares that in the New Jersey Highlands there is a mountain ridge running southwest from Hamburg Mountain in Sussex County that separates the eastern and the western New Jersey Highlands; that much of the State's drinking water supplies originate in the eastern New Jersey Highlands; and that planning for the region and the environmental standards and regulations to protect those water supplies should be developed with regard to the differences in the topography of the Highlands Region and how the topography affects the quality of the water supplies.

The Legislature therefore determines, in the light of these findings set forth hereinabove, and with the intention of transforming them into action, that it is in the public interest of all the citizens of the State of New Jersey to enact legislation setting forth a comprehensive approach to the protection of the water and other natural resources of the New Jersey Highlands; that this comprehensive approach should consist of the identification of a preservation area of the New Jersey Highlands that would be subjected to stringent water and natural resource protection standards, policies, planning, and regulation; that this comprehensive approach should also consist of the establishment of a Highlands Water Protection and Planning Council charged with the preparation of a regional master plan for the preservation area in the New Jersey Highlands

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as well as for the region in general; that this comprehensive approach should also include the adoption by the Department of Environmental Protection of stringent standards governing major development in the Highlands preservation area; that, because of the imminent peril that the ongoing rush of development poses for the New Jersey Highlands, immediate, interim standards should be imposed on the date of enactment of this act on major development in the preservation area of the New Jersey Highlands, followed subsequently by adoption by the department of appropriate rules and regulations; that it is appropriate to encourage in certain areas of the New Jersey Highlands, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and to discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof; that the maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible wherever appropriate in the New Jersey Highlands; and that all such aforementioned measures should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the region and the entire State.

13:20-3 Definitions relative to the "Highlands Water Protection and Planning Act."

3. As used in this act:

"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 impervious cover" means agricultural or horticultural buildings, structures, or facilities with or without flooring, residential buildings, and paved areas, but shall not mean temporary coverings;

"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;

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"Application for development" means the application form and all accompanying documents required for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permit pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or R.S.40:27-1 et seq., for any use, development, or construction;

"Capital improvement" means any facility for the provision of public services with a life expectancy of three or more years, owned and operated by or on behalf of the State or a political subdivision thereof;

"Construction beyond site preparation" means having completed the foundation for a building or structure, and does not include the clearing, cutting, or removing of vegetation, bringing construction materials to the site, or site grading or other earth work associated with preparing a site for construction;

"Construction materials facility" means any facility or land upon which the activities of production of ready mix concrete, bituminous concrete, or class B recycling occurs;

"Council" means the Highlands Water Protection and Planning Council established by section 4 of this act;

"Department" means the Department of Environmental Protection;

"Development" means the same as that term is defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4);

"Development regulation" means the same as that term is defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4);

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

"Environmental land use or water permit" means 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.);

"Facility expansion" means the expansion of the capacity of an existing capital improvement in order that the improvement may serve new development;

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"Farm conservation plan" means a site specific plan that prescribes needed land treatment and related conservation and natural resource management measures, including forest management practices, that are determined to be practical and reasonable for the conservation, protection, and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of nonpoint source pollution;

"Farm management unit" 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 open waters" means all springs, streams including intermittent streams, wetlands, and bodies of surface water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but shall not mean swimming pools;

"Highlands Region" means that region so designated by subsection a. of section 7 of this act;

"Immediate family member" means 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;

"Impact fee" means cash or in-kind payments required to be paid by a developer as a condition for approval of a major subdivision or major site plan for the developer's proportional share of the cost of providing new or expanded reasonable and necessary public improvements located outside the property limits of the subdivision or development but reasonably related to the subdivision or development based upon the need for the improvement created by, and the benefits conferred upon, the subdivision or development;

"Impervious surface" means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements;

"Individual unit of development" means a dwelling unit in the case of a residential development, a square foot in the case of a non-residential development, or any other standard employed by a municipality for different categories of development as a basis upon which to establish a service unit;

"Local government unit" means a municipality, county, or other political subdivision of the State, or any agency, board, commission, utilities authority or other authority, or other entity thereof;

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"Major Highlands development" means, except as otherwise provided pursuant to subsection a. of section 30 of this act, (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 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 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 mean an agricultural or horticultural development or agricultural or horticultural use in the preservation area. Solar panels shall not be included in any calculation of impervious surface;

"Mine" means any mine, whether on the surface or underground, and any mining plant, material, equipment, or explosives on the surface or underground, which may contribute to the mining or handling of ore or other metalliferous or non-metalliferous products. The term "mine" shall also include a quarry, sand pit, gravel pit, clay pit, or shale pit;

"Mine site" means the land upon which a mine, whether active or inactive, is located, for which the Commissioner of Labor and Workforce Development has granted a certificate of registration pursuant to section 4 of P.L.1954, c.197 (C.34:6-98.4) and the boundary of which includes all contiguous parcels, except as provided below, of property under common ownership or management, whether located in one or more municipalities, as such parcels are reflected by lot and block numbers or metes and bounds, including any mining plant, material, or equipment. "Contiguous parcels" as used in this definition of "mine site" shall not include parcels for which mining or quarrying is not a permitted use or for which mining or quarrying is not permitted as a prior nonconforming use under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);

"Office of Smart Growth" means the Office of State Planning established pursuant to section 6 of P.L.1985, c.398 (C.52:18A-201);

"Planning area" means that portion of the Highlands Region not included within the preservation area;

"Preservation area" means that portion of the Highlands Region so designated by subsection b. of section 7 of this act;

"Public utility" means the same as that term is defined in R.S.48:2-13;

"Recreation and conservation purposes" means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3);

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"Regional master plan" means the Highlands regional master plan or any revision thereof adopted by the council pursuant to section 8 of this act;

"Resource management systems plan" means a site specific conservation system plan that (1) prescribes needed land treatment and related conservation and natural resource management measures, including forest management practices, for the conservation, protection, and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of nonpoint source pollution, and (2) establishes criteria for resources sustainability of soil, water, air, plants, and animals;

"Service area" means that area to be served by the capital improvement or facility expansion as designated in the capital improvement program adopted by a municipality under section 20 of P.L.1975, c.291 (C.40:55D-29);

"Service unit" means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or facility expansions;

"Soil conservation district" means the same as that term is defined in R.S.4:24-2;

"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;

"State Development and Redevelopment Plan" means the State Development and Redevelopment Plan adopted pursuant to P.L.1985, c.398 (C.52:18A-196 et al.);

"State entity" means any State department, agency, board, commission, or other entity, district water supply commission, independent State authority or commission, or bi-state entity;

"State Soil Conservation Committee" means the State Soil Conservation Committee in the Department of Agriculture established pursuant to R.S.4:24-3;

"Temporary coverings" means permeable, woven and non-woven geotextile fabrics that allow for water infiltration or impermeable materials that are in contact with the soil and are used for no more than two consecutive years; and

"Waters of the Highlands" means all springs, streams including intermittent streams, and bodies of surface or ground water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but shall not mean swimming pools.

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13:20-4 "Highlands Water Protection and Planning Council."

4. There is hereby established a public body corporate and politic, with corporate succession, to be known as the "Highlands Water Protection and Planning Council." The council shall constitute a political subdivision of the State established as an instrumentality exercising public and essential governmental functions, and the exercise by the council of the powers and duties conferred by this act shall be deemed and held to be an essential governmental function of the State. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the council is hereby allocated within the Department of Environmental Protection, but, notwithstanding that allocation, the council shall be independent of any supervision or control by the department or by the commissioner or any officer or employee thereof.

13:20-5 Membership of council, appointment, terms, meetings, minutes delivered to Governor.

5. a. The council shall consist of 15 voting members to be appointed and qualified as follows:

(1) Eight residents of the counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, or Warren, appointed by the Governor, with the advice and consent of the Senate, (a) no more than four of whom shall be of the same political party, (b) of whom five shall be municipal officials residing in the Highlands Region and holding elective office at the time of appointment and three shall be county officials holding elective office at the time of appointment, and (c) among whom shall be (i) at least one resident from each of the counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, and Warren, and (ii) two residents from the county that has the largest population residing in the Highlands Region, of whom no more than one shall be of the same political party; and

(2) Seven residents of the State, of whom five shall be appointed by the Governor, with the advice and consent of the Senate, one shall be appointed by the Governor upon the recommendation of the President of the Senate, and one shall be appointed by the Governor upon the recommendation of the Speaker of the General Assembly. The members appointed pursuant to this paragraph shall have, to the maximum extent practicable, expertise, knowledge, or experience in water quality protection, natural resources protection, environmental protection, agriculture, forestry, land use, or economic development, and at least four of them shall be property owners, business owners, or farmers in the Highlands Region or residents or nonresidents of the Highlands Region who benefit from or consume water from the Highlands Region.

b. (1) Council members shall serve for terms of five years; provided, however, that of the members first appointed, five shall serve a term of three years, five shall serve a term of four

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years, and five shall serve a term of five years. The initial terms of the two council members appointed by the Governor upon the recommendation, respectively, of the President of the Senate and the Speaker of the General Assembly shall be among those council members assigned initial terms of five years pursuant to this paragraph.

(2) Each member shall serve for the term of the appointment and until a successor shall have been appointed and qualified. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term only.

c. Any member of the council may be removed by the Governor, for cause, after a public hearing.

d. Each member of the council, before entering upon the member's duties, shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability, in addition to any oath that may be required by R.S.41:1-1 et seq. A record of the oath shall be filed in the Office of the Secretary of State.

e. The members of the council shall serve without compensation, but the council may, within the limits of funds appropriated or otherwise made available for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

f. The powers of the council shall be vested in the members thereof in office. A majority of the total authorized membership of the council shall constitute a quorum and no action may be taken by the council except upon the affirmative vote of a majority of the total authorized membership of the council. No alternate or designee of any council member shall exercise any power to vote on any matter pending before the council.

g. The Governor shall designate one of the members of the council as chairperson. The council shall appoint an executive director, who shall be the chief administrative officer thereof. The executive director shall serve at the pleasure of the council, and shall be a person qualified by training and experience to perform the duties of the office.

h. The members and staff of the council shall be subject to the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.).

i. The council shall be subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

j. A true copy of the minutes of every meeting of the council shall be prepared and forthwith delivered to the Governor. No action taken at a meeting by the council shall have force or effect until 10 days, exclusive of Saturdays, Sundays, and public holidays, after a copy of the minutes shall have been so delivered; provided, however, that no action taken with respect to the adoption of the regional master plan, or any portion or revision thereof, shall have force or effect until 30 days, exclusive of Saturdays, Sundays, and public holidays, after a copy of the minutes

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shall have been so delivered. If, in the 10-day period, or 30-day period, as the case may be, the Governor returns the copy of the minutes with a veto of any action taken by the council at the meeting, the action shall be null and void and of no force and effect.

13:20-6 Powers, duties, responsibilities of council.

6. The council shall have the following powers, duties, and responsibilities, in addition to those prescribed elsewhere in this act:

a. To adopt and from time to time amend and repeal suitable bylaws for the management of its affairs;

b. To adopt and use an official seal and alter it at the council's pleasure;

c. To maintain an office at such place or places in the Highlands Region as it may designate;

d. To sue and be sued in its own name;

e. To appoint, retain and employ, without regard to the provisions of Title 11A of the New Jersey Statutes but within the limits of funds appropriated or otherwise made available for those purposes, such officers, employees, attorneys, agents, and experts as it may require, and to determine the qualifications, terms of office, duties, services, and compensation therefor;

f. To apply for, receive, and accept, from any federal, State, or other public or private source, grants or loans for, or in aid of, the council's authorized purposes or in the carrying out of the council's powers, duties, and responsibilities;

g. To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the council or to carry out any power, duty, or responsibility expressly given in this act;

h. To call to its assistance and avail itself of the services of such employees of any State entity or local government unit as may be required and made available for such purposes;

i. To adopt a regional master plan for the Highlands Region as provided pursuant to section 8 of this act;

j. To appoint advisory boards, commissions, councils, or panels to assist in its activities, including but not limited to a municipal advisory council consisting of mayors, municipal council members, or other representatives of municipalities located in the Highlands Region;

k. To solicit and consider public input and comment on the council's activities, the

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regional master plan, and other issues and matters of importance in the Highlands Region by periodically holding public hearings or conferences and providing other opportunities for such input and comment by interested parties;

l. To conduct examinations and investigations, to hear testimony, taken under oath at public or private hearings, on any material matter, and to require attendance of witnesses and the production of books and papers;

m. To prepare and transmit to the Commissioner of Environmental Protection such recommendations for water quality and water supply standards for surface and ground waters in the Highlands Region, or in tributaries and watersheds thereof, and for other environmental protection standards pertaining to the lands and natural resources of the Highlands Region, as the council deems appropriate;

n. To identify and designate in the regional master plan special areas in the preservation area within which development shall not occur in order to protect water resources and environmentally sensitive lands while recognizing the need to provide just compensation to the owners of those lands when appropriate, whether through acquisition, transfer of development rights programs, or other means or strategies;

o. To identify any lands in which the public acquisition of a fee simple or lesser interest therein is necessary or desirable in order to ensure the preservation thereof, or to provide sites for public recreation, as well as any lands the beneficial use of which are so adversely affected by the restrictions imposed pursuant to this act as to require a guarantee of just compensation therefor, and to transmit a list of those lands to the Commissioner of Environmental Protection, affected local government units, and appropriate federal agencies;

p. To develop model land use ordinances and other development regulations, for consideration and possible adoption by municipalities in the planning area, that would help protect the environment, including, but not limited to, ordinances and other development regulations pertaining to steep slopes, forest cover, wellhead and water supply protection, water conservation, impervious surface, and clustering; and to provide guidance and technical assistance in connection therewith to those municipalities;

q. To identify and designate, and accept petitions from municipalities to designate, special critical environmental areas in high resource value lands in the planning area, and develop voluntary standards and guidelines for protection of such special areas for possible implementation by those municipalities;

r. To comment upon any application for development before a local government unit, on the adoption of any master plan, development regulation, or other regulation by a local government unit, or on the enforcement by a local government unit of any development regulation or other regulation, which power shall be in addition to any other review, oversight, or intervention powers of the council prescribed by this act;

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s. To work with interested municipalities to enter into agreements to establish, where appropriate, capacity-based development densities, including, but not limited to, appropriate higher densities to support transit villages or in centers designated by the State Development and Redevelopment Plan and endorsed by the State Planning Commission;

t. To establish and implement a road signage program in cooperation with the Department of Transportation and local government units to identify significant natural and historic resources and landmarks in the Highlands Region;

u. To promote, in conjunction with the Department of Environmental Protection and the Department of Agriculture, conservation of water resources both in the Highlands Region and in areas outside of the Highlands Region for which the Highlands is a source of drinking water;

v. To promote brownfield remediation and redevelopment in the Highlands Region;

w. To work with the State Agriculture Development Committee and the Garden State Preservation Trust to establish incentives for any landowner in the Highlands Region seeking to preserve land under the farmland preservation program that would be provided in exchange for the landowner agreeing to permanently restrict the amount of impervious surface and agricultural impervious cover on the farm to a maximum of five percent of the total land area of the farm;

x. To establish and charge, in accordance with a fee schedule to be set forth by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), reasonable fees for services performed relating to the review of applications for development and other applications filed with or otherwise brought before the council, or for other services, as may be required by this act or the regional master plan; and

y. To prepare, adopt, amend, or repeal, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary in order to exercise its powers and perform its duties and responsibilities under the provisions of this act.

13:20-7 Highlands Region, preservation area; delineated.

7. a. The Highlands Region shall consist of all that area within the boundaries of the following municipalities:

(1) in Bergen County: Mahwah and Oakland;

(2) in Hunterdon County: Alexandria, Bethlehem, Bloomsbury, Califon, Clinton Town, Clinton Township, Glen Gardner, Hampton, High Bridge, Holland, Lebanon Boro, Lebanon

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Township, Milford, Tewksbury, and Union;

(3) in Morris County: Boonton Town, Boonton Township, Butler, Chester Boro, Chester Township, Denville, Dover, Hanover, Harding, Jefferson, Kinnelon, Mendham Boro, Mendham Township, Mine Hill, Montville, Morris Plains, Morris Township, Morristown, Mount Arlington, Mount Olive, Mountain Lakes, Netcong, Parsippany-Troy Hills, Pequannock, Randolph, Riverdale, Rockaway Boro, Rockaway Township, Roxbury, Victory Gardens, Washington, and Wharton;

(4) in Passaic County: Bloomingdale, Pompton Lakes, Ringwood, Wanaque, and West Milford;

(5) in Somerset County: Bedminster, Bernards, Bernardsville, Far Hills, and Peapack-Gladstone;

(6) in Sussex County: Byram, Franklin, Green, Hamburg, Hardyston, Hopatcong, Ogdensburg, Sparta, Stanhope, and Vernon; and

(7) in Warren County: Allamuchy, Alpha, Belvidere, Franklin, Frelinghuysen, Greenwich, Hackettstown, Harmony, Hope, Independence, Liberty, Lopatcong, Mansfield, Oxford, Phillipsburg, Pohatcong, Washington Boro, Washington Township, and White.

b. (1) The preservation area shall consist of all that area within the boundaries described herein:

Beginning at the New Jersey and New York border and the intersection of State Highway 17 and Interstate 287 in northern Mahwah Township; thence southerly on Interstate 287 to its intersection with Ramapo Valley Road (U.S. Highway 202); thence southwesterly on Ramapo Valley Road (U.S. Highway 202) to its intersection with the Campgaw Mountain County Reservation, immediately south of Marion Drive; thence in a general northeastern direction along the boundary of the Campgaw Mountain County Reservation, until its intersection with Interstate 287; thence southerly on Interstate 287 to its intersection with the Mahwah Township and Oakland Borough corporate boundary; thence northwesterly along the Mahwah Township and Oakland Borough corporate boundary to its intersection with the Ramapo River; thence south on the east bank of the Ramapo River to its intersection with Interstate 287; thence westerly on Interstate 287 to its intersection with West Oakland Avenue; thence southerly and westerly on West Oakland Avenue to its intersection with Doty Road; thence southerly on Doty Road to its intersection with Ramapo Valley Road (U.S. Highway 202); thence westerly and southerly on Ramapo Valley Road (U.S. Highway 202) to its intersection with Long Hill Road

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(County Road 931); thence southerly on Long Hill Road (County Road 931) to its intersection with the Oakland Borough and Franklin Lakes Borough corporate boundary; thence southerly on the Oakland Borough and Franklin Lakes Borough corporate boundary to its intersection with the Oakland Borough corporate boundary; thence northwesterly along the Oakland Borough corporate boundary to the Wanaque Borough corporate boundary; thence westerly and southerly along the Wanaque Borough and Pompton Lakes Borough corporate boundary to its intersection with Ringwood Avenue (Alternate 511) to its intersection with the southwestern corner of Block 478, lot 7 in Wanaque Borough; thence east along the boundary of Block 478, lot 7 to boundary of Block 479, lot 3 in Wanaque Borough; thence northerly along the boundary of Block 479, lot 3 to the boundary of Block 479, lot 2; thence westerly and northerly to Interstate 287; thence northerly on Interstate 287 to its intersection with the Pompton River; thence northerly along the western bank of the Pompton River to its intersection in Wanaque Borough with the abandoned railroad right of way east of Ringwood Avenue; thence northerly on the abandoned railroad right of way to its intersection with Belmont Avenue; thence easterly on Belmont Avenue to its intersection with Mullen Avenue; thence southerly and easterly on Mullen Avenue to its intersection with Belmont Avenue thence easterly to Meadow Brook; thence northerly on the eastern bank of Meadow Brook to its intersection with Meadow Brook Avenue in Wanaque Borough; thence easterly on Meadow Brook Avenue to its intersection with Crescent Road; thence northerly on Crescent Road to its intersection with Tremont Terrace; thence northerly on Tremont Terrace to its intersection with Wilson Drive; thence northerly on Wilson Drive to its intersection with Conklintown Road; thence westerly on Conklintown Road to its intersection with Ringwood Avenue (Alternate 511); thence southerly on Ringwood Avenue (Alternate 511) to its intersection with the Wanaque Reservoir public lands; thence southerly and westerly on the Wanaque Reservoir public lands boundary to its intersection with Posts Brook; thence southerly on the eastern bank of Posts Brook to its intersection with Doty Road; thence easterly on Doty Road to its intersection the northeast corner of Block 401, lot 3 in Wanaque Borough; thence southerly along the boundary of Block 401, lot 3 to the intersection with the Bloomingdale Borough and Wanaque Borough corporate boundary; thence southerly on Bloomingdale Borough and Wanaque Borough corporate boundary to its intersection with Union Avenue County Road 511); thence westerly on Union Avenue (County Road 511) to its intersection with Morse Lake Road; thence north on Morse Lake Road to the southeastern corner of Block 57, lot 41 in Bloomingdale Borough; thence westerly along the boundary of Block 57, lot 41 to the boundary of Block 57, lot 40; thence northerly and westerly along the boundary of Block 57, lot 40 to the northeast corner of Block 57, lot 43.01; thence continuing westerly and southerly along the boundary of Block 57, lot 43.01 to the boundary of Block 92.08, lot 77; thence westerly along the boundary of Block 92.08, lot 77 to the northeast corner of Block 92.08, lot 1; thence continuing westerly along the northern boundary of Block 92.08, lot 1 to the southern boundary of Block 49.02, lot 12; thence continuing westerly along the southern boundary of Block 49.02, lot 12 to the southern boundary of Block 49.02, lot 28; thence continuing westerly along the

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southern boundary of Block 49.02, lot 28 to Woodlot Road; thence westerly across Woodlot Road to the boundary of Block 49.09, lot 8; thence westerly along the southern boundary of Block 49.09, lot 8 to the boundary of Block 49.09, lot 12; thence westerly along the southern boundary of Block 49.09, lot 12 to Overlook Road (Natalie Court); thence westerly across Overlook Road (Natalie Court) to the boundary of Block 49.01, lot 5.04; thence northwesterly along the boundary of Block 49.01, lot 5.04 to the southern corner of Block 49.01, lot 5.05; thence northwesterly along the boundary of Block 49.01, lot 5.05 to a corner of Block 44, lot 182; thence generally westerly following the southern boundary of Block 44, lot 182 to Glenwild Avenue (Carmantown Road) at South Road; thence northerly along the eastern edge of Glenwild Avenue (Carmantown Road) right of way to a point opposite Glade Road; thence south across Glenwild Avenue (Carmantown Road) to the northeast corner of Block 5, lot 28; thence south along the boundary of Block 5, lot 28 to the boundary of Block 5, lot 26.01; thence southerly along the boundary of Block 5, lot 26.01 to Star Lake Road (Ridge Road); thence southwest across Star Lake Road (Ridge Road) to the northern corner of Block 5, lot 26.11 along the boundary of Block 5, lot 26.01; thence westerly along the boundary of Block 5, lot 26.01 to the northern corner of Block 5, lot 26.02; thence southerly and westerly following along the boundary of Block 5, lot 26.02 to the northeastern corner of Block 5, lot 25.02; thence westerly and southerly along the boundary of Block 5, lot 25.02 to the northern limit of the Macopin Road (County Road 693) right of way; thence northerly and westerly on Macopin Road (County Road 693) to its intersection with the Bloomingdale Borough and West Milford Township corporate boundary; thence southerly on the Bloomingdale Borough and West Milford Township corporate boundary to its intersection with the West Milford Township and Butler Borough corporate boundary; thence southerly along this corporate boundary to its intersection with the Kinnelon Borough, Butler Borough and Morris County Corporate boundary; thence westerly, southerly and easterly on the Kinnelon Borough and Butler Borough corporate boundary to its intersection with State Highway 23; thence easterly on State Highway 23 to its intersection with the Kinnelon Borough and Riverdale Borough corporate boundary; thence southerly and easterly on the Riverdale Borough and Pequannock Township corporate boundary to its intersection with Interstate 287; thence southerly on Interstate 287 to its intersection with Old Lane Road Extension; thence westerly, northerly and westerly on Old Lane Road Extension to the intersection of Virginia Drive; thence southerly on Virginia Drive to its intersection with MacLeay Drive; thence southwesterly on MacLeay Drive to its intersection with West Lake Drive; thence southwesterly on West Lake Drive to Taylortown Road; thence northerly and westerly on Taylortown Road to its intersection with Boonton Avenue and Rockaway Valley Road; thence westerly on Rockaway Valley Road to its intersection with Powerville Road (County Road 618); thence northerly on Powerville Road (County Road 618) to its intersection with Kincaid Road; thence easterly on Kincaid Road to its intersection with the Boonton Township and Montville Township corporate boundary; thence northerly, along the corporate boundary to the intersection with the Boonton Township and Kinnelon Borough corporate

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boundary; thence westerly on the corporate boundary to the intersection with the Boonton Township and Rockaway Township corporate boundary; thence and southerly on the Boonton Township corporate boundary to its intersection with Split Rock Road; thence northerly on Split Rock Road to its intersection with Lyonsville Road; thence southerly and westerly on Lyonsville Road and its continuation as Meriden Lyonsville Road to its intersection with Beaver Brook; thence along the eastern bank of the Beaver Brook southerly to its intersection with Ford Road; thence southerly and westerly along Ford Road to its intersection with Morris Avenue; thence northerly and westerly along Morris Avenue to its intersection with Green Pond Road (County Road 513); thence northerly on Green Pond Road (County Road 513) to its intersection with the Wildcat Ridge Wildlife Management Area; thence westerly on the Wildcat Ridge Wildlife Management Area boundary to its intersection with Hibernia Brook; thence westerly on the southern bank of Hibernia Brook to its intersection with Valley View Drive; thence westerly on Valley View Drive to its intersection with Erie Avenue; thence northerly on Erie Avenue to its intersection with Comanche Avenue; thence southerly on Comanche Avenue to its intersection with West Lake Shore Drive; thence westerly on West Lake Shore Drive to its intersection with Jackson Avenue; thence westerly on Jackson Avenue to its intersection with Miami Trail; thence westerly and southerly on Miami Trail to its intersection with Cayuga Avenue; thence southerly on Cayuga Avenue to its intersection with South Brookside Avenue; thence easterly on South Brookside Avenue to its intersection with Montauk Avenue; thence southerly on Montauk Avenue to its intersection with Old Middletown Road; thence southwesterly on Old Middletown Road to its intersection with Ridge Road; thence westerly on Ridge Road to its intersection with Cathy's Place; thence southerly on Cathy's Place to its intersection with Mt. Hope Road (County Road 666); thence northerly on Mt. Hope Road (County Road 666) to its intersection with the Mt. Hope Park public land boundary; thence southerly and westerly on the Mt. Hope Park public land boundary to its intersection with Block 70001 in Rockway Township (Picatinny Arsenal); thence northeasterly, northerly and southwesterly on the boundary of Block 70001 (Picatinny Arsenal) to its intersection with State Highway 15; thence northerly on State Highway 15 to its intersection with the Rockaway Township and Jefferson Township corporate boundary; thence southwesterly on the Rockaway Township and Jefferson Township corporate boundary south of Interstate 80 to its intersection with the Conrail/NJ Transit right of way; thence westerly on Conrail/NJ Transit right of way to its intersection with the Roxbury Township and Mount Arlington Borough corporate boundary; thence northerly on the Roxbury Township and Mount Arlington Borough corporate boundary to its intersection with the southern corner of Block 22, lot 13 in Mount Arlington Borough; thence northerly and northwesterly on the boundary of Block 22, lot 13 to its intersection with Berkshire Avenue; thence westerly on Berkshire Avenue to its intersection with Mountainview Avenue; thence northerly on Mountainview Avenue to its intersection with the southern corner on Block 8, lot 5.01 in Mount Arlington Borough; thence easterly, northerly, southerly then northerly on the boundary of Block 8, lot 5.01 to its intersection with Littel Way; thence westerly on Littel Way to its intersection with Howard

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Boulevard (County Road 615); thence northerly on Howard Boulevard, continuing northerly as it becomes Espanong Road, to its intersection with Edison Road (County Road 615); thence easterly on Edison Road (County Road 615) to its intersection with State Highway 15; thence northerly on the eastern edge of the State Highway 15 right of way north of Lake Winona to its intersection with the electrical utility right of way; thence southerly and westerly on the utility right of way to its intersection with State Highway 181; thence southerly on State Highway 181 to its intersection with Prospect Point Road; thence southerly on Prospect Point Road to its intersection with Northwood Road (County Road 609); thence southwesterly on Northwood Road to its intersection with a tributary of the Musconetcong River; thence northerly on the west bank of the tributary of the Musconetcong River to its intersection with the southwestern boundary of Block 70001, lot 4 in Hopatcong Borough; thence southwesterly on the southwestern boundary of Block 70001, lot 4 to its intersection with the southernmost corner of Block 70001, lot 5; thence northwesterly on the boundary of Block 70001, lot 5 to its intersection with Block 70001, lot 1; thence southwesterly on Block 70001, lot 1 to its intersection with the easternmost point of Block 50002, lot 1; thence southwesterly on Block 50002, lot 1 to its intersection with Mohawk Trail and Block 50003, lot 1 in Hopatcong Borough; thence northwesterly and southwesterly along the northeast border of Block 5003, lot 1 to its intersection with the northwest corner of Block 5002, lot 2; thence southerly along the western boundary of Block 5002, lot 2 to its intersection with the northernmost corner of Block 5002, lot 4; thence southwesterly along Block 5002, lot 4 to its intersection with Block 5002, lot 6; thence northwesterly, southwesterly, southeasterly and southwesterly along the boundary of Block 5002, lot 6 to its westernmost corner; thence westerly on a line to the intersection of Old Sparta Stanhope Road and Lubbers Run; thence northerly on Old Sparta Stanhope Road to its intersection with Sparta Stanhope Road (County Route 605); thence southerly on Sparta Stanhope Road (County Route 605) to the intersection of the Conrail right of way; thence southerly along the Conrail right of way to its intersection with the Byram Township and Stanhope Borough corporate boundary; thence westerly and southerly along the Byram Township and Stanhope Borough corporate boundary to its intersection with the southeastern corner of Block 42, lot 115 in Byram Township; thence northeasterly and westerly on the block limit of Block 42 to its intersection with the southeastern corner of Block 42, lot 112; thence northerly on a line approximately 390 feet east of, and parallel to, State Highway 206 to its intersection with Brookwood Road; thence easterly on Brookwood Road to the southeastern corner of Block 40, lot 18; thence northerly on the boundary of Block 40, lot 18 to its intersection with Block 40, lot 15; thence easterly and northerly on Block 40, lot 15 to its intersection with Block 40, lot 14; thence northeasterly, northerly, and westerly on the boundary of Block 40, lot 14 to its intersection with the southeastern corner of Block 365, lot 5; thence northeasterly on the boundary of Block 365, lot 5 to Lake Lackawanna Road (also known as Lackawanna Drive) and the southeastern corner of Block 226, lot 16; thence northeasterly on the boundary of Block 226, lot 16 to its intersection with Block 226, lot 11; thence westerly,

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northerly, westerly, southerly, and westerly on the boundary of Block 226, lot 11 to its intersection with State Highway 206; thence southerly on State Highway 206 to its intersection with the northeast corner of Block 70, lot 7.02; thence westerly, southerly, westerly, and southerly on the boundary of Block 70, lot 7.02 to its intersection with Block 70, lot 7.01; thence southerly on the boundary of Block 70, lot 7.01 to its intersection with Block 70, lot 6; thence southerly on the boundary of Block 70, lot 6 to its intersection with Hi Glen Drive, continuing southerly to the northwest corner of Block 59, lot 5; thence southerly on the boundary of Block 59, lot 5 to its intersection with Block 34, lot 16; thence westerly, southerly, easterly and southerly on the boundary of Block 34, lot 16 to its intersection with Block 34, lot 17; thence westerly on the boundary of Block 34, Lot 17 to its intersection with Millstream Lane (as depicted on the municipal map); thence southerly on Millstream Lane (as depicted on the municipal map) to its intersection with Netcong Avenue; thence easterly on Netcong Avenue to its intersection with State Highway 206; thence southerly on the western edge of the State Highway 206 right of way to its intersection with the northeastern corner of Block 36, lot 39.01; thence westerly, southerly and easterly along the boundary of lot 39.01 to the western edge of the State Highway 206 right of way; thence southerly on the western edge of the State Highway 206 right of way to its intersection with the northeastern corner of Block 36, lot 40; thence westerly, northerly, westerly along the boundary of Block 36 Lot 40 to the boundary of Block 36, Lot 42; thence northerly, westerly, southerly along the boundary of Block 36, Lot 42 to Waterloo Road; thence westerly along Waterloo Road to the intersection with the northwestern corner of Block 29, Lot 201.03; thence southerly to the intersection of Block 29, Lot 201.02 and Block 27, Lot 379; thence easterly to the northeast corner of Block 27, Lot 379; thence southerly on a line approximately 143 feet west of, and paralleling, the western edge of the State Highway 206 right of way to the intersection with Acorn Street; thence easterly on Acorn Street to State Highway 206; thence southerly along the western edge of the State Highway 206 right of way to its intersection with the corporate boundary between Byram Township and Stanhope Borough; thence generally southerly along the corporate boundary between Byram Township and Stanhope Borough to the Musconetcong River and the corporate boundary between Byram Township and Mount Olive Township; thence northwesterly along the corporate boundary between Byram Township and Mount Olive Township to its intersection with Allamuchy State Park; thence southerly, westerly and southerly on the Allamuchy State Park boundary to its intersection with Interstate 80; thence southeasterly on Interstate 80 to its intersection with International Drive North; thence southeasterly on International Drive North to its intersection with Waterloo Valley Road; thence easterly and southerly on Waterloo Valley Road to its intersection with Allamuchy State Park; thence easterly and southerly and westerly on the Allamuchy State Park boundary to its intersection with Lozier Road; thence easterly on Lozier Road to its intersection with Waterloo Road; thence southerly on Waterloo Road to its intersection with 4th Street; thence westerly and southerly on 4th Street to its intersection with Hopkins Drive; thence southerly on Hopkins Drive to its intersection with Netcong Road

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(County Road 649); thence southerly and westerly on Netcong Road (County Road 649) to its intersection with Sand Shore Road (County Road 649); thence southerly on Sand Shore Road (County Road 649) to its intersection with U.S. Highway 46; thence northerly and easterly on U.S. Highway 46 to its intersection with Gold Mine Road; thence easterly on Gold Mine Road to its intersection with State Highway 206; thence northerly on State Highway 206 to its intersection with Mountain Road; thence southerly and easterly on Mountain Road to its intersection with Mooney Road; thence northerly on Mooney Road to its intersection with U.S. Highway 46; thence easterly and southerly on U.S. Highway 46 to its intersection with Main Street and the Morris Canal Park boundary; thence southerly on the Morris Canal Park boundary to its intersection with Mountain Road; thence northeasterly on Mountain Road to its intersection with Emmans Road; thence southerly and westerly on Emmans Road to its intersection with the Conrail right of way south of Drake's Brook; thence southerly and westerly on Conrail right of way to its intersection with State Highway 206; thence southerly on State Highway 206 to its intersection with the Mount Olive Township and Chester Township corporate boundary; thence northerly and westerly on the Chester Township corporate boundary to its intersection with the Roxbury Township corporate boundary, continuing northerly and westerly on the Roxbury Township and Chester Township corporate boundaries to the intersection with the Black River Wildlife Management Area; thence northerly and easterly on the boundary of the lands of the Morris County Utilities Authority to its intersection with easterly on Righter Road; thence easterly on Righter Road to its intersection with Park Avenue; thence southerly on Park Avenue to its intersection with the Randolph Township and Chester Township corporate boundary; thence southeasterly on the Chester Township corporate boundary to its intersection with North Road (County Road 513); thence southerly and westerly on North Road (County Road 513) to its intersection with the Chester Township and Chester Borough corporate boundary; thence northerly; thence westerly, southerly and easterly around the Chester Borough corporate boundary to its intersection with Main Street (County Road 510); thence southerly on County Route 510 to its intersection with Chester Township and Mendham Township corporate boundary; thence southerly on the Chester Township corporate boundary to its intersection with the Chester Township and Peapack-Gladstone Borough and Somerset County corporate boundary; thence southwesterly on the Chester Township and Peapack-Gladstone Borough and Somerset County corporate boundary to its intersection with the Bedminster Township corporate boundary; thence southerly on the Bedminster Township corporate boundary to its intersection with Pottersville Road (County Road 512); thence westerly on Pottersville Road (County Road 512) to its intersection with Black River Road; thence northerly and westerly on Black River Road to its intersection with the corporate boundaries of Bedminster Township and Tewksbury Township; thence northerly along the corporate boundaries to their intersection with the corporate boundary of Washington Township; thence westerly along the corporate boundaries of Washington Township and Tewksbury Township to the point where it intersects Black River Road; thence northerly and westerly on Black River Road to the intersection of Hacklebarney

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Road; thence north on Hacklebarney Road to the intersection of Old Farmers Road; thence northerly and westerly on Old Farmers Road to the intersection of Flintlock Drive; thence easterly and northerly on Flintlock Drive to the intersection of Parker Road; thence westerly on Parker Road to the intersection of Old Farmers Road; thence northerly on Old Farmers Road to the intersection with the southwestern corner of Block 36.06 in Washington Township; thence northeasterly on the southern boundary of Block 36.06 to its intersection with Block 36, lot 42; thence northwesterly on the boundary of Block 36, lot 42 to its intersection with the southern corner of Block 36, lot 41; thence northeasterly along the southern boundary of Block 36, lot 41 to its intersection with Block 36, lot 43; thence northwesterly on the eastern boundary of Block 36, lot 41 to its intersection with Block 36, lot 43.01; thence westerly and northwesterly on the boundary of Block 36, lot 43.01 to a point 560 feet southeast from the centerline of East Mill Road; thence easterly, and parallel to East Mill Road, a distance of 1300 feet to a point 560 feet from the centerline of East Mill Road; thence northerly to its intersection with East Mill Road; thence westerly on East Mill Road to its intersection with the southwestern corner of Block 28, lot 17.01; thence northwesterly on the western boundary of Block 28, lot 17.01 to its intersection with Block 28, lot 17; thence westerly, easterly and northwesterly on Block 28, lot 17 to its intersection with Block 28, lot 300; thence northwesterly on Block 28, lot 300 to its intersection with Block 28, lot 60; thence northwesterly on Block 28, lot 60 to its intersection with Fairview Avenue; thence southwesterly on Fairview Avenue to its intersection with Springtown Brook (Raritan River Tributary); thence northerly and northwesterly on Springtown Brook to its intersection with the southeastern corner of Block 25, lot 47; thence northwesterly and westerly on the boundary of Block 25, lot 47 to a point that is due east of the northernmost corner of Block 25, lot 48; thence due east to the northernmost corner of Block 25, lot 48; thence westerly, northerly and westerly on the northernmost boundaries of Block 25, lots 48, 49, 47.01, 51, and 52.01 to the intersection of Block 25, lot 52.02; thence northwesterly on Block 25, lot 52.02 to Schooley's Mountain Road (County Road 517); thence across Schooley's Mountain Road (County Road 517) to the northeastern corner of Block 33, lot 19.01; thence westerly on Block 33, lot 19.01 to the northernmost corner of Block 33, lot 19; thence southwesterly on a line to the southwestern corner of Block 33, lot 58.01; thence southeasterly on Block 33, lot 58.01 to its intersection with the abandoned railroad right of way (including the Columbia Gas transmission line); thence crossing the abandoned railroad right of way to the southeastern corner of Block 33, lot 58; thence southeasterly on Block 33, lot 58 to West Mill Road (County Road 513); thence crossing to West Mill Road (County Road 513) to the eastern corner of Block 34, lot 46; thence southeasterly and northeasterly on Block 34, lot 46 to its intersection with Block 34, lot 50; thence northeasterly on Block 34, lot 50 to its intersection with Block 34, lot 1.01; thence northeasterly on Block 34, lot 1.01 to its intersection with Block 34, lot 3.01; thence northeasterly on Block 34, lot 3.01 to its intersection with Fairmount Road (County Road 517); thence southerly along Fairmount Road to the intersection of Parker Road; thence northeast along Parker Road to Black River Road; thence east along Parker Road to Pickle Road; thence

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south on Pickle Road to the intersection of West Fairmount Road (County Road 512); thence southerly on West Fairmount Road (County Road 512) to its intersection with Hollow Brook Road; thence westerly on Hollow Brook Road to its intersection with Homestead Road; thence southerly on Homestead Road to its intersection with High Street (County Road 517) and Hill and Dale Road; thence westerly on Hill and Dale Road to its intersection with Rockaway Road; thence westerly on Rockaway Road to its intersection with Meadow Road; thence southerly on Meadow Road to its intersection with Bissell Road; thence westerly on Bissell Road to its intersection with Welsh Road; thence southerly and westerly on Welsh Road to its intersection with the Tewksbury Township and Clinton Township corporate boundary; thence westerly on the Tewksbury Township and Clinton Township corporate boundary to its intersection with Cokesbury Road (County Road 639); thence northerly and westerly on Cokesbury Road (County Road 639) to its intersection with Cokesbury Califon Road; thence northerly on Cokesbury Califon Road to its intersection with the Lebanon Township and Clinton Township corporate boundary; thence westerly on the Lebanon Township and Clinton Township corporate boundary to its intersection with Mt. Grove Road; thence southerly on Mt. Grove Road to its intersection with Beaver Brook Ravine public land boundary; thence southerly, westerly and northerly on the Beaver Brook Ravine public land boundary to its intersection with Highbridge Cokesbury Road (County Road 639); thence westerly on Highbridge Cokesbury Road (County Road 639) to its intersection with Stone Mill Road; thence north on Stone Mill Road to the Clinton Township and Lebanon Township corporate boundary; thence westerly on the Clinton Township corporate boundary to its intersection with the High Bridge Borough and Lebanon Township corporate boundary; thence west and southerly along the corporate boundary to the intersection with Cregar Road; thence westerly on Cregar Road to its intersection with State Highway 31; thence southerly on State Highway 31 to its intersection with the Spruce Run Reservoir boundary; thence southerly and westerly on the Spruce Run Reservoir boundary to its intersection with Rupell Road; thence westerly on Rupell Road to its intersection with the Clinton Fish and Wildlife Management Area; thence westerly on the Clinton Fish and Wildlife Management Area boundary to its intersection with Charlestown Road (County Road 635); thence southerly on Charlestown Road (County Road 635) to its intersection with South Frontage Road in Union Township; thence westerly on South Frontage Road to the intersection of Baptist Church Road; thence south on Baptist Church Road to the Norfolk Southern Lehigh Valley railroad right of way; thence easterly along the northern boundary of the Norfolk Southern Lehigh Valley railroad right of way to Mechlin Corner Road; thence north on Mechlin Corner Road to the intersection of Perryville Road; thence easterly and southerly on Perryville Road to its intersection with Race Street; thence easterly on Race Street to its intersection with the Franklin Township and Union Township corporate boundary; thence southerly on the Franklin Township and Union Township corporate boundary to Pittstown Clinton Road (County Road 513) to its intersection with Cook's Cross Road; thence westerly on Cook's Cross Road to its intersection with Bloomsbury Road (County Road 579); thence northerly and westerly on Bloomsbury Road (County Road 579) to

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its intersection with Little York Pattenburg Road (County Road 614); thence westerly and southerly on Little York Pattenburg Road (County Road 614) to its intersection with Little York Mt. Pleasant Road (County Road 631) and Ellis Road; thence westerly and northerly on Ellis Road to its intersection with Hawkes Schoolhouse Road; thence southerly on Hawkes Schoolhouse Road to its intersection with Milford Warren Glen Road (County Road 519); thence westerly on Milford Warren Glen Road (County Road 519) to its intersection with Dennis Road; thence westerly and northerly on Dennis Road to its intersection with Milford Warren Glen Road (County Road 519); thence northerly on Milford Warren Glen Road (County Road 519) to its intersection with the Musconetcong River; thence southerly and westerly on the southern bank of the Musconetcong River to its intersection with the Delaware River and the State of New Jersey corporate boundary; thence northerly and easterly on the Delaware River and the State of New Jersey corporate boundary to its intersection with the Phillipsburg Town and Pohatcong Township corporate boundary; thence northeasterly on the Phillipsburg Town and Pohatcong Township corporate boundary to its intersection with Interstate 78; thence southerly on interstate 78 to its intersection with the Pohatcong Township and Alpha Borough corporate boundary; thence southerly and westerly on the Pohatcong Township and Alpha Borough corporate boundary to its intersection with Snydersville Road; thence northeasterly on Snydersville Road to its intersection with Interstate 78; thence northeasterly on Interstate 78 to its intersection with the Pohatcong Township and Alpha Borough corporate boundary; thence northeasterly on the Pohatcong Township and Alpha Borough corporate boundary to its intersection with Edge Road; thence northwesterly on Edge Road to its intersection with Interstate 78; thence northerly and easterly on Interstate 78 to its intersection with US Highway 22; thence southeasterly on US Highway 22 to its intersection with the Greenwich Township and Pohatcong Township corporate boundary; thence southerly on the Greenwich Township and Pohatcong Township corporate boundary to its intersection with Warren Glen Bloomsbury Road (County Road 639); thence northerly and easterly on Warren Glen Bloomsbury Road (County Road 639) to its intersection with State Highway 173 in Greenwich Township; thence easterly on State Highway 173 to its intersection with Church Street (County Road 579); thence easterly on Church Street (County Road 579) to its intersection with the Musconetcong River; thence northerly and easterly on the northern bank of the Musconetcong River to its intersection with the eastern most boundary of the Musconetcong Valley Acquisition public lands in Bethlehem Township; thence easterly and southerly on the Musconetcong Valley Acquisition public land boundary to its intersection with the Conrail right of way; thence easterly on the Conrail right of way to its intersection with D. Hull Private Road; thence southerly on the D. Hull Private Road to its intersection with State Highway 173; thence east to the intersection of West Portal Asbury Road (County Road 643); thence easterly and northerly on West Portal Asbury Road (County Road 643); thence easterly and northerly on West Portal-Asbury Road (County Road 643) to its intersection with Maple Avenue in Warren County; thence northerly and easterly on Maple Avenue to its intersection with Shurts Road; thence southerly on Shurts Road, becoming Valley Road in Hunterdon

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County, continuing on Valley Road to its intersection with Main Street in Hampton Borough; thence northerly on Main Street to its intersection with State Highway 31; thence northerly on State Highway 31 to its intersection with the Musconetcong River; thence northerly and easterly on the northern bank of the Musconetcong River to its intersection with Newburgh Road; thence east on Newburgh Road to the intersection of Schooley's Mountain Road (County Route 517); thence northerly on Schooley's Mountain Road (County Route 517) to the Musconetcong River; thence northerly along the Musconetcong River to East Avenue; thence northeasterly along East Avenue to U.S. Highway 46; thence northerly and easterly along U.S. Highway 46 to the intersection with the Washington Township and Mount Olive Township corporate boundary; thence westerly and southerly along said corporate boundary to the Musconetcong River; thence northerly along the southern bank of the Musconetcong River to the Stephens State Park boundary; thence northerly, westerly, northerly, westerly along the Stephens State Park boundary to a point opposite the lands of Stephens State Park on the western and northern bank of the Musconetcong; thence across the Musconetcong River to the boundary of the lands of Stephens State Park; thence along the southern boundary of Stephens State Park to the intersection of Willow Grove Road (Warren County Route 604); thence north along the lands of Stephens State Park and Willow Grove Road (Warren County Route 604) to a point opposite the lands of Stephens State Park on the west side of Willow Grove Road (Warren County Route 604); thence crossing Willow Grove Road to the boundary of the lands of Stephens State Park; thence westerly along said State Park boundary lands to the intersection with the Conrail right of way; thence southerly on Conrail right of way to its intersection with Bilby Road; thence northerly and westerly on Bilby Road to its intersection with Old Bilby Road; thence northerly and westerly on Old Bilby Road to its intersection with High Street (County Road 517); thence southerly on High Street (County Road 517) to its intersection with Old Allamuchy Road; thence southerly and westerly on Old Allamuchy Road to its intersection with the Independence Township and Hackettstown Town corporate boundary; thence westerly and southerly on the Hackettstown Town corporate boundary to its intersection with the Hackettstown Town and Mansfield Township corporate boundary; thence southerly and easterly on the Hackettstown Town and Mansfield Township corporate boundary to its intersection with the Conrail railroad right of way at Rockport Road; thence southerly and westerly on the Conrail railroad right of way into Washington Township to a point along the Conrail railroad right of way 1,250 feet southwest of the Washington Township and Mansfield Township corporate boundary; thence proceeding northwesterly 380 feet more or less along a line projected to the southeastern corner of Block 43, lot 10.01 in Washington Township; thence continuing northwesterly and westerly along the boundary of Block 43, lot 10.01 to the northeastern corner of Block 43, lot 10; thence westerly along the boundary of Block 43, lot 10 to the southeastern corner of Block 43, lot 9; thence northerly along the eastern boundaries of Block 43, lots 9, 6 and 5; thence along a line projected from the northern corner of Block 43, lot 5 365 feet more or less across a portion of Block 43, lot 3 to the southeastern corner of Block 43, lot 4; thence northerly and westerly along the boundary

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of Block 43, lot 4 to Port Colden Road; thence northerly on Port Colden Road to the Shabbecong Creek crossing; thence southwesterly along the northern bank of the Shabbecong Creek to its intersection with the western boundary of Block 40, lot 86; thence south along Block 40, lot 86 to the northeastern corner of Block 40, lot 87.02; thence westerly along the northern boundary of Block 40, lot 87.02; thence 60 feet more or less along a line projected from the northwestern corner of Block 40, lot 87.02 across a portion of Block 40, lot 87 to the northeast corner of Block 40, lot 87.01 and a corner of Block 40, lot 87; thence westerly along the southern boundary of Block 40, lot 87 to the Washington Township and Washington Borough corporate boundary; thence northerly and westerly along the Washington Township and Washington Borough corporate boundary to the southern corner of Block 40, lot 105; thence northeasterly to the corner and intersection with the boundary of Block 40, lot 87; thence northwesterly along the boundary of Block 40, lot 87 to the intersection with the first southwestern corner of Block 40, lot 110; thence northwesterly along the western boundary of Block 40, lot 110 to the southern corner of Block 40, lot 25; thence northeasterly and northwesterly along the boundary of Block 40, lot 25 to the southern corner of Block 40, lot 28; thence northeasterly and northwesterly along the boundary of Block 40, lot 28 the intersection of Jackson Valley Road and State Highway 31; thence northerly along western edge of the right of way of State Highway 31 to a point 2,200 feet north of Jackson Valley Road intersection; thence turning 90 degrees west from the right of way edge and proceeding 1,300 feet more or less westerly across a portion of Block 38, lot 5 to the Conrail railroad tracks or right of way; thence south along the eastern edge of Conrail railroad tracks or right of way to the northern corner of Block 38, lot 8; thence south along the western boundary of Block 38, lot 8 to the southern bank of the Pohatcong Creek; thence southwesterly along the southern bank of the Pohatcong Creek to Mine Hill Road; thence northwesterly along Mine Hill Road to the intersection of Bowerstown Road; thence southwesterly approximately 310 feet on the northern edge of the Bowerstown Road right of way to its intersection with a 12 foot wide portion of Block 5, lot 18 which provides access to Bowerstown Road; thence 550 feet more or less westerly along the 12 foot wide portion of Block 5, lot 18 to the point it intersects with the western limit of the 100 foot wide New Jersey Power and Light easement; thence turning south approximately 104 degrees more or less and projecting along a line 200 feet more or less to the northern corner of Block 5, lot 16.04; thence projected southerly along a line 300 feet more or less to the northern corner of Block 5, lot 17; thence continuing southerly along the western boundaries of Block 5, lots 17, 16.01, 16.02, and 16.03 to the western corner of Block 5, lot 16.03; thence projecting southerly along a line 670 feet more or less to the eastern corner of Block 5, lot 22.01; thence continuing southerly along the eastern boundary of Block 5, lot 22.01 to Lannings Trail; thence southeast across Lannings Trail to the northeast corner of Block 6, lot 13.05; thence southwesterly and northwesterly along the eastern boundary of Block 6, lot 13.05 to the eastern corner of Block 6, lot 11; thence southerly along the eastern boundary of Block 6, lot 11 to Lanning Terrace; thence southerly across Lanning Terrace to the northeastern corner of Block 6, lot 19.03; thence southerly along the eastern boundary of Block 6, lot 19.03 to the

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intersection of the northern boundary of Block 6, lot 20.01; thence following along the boundary of Block 6, lot 20.01 easterly and then generally southwesterly to the eastern corner of Block 6, lot 32; thence southwesterly along the eastern boundary of Block 6, lot 32 to Forces Hill Road; thence easterly on Forces Hill Road to the intersection of Brass Castle Road; thence westerly along the southern edge of the Brass Castle Road right of way to the eastern corner of Block 14, lot 1; thence southwesterly and southeasterly along the boundary of Block 14, lot 1 to the northeastern corner of Block 14, lot 22; thence southeasterly and southwesterly along the boundary of Block 14, lot 22 to Old Schoolhouse Road; thence southwesterly along the northern edge of the right of way for Old Schoolhouse Road to the intersection with the northern edge of the right of way of Little Philadelphia Road; thence southwesterly along the northern edge of the right of way for Little Philadelphia Road to the northeastern corner of Block 15, lot 8.01; thence southwesterly along the northern boundary of Block 15, lot 8.01 to the Washington Township and Franklin Township corporate boundary; thence southeasterly along the Washington Township and Franklin Township corporate boundary to State Highway Route 57; thence southwesterly along State Highway Route 57 to its intersection with Uniontown Road (County Road 519) in Lopatcong Township; thence northerly on Uniontown Road (County Road 519) to the intersection of Upper Belvidere Road Warren County Route 519; thence continuing northerly on Warren County Route 519 which becomes Belvidere Phillipsburg Road to its intersection with South Bridgeville Road (County Road 519); thence easterly and northerly on South Bridgeville Road (County Road 519) to its intersection with Brass Castle Road (County Road 623); thence easterly and southerly on Brass Castle Road (County Road 623) to its intersection with Hazen Oxford Road (County Road 624); thence easterly and southerly on Hazen Oxford Road (County Road 624) to its intersection with Belvidere Road (County Road 624); thence easterly and southerly on Belvidere Road (County Road 624) to its intersection with the northwestern corner of Block 24, lot 10 in Oxford Township; thence southerly, thence easterly on the boundary of Block 24, lot 10 to its intersection with the eastern boundary of Block 24, lot 20; thence southerly on the boundary of Block 24, lot 20 to its intersection with the northern boundary of Block 24, lot 19; thence easterly, thence southeasterly on the boundary of Block 24, lot 19 to its intersection with the northeastern corner of Block 24, lot 13.01; thence southerly on the eastern boundary of Block 24, lot 13.01 to its intersection with Block 24, lot 13; thence southerly on the eastern boundary of Block 24, lot 13 to its intersection with Buckley Avenue; thence easterly on Buckley Avenue to its intersection with the northwestern corner of Block 2, lot 30; thence southerly, thence easterly on the boundary of Block 2, lot 30, continuing easterly on the southern boundaries of Block 2, lots 31, 32, 33, 34, 35, and the southeastern corner of lot 36; thence on a line due south to its intersection with Block 2, lot 18.01; thence easterly, thence southerly on the boundary of Block 2, lot 18.01 to its intersection with the northwestern corner of Block 2, lot 19.02 at Kent Place; thence southerly on the boundary of Block 2, lot 19.02 to its southwestern corner; thence southerly on a line to the southwestern corner of Block 2, lot 61; thence easterly on the southern boundary of Block 2, lot 61 to its intersection with Jonestown

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Road; thence southerly on Jonestown Road to its intersection with the southwestern corner of Block 1.01, lot 39.02; thence easterly on the southern boundary of Block 1.01, lot 39.02, continuing easterly on the southern boundary of Block 1.01, lots 39 and 39.01 to the intersection with Mine Hill Road; thence northerly on Mine Hill Road to the intersection with Academy Street and the Oxford Mountain public land boundary; thence northeasterly on the Oxford Mountain public land boundary to the intersection with State Highway 31; thence easterly on State Highway 31 to the intersection of Oram's Lane; thence easterly on Oram's Lane to its end and intersection with Block 34, lot 2; thence northerly, thence easterly on the boundary of Block 34, lot 2 to its intersection with Block 34, lot 2.01; thence easterly on the northern boundary of Block 34, lot 2.01 to its intersection with the Pequest Wildlife Management Area boundary; thence northerly on the Pequest Wildlife Management Area boundary to its intersection with Axford Avenue and the Pequest Wildlife Management Area boundary; thence westerly and northerly on the Pequest Wildlife Management Area boundary to its intersection with the Oxford Township and White Township corporate boundary; thence westerly on the Oxford Township and White Township corporate boundary to its intersection with State Highway 31; thence northerly on State Highway 31 to its intersection with U.S. 46; thence easterly on U.S. 46 to its intersection with Free Union Road; thence northerly on Free Union Road to its intersection with Beechwood Road; thence westerly on Beechwood Road to its intersection with Tamarack Road; thence northerly on Tamarack Road to its intersection with the White Township and Liberty Township corporate boundary; thence northerly and westerly on the White Township and Liberty Township corporate boundary to its intersection with Mountain Lake Road (County Road 617); thence southerly and westerly on Mountain Lake Road to its intersection with North Bridgeville Road (County Road 519); thence northerly on North Bridgeville Road (County Road 519) to its intersection with the White Township and Hope Township corporate boundary; thence easterly and southerly on the White Township and Hope Township corporate boundary to its intersection with the Hope Township and Liberty Township corporate boundary; thence northerly and easterly on the Hope Township and Liberty Township corporate boundary to its intersection with the Frelinghuysen Township and Independence Township corporate boundary; thence northerly and easterly on the Frelinghuysen Township and Independence Township corporate boundary to its intersection with Frelinghuysen Township and Allamuchy Township corporate boundary; thence northerly and easterly on the Frelinghuysen Township and Allamuchy Township corporate boundary to its intersection with the southern boundary of the Interstate 80 right of way in Frelinghuysen Township; thence easterly along the southern boundary of the Interstate 80 right of way to its intersection with the Conrail right of way in Allamuchy Township; thence southerly and westerly on the Conrail right of way to its intersection with the southeastern corner of Block 29 , lot 29 in Independence Township; thence northwesterly along the southwest boundary of Block 29, lot 29 in Independence Township to the Pequest River; thence northerly on the western bank of the Pequest River to its intersection with the southern corner of Block 29, lot 44 in Independence Township; thence northwesterly

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along the southwestern boundary of Block 29, lot 44 in Independence Township to Shades of Death Road; thence southerly and westerly on Shades of Death Road to its intersection with Hope Road (County Road 611); thence southerly and easterly on Hope Road (County Road 611) to its intersection with U.S. 46; thence northerly and easterly on U.S. 46 to its intersection with Old Cemetery Road; thence southerly and easterly on Old Cemetery Road across the Conrail right of way to its intersection with Cemetery Road; thence southerly and easterly on Cemetery Road to its intersection with Barkers Mill Road; thence southerly and easterly on Barkers Mill Road to its intersection with Johnson Road; thence easterly and northerly on Johnson Road to its intersection with U.S. 46 and Ketchum Road; thence northerly and easterly on Ketchum Road to its intersection with Petersburg Road (County Road 614) and Ridge Road; thence northerly and easterly on Ridge Road to its intersection with County Road 517; thence northerly on County Road 517 to its intersection with Stuyvestant Road and Allamuchy State Park boundary; thence northerly along the Allamuchy State Park boundary into Green Township; thence southeasterly and northeasterly along the Allamuchy State Park boundary to its intersection with the Green Township and Byram Township corporate boundary; thence continuing northerly and easterly on the Byram Township and Andover Borough corporate boundary; thence continuing northerly and easterly along the Byram Township and Andover Township corporate boundary to its intersection with the Sparta Township corporate boundary; thence easterly on the Sparta Township corporate boundary to its intersection with Tomahawk Trail; thence easterly and northerly on Tomahawk Trail to its intersection with Green Road; thence northerly on Green Road to its intersection with Sawmill Road; thence easterly and northerly on Sawmill Road to its intersection with State Highway 181; thence northerly on State Highway 181 to its intersection with Blue Heron Road; thence easterly on Blue Heron Road to its intersection with State Highway 15; thence northerly along the western boundary of the State Highway 15 right of way to its intersection with the southern corner of Block 13.13, lot 21 in Sparta Township; thence easterly and thence northerly along the boundary of Block 13.13, lot 21 to its intersection with Block 13.13, lot 22; thence northeasterly on the boundary of Block 13.13, lot 22 to its intersection with Glen Road (Sussex County Route 620); thence westerly on Glen Road (Sussex County Route 620) to its intersection with the westernmost point of Block 7, lot 57; thence easterly on the boundary of Block 7, lot 57 to its intersection with Block 7, lot 58; thence northerly on the boundary of Block 7, lot 58 to its intersection with the southwestern edge of Block 7, lot 61.02; thence easterly, northerly, then westerly on the boundary of Block 7, lot 61.02 to its intersection with Main Street; thence southwesterly on Main Street to its intersection with the southernmost corner of Block 12, lot 3; thence westerly on the southern boundary of Block 12, lot 3 to its intersection with Sussex County Route 517; thence westerly on Sussex County Route 517 to its intersection with Station Road; thence northerly on Station Road to its intersection with the southernmost point of Block 19, lot 43; thence northerly, thence easterly on the boundary of Block 19, lot 43 to its intersection with Block 19, lot 39; thence following the boundary of Block 19, lot 39 around the parcel in a counterclockwise manner to its intersection

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with Block 19, lot 99; thence southerly on the boundary of Block 19, lot 99 to its intersection with the western boundary of the State Highway 15 right of way; thence northerly along the western boundary of the State Highway 15 right of way to its intersection with Houses Corner Road; thence easterly and northerly on Houses Corner Road to its intersection with West Mountain Road; thence southerly on West Mountain Road to its intersection with Sparta Munsons Road; thence southeasterly across Sparta Munsons Road to the Conrail right of way; thence northerly and easterly along the northwestern boundary of the Conrail right of way to its intersection with the Ogdensburg Borough and Sparta Township corporate boundary; thence northeasterly to the southwestern end of Heater's Pond and proceeding northerly along the western edge of Heater's Pond to the intersection of Edison Road; thence westerly on Edison Road to the intersection with the New York Susquehanna and Western Railroad right of way; thence northerly along the easterly edge of the New York Susquehanna and Western Railroad right of way to the Ogdensburg Borough and Hardyston Township corporate boundary; thence westerly on the Ogdensburg Borough and Hardyston Township corporate boundary to its intersection with the Franklin Borough corporate boundary; thence easterly and northerly on the Franklin Borough and Hardyston Township corporate boundary to its intersection with Henderson Road (Hamburg Turnpike); thence southerly and easterly on Henderson Road (Hamburg Turnpike) to the intersection of Mountain Road in Hardyston Township; thence northerly on Mountain Road to its intersection with Rudetown Road (County Road 517); thence easterly and northerly on Rudetown Road (County Road 517) to the Black Creek in Vernon Township; thence easterly along Black Creek to its intersection with the boundary of Block 280, lot 22 in Vernon Township; thence easterly along said boundary to the western boundary of Block 280, lot 23; thence following the boundary of Block 280, lot 23 south to the boundary of Block 177, lot 49; thence easterly and northerly along the boundary of Block 177, lot 49 to the boundary of Block 190, lot 18.06; thence easterly along the boundary of Block 190, lot 18.06 to the boundary of Block 190, lot 18.05; thence southeasterly and thence northeasterly along the boundary Block 190, lot 18.05 to the boundary of Block 190, lot 18.01; thence northeasterly along the boundary of Block 190, lot 18.01 to the boundary of Block 190, lot 18.S01; thence southeasterly along the boundary of Block 190, lot 18.S01 to the boundary of Block 190, lot 20; thence southwesterly and easterly along the boundary of Block 190, lot 20 to the boundary of Block 240, lot 1; thence easterly along the boundary of Block 240, lot 1 to County Road 515; thence northerly along County Road 515 to the intersection of Breakneck Road and County Road 515; thence easterly and southerly along the northern edge of the right of way of Breakneck Road to the intersection of the southeastern corner of Block 143, lot 17 in Vernon Township; thence northerly along the eastern boundary of Block 143, lot 17 to the northern corner of Block 143, lot 25; thence northerly 1035 feet more or less along a line projected across Block 143, lot 17 to the southern corner of Block 143, lot 16; thence northerly along the eastern boundary of Block 143, lot 16 to the southern corner of Block 143, lot 15; thence westerly and northerly along the southwestern boundary of Block 143, lot 15 to Pond Eddy Road; thence northerly

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across Pond Eddy Road to the southern corner of Block 143, lot 10; thence northerly along the eastern boundary of Block 143, lot 10 to the boundary of Block 143, lot 7; thence westerly southerly and generally northerly along the western boundary of Block 143, lot 7 to the limit of Block 143.01; thence northwesterly along the southern limit of Block 143.01 to the eastern corner of Block 143.01, lot 22; thence northwesterly along the northern boundary of Block 143.01, lot 22 and lot 23 to Vernon Warwick Road (State Highway 94); thence easterly and northerly on Vernon Warwick Road (State Highway 94) to its intersection with Maple Grange Road; thence northerly and westerly on Maple Grange Road to its intersection with Pochuck Creek and Wawayanda State Park/Appalachian Trail public land; thence northerly and westerly along the western and southern Wawayanda State Park/Appalachian Trail public land boundary to its intersection with the western terminus of Thistle Avenue (Walnut Hill Drive); thence easterly and southerly on Thistle Avenue (Walnut Hill Drive) to its intersection with Phlox Terrace; thence southerly on Phlox Terrace to its intersection with Cedar Terrace; thence southerly on Cedar Terrace to its intersection with Clover Lane; thence easterly on Clover Lane to its intersection with Zinnia Drive; thence southerly and westerly on the eastern and southern bank of the tributary of Black Creek to its intersection with Lounsberry Hollow Road; thence northerly on Lounsberry Hollow Road to its intersection with Dorchester Road; thence westerly and southerly on Dorchester Road to its intersection with Rolling Hills Road; thence southerly on Rolling Hills Road to its intersection with a tributary of Black Creek to its intersection with Pochuck Mountain public land boundary; thence southerly and northerly on the Pochuck Mountain public land boundary to its intersection with a tributary of Black Creek; thence northerly on the western bank of the tributary of Black Creek to its intersection with Lake Glenwood; thence along the west shore of Lake Glenwood to Pochuck Creek; thence northerly and westerly on Lake Shore Drive to its intersection with Glenwood Martin Station Road (County Road 565); thence southerly and westerly on Glenwood Martin Station Road (County Road 565) to its intersection with Babtown Road; thence northerly on Babtown Road to its intersection with Maple Avenue; thence northerly on with Maple Avenue to its intersection with Spring Lane; thence northerly on Spring Lane to its intersection with Lakeside Drive; thence northerly on Lakeside Drive to its intersection with Glen Road; thence westerly on Glen Road to its intersection with Lake Walkill Road; thence northerly on Lake Walkill Road to its intersection with the New York State corporate boundary; thence easterly and southerly to its intersection with State Highway 17 and Interstate Highway 287 in northern Mahwah Township, at a point of origin.

(2) Except as otherwise provided in paragraph (1) of this subsection, any natural geographical feature, including a river, stream, or brook, used in paragraph (1) of this subsection for the boundary description of the preservation area shall be considered to lie totally within the preservation area, and any road, railroad, or railroad right of way used in paragraph (1) of this subsection for the boundary description of the preservation area shall be considered to lie totally

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outside of the preservation area. The use of property block and lot designations include or exclude property from the preservation area. Where a survey gore exists between a property boundary depicted upon a municipal tax map and the limits of a surveyed property noted in paragraph (1) of this subsection, the surveyed property boundary description shall be considered to constitute the preservation area boundary.

c. The planning area shall consist of all that area of the Highlands Region not within the preservation area.

d. The preservation area shall not include any land located within the boundaries of any regional center or town center designated by the State Planning Commission pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.) as of the date of enactment of this act, except to the extent necessary as set forth in the boundary description of the preservation area in subsection b. of this section to reflect appropriate and nearest practicable, on-the-ground, and easily identified reference points.

13:20-8 Preparation, adoption of master plan for the Highlands Region.

8. a. The council shall, within 18 months after the date of its first meeting, and after holding at least five public hearings in various locations in the Highlands Region and at least one public hearing in Trenton, prepare and adopt a regional master plan for the Highlands Region. The Highlands regional master plan shall be periodically revised and updated at least once every six years, after public hearings.

The council shall not adopt the regional master plan unless it recommends receiving zones in the planning area and capacity therefor for each receiving zone pursuant to the transfer of development rights program authorized in section 13 of this act.

b. Within 60 days after adopting the regional master plan, the council shall submit the plan to the State Planning Commission for endorsement pursuant to the rules and regulations adopted by the State Planning Commission. The State Planning Commission review shall be limited to the planning area only.

13:20-9 Consultations, etc. relative to preparation, revisions of regional master plan.

9. a. During the preparation of the regional master plan or any revision thereof, the council shall consult with the Department of Environmental Protection, the Department of Community Affairs, the State Planning Commission, the Department of Agriculture, the State Agriculture

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Development Committee, the Department of Transportation, and appropriate officials of local government units and State, regional, and federal departments, agencies and other governmental entities with jurisdiction over lands, waters, and natural resources within the Highlands Region, with interested professional, scientific, and citizen organizations, and with any advisory groups that may be established by the council. The council shall also consult with the Department of Transportation in preparing the transportation component of the regional master plan. The council shall review all relevant federal, State, and private studies of the Highlands Region, the State Development and Redevelopment Plan, municipal, county, and regional plans, applicable federal and State laws and rules and regulations, and other pertinent information on the Highlands Region.

b. Prior to adoption of, and in preparing, the regional master plan, the council may, in conjunction with municipalities in the preservation area, identify areas in which redevelopment shall be encouraged in order to promote the economic well-being of the municipality, provided that the redevelopment conforms with the goals of the preservation area and this act, with the standards prescribed pursuant to section 32 of this act, and with the rules and regulations adopted by the Department of Environmental Protection pursuant to sections 33 and 34 of this act. Any areas identified for possible redevelopment pursuant to this subsection shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface.

c. In preparing and implementing the regional master plan or any revision thereto, the council shall ensure that the goals, purposes, policies, and provisions of, and the protections afforded to farmers by, the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and any rules or regulations adopted pursuant thereto, are recognized and not compromised in any manner.

d. Upon adoption of the regional master plan or any revision thereof, copies thereof shall be transmitted to the Governor, the Legislature, the governing body of every municipality and county located in the Highlands Region, and the State Planning Commission.

L.2004,c.120,s.9.

13:20-10 Goals of regional master plan.

10. a. The goal of the regional master plan with respect to the entire Highlands Region shall be to protect and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act.

b. The goals of the regional master plan with respect to the preservation area shall be to:

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- (1) protect, restore, and enhance the quality and quantity of surface and ground waters therein;
- (2) preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state, thereby ensuring the continuation of a Highlands environment which contains the unique and significant natural, scenic, and other resources representative of the Highlands Region;
- (3) protect the natural, scenic, and other resources of the Highlands Region, including but not limited to contiguous forests, wetlands, vegetated stream corridors, steep slopes, and critical habitat for fauna and flora;
- (4) preserve farmland and historic sites and other historic resources;
- (5) preserve outdoor recreation opportunities, including hunting and fishing, on publicly owned land;
- (6) promote conservation of water resources;
- (7) promote brownfield remediation and redevelopment;
- (8) promote compatible agricultural, horticultural, recreational, and cultural uses and opportunities within the framework of protecting the Highlands environment; and
- (9) prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area.

c. The goals of the regional master plan with respect to the planning area shall be to:

- (1) protect, restore, and enhance the quality and quantity of surface and ground waters therein;
- (2) preserve to the maximum extent possible any environmentally sensitive lands and other lands needed for recreation and conservation purposes;
- (3) protect and maintain the essential character of the Highlands environment;
- (4) preserve farmland and historic sites and other historic resources;

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- (5) promote the continuation and expansion of agricultural, horticultural, recreational, and cultural uses and opportunities;
- (6) preserve outdoor recreation opportunities, including hunting and fishing, on publicly owned land;
- (7) promote conservation of water resources;
- (8) promote brownfield remediation and redevelopment;
- (9) encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof; and
- (10) promote a sound, balanced transportation system that is consistent with smart growth strategies and principles and which preserves mobility in the Highlands Region.

L.2004,c.120,s.10.

13:20-11 Contents of regional master plan.

11. a. The regional master plan shall include, but need not necessarily be limited to:
 - (1) A resource assessment which:
 - (a) determines the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while still maintaining the overall ecological values thereof, with special reference to surface and ground water quality and supply; contiguous forests and woodlands; endangered and threatened animals, plants, and biotic communities; ecological factors relating to the protection and enhancement of agricultural or horticultural production or activity; air quality; and other appropriate considerations affecting the ecological integrity of the Highlands Region; and
 - (b) includes an assessment of scenic, aesthetic, cultural, historic, open space, farmland,

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and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources;

(2) A financial component, together with a cash flow timetable which:

(a) details the cost of implementing the regional master plan, including, but not limited to, property tax stabilization measures, watershed moratorium offset aid, planning grants and other State aid for local government units, capital requirements for any development transfer bank, payments in lieu-of-taxes, acquisition, within five years and within 10 years after the date of enactment of this act, of fee simple or other interests in lands for preservation or recreation and conservation purposes, compensation guarantees, general administrative costs, and any anticipated extraordinary or continuing costs; and

(b) details the sources of revenue for covering such costs, including, but not limited to, grants, donations, and loans from local, State, and federal departments, agencies, and other governmental entities, and from the private sector;

(3) A component to provide for the maximum feasible local government and public input into the council's operations, which shall include a framework for developing policies for the planning area in conjunction with those local government units in the planning area who choose to conform to the regional master plan;

(4) A coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the regional master plan, and which details how land, water, and structures managed by governmental or nongovernmental entities in the public interest within the Highlands Region may be integrated into the regional master plan;

(5) A transportation component that provides a plan for transportation system preservation, includes all federally mandated projects or programs, and recognizes smart growth strategies and principles. The transportation component shall include projects to promote a sound, balanced transportation system that is consistent with smart growth strategies and principles and which preserves mobility and maintains the transportation infrastructure of the Highlands Region. Transportation projects and programs shall be reviewed and approved by the council in consultation with the Department of Transportation prior to inclusion in the transportation component; and

(6) A smart growth component that includes an assessment, based upon the resource assessment prepared pursuant to paragraph (1) of subsection a. of this section, of opportunities

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for appropriate development, redevelopment, and economic growth, and a transfer of development rights program which shall include consideration of public investment priorities, infrastructure investments, economic development, revitalization, housing, transportation, energy resources, waste management, recycling, brownfields, and design such as mixed-use, compact design, and transit villages. In preparing this component, the council shall:

- (a) prepare a land use capability map;
 - (b) identify existing developed areas capable of sustaining redevelopment activities and investment;
 - (c) identify undeveloped areas in the planning area, which are not significantly constrained by environmental limitations such as steep slopes, wetlands, or dense forests, are not prime agricultural areas, and are located near or adjacent to existing development and infrastructure, that could be developed;
 - (d) identify transportation, water, wastewater, and power infrastructure that would support or limit development and redevelopment in the planning area. This analysis shall also provide proposed densities for development, redevelopment, or voluntary receiving zones for the transfer of development rights;
 - (e) identify potential voluntary receiving zones in the planning area for the transfer of development rights through the appropriate expansion of infrastructure or the modified uses of existing infrastructure;
 - (f) issue model minimum standards for municipal and county master planning and development regulations outside of the preservation area, including density standards for center-based development to encourage, where appropriate, the adoption of such standards;
 - (g) identify special critical environmental areas and other critical natural resource lands where development should be limited; and
 - (h) identify areas appropriate for redevelopment and set appropriate density standards for redevelopment. Any area identified for possible redevelopment pursuant to this subparagraph shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface.
- b. The resource assessment, transportation component, and smart growth component

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prepared pursuant to subsection a. of this section shall be used only for advisory purposes in the planning area and shall have no binding or regulatory effect therein.

13:20-12 Additional contents of regional master plan.

12. In addition to the contents of the regional master plan described in section 11 of this act, the plan shall also include, with respect to the preservation area, a land use capability map and a comprehensive statement of policies for planning and managing the development and use of land in the preservation area, which shall be based upon, comply with, and implement the environmental standards adopted by the Department of Environmental Protection pursuant to sections 33 and 34 of this act, and the resource assessment prepared pursuant to paragraph (1) of subsection a. of section 11 of this act.

These policies shall include provision for implementing the regional master plan by the State and local government units in the preservation area in a manner that will ensure the continued, uniform, and consistent protection of the Highlands Region in accordance with the goals, purposes, policies, and provisions of this act, and shall include:

a. a preservation zone element that identifies zones within the preservation area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights; and

b. minimum standards governing municipal and county master planning, development regulations, and other regulations concerning the development and use of land in the preservation area, including, but not limited to, standards for minimum lot sizes and stream setbacks, construction on steep slopes, maximum appropriate population densities, and regulated or prohibited uses for specific portions of the preservation area.

13:20-13 Use of regional master plan elements for TDR program.

13. a. The council shall use the regional master plan elements prepared pursuant to sections 11 and 12 of this act, including the resource assessment and the smart growth component, to establish a transfer of development rights program for the Highlands Region that furthers the goals of the regional master plan. The transfer of development rights program shall be consistent with the "State Transfer of Development Rights Act," P.L.2004, c.2 (C.40:55D-137 et seq.) or

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any applicable transfer of development rights program created otherwise by law, except as otherwise provided in this section.

b. In consultation with municipal, county, and State entities, the council shall, within 18 months after the date of enactment of this act, and from time to time thereafter as may be appropriate, identify areas within the preservation area that are appropriate as sending zones pursuant to P.L.2004, c.2 (C.40:55D-137 et seq.).

c. In consultation with municipal, county, and State entities, the council shall, within 18 months after the date of enactment of this act, and from time to time thereafter as may be appropriate, identify areas within the planning area that are appropriate for development as voluntary receiving zones pursuant to P.L.2004, c.2 (C.40:55D-137 et seq.) considering the information gathered pursuant to sections 11 and 12 of this act, including but not limited to the information gathered on the transfer of development rights pursuant to paragraph (6) of subsection a. of section 11 of this act. For the purposes of the council establishing a transfer of development rights program prior to the preparation of the initial regional master plan, the council in identifying areas appropriate for development as voluntary receiving zones shall consider such information as may be gathered pursuant to sections 11 and 12 of this act and as may be available at the time, but the council need not delay the creation of the transfer of development rights program until the initial regional master plan has been prepared. The council shall set a goal of identifying areas within the planning area that are appropriate for development as voluntary receiving zones that, combined together, constitute four percent of the land area of the planning area, to the extent that the goal is compatible with the amount and type of human development and activity that would not compromise the integrity of the ecosystem of the planning area.

d. The council shall work with municipalities and the State Planning Commission to identify centers, designated by the State Planning Commission, as voluntary receiving zones for the transfer of development rights program.

e. In consultation with municipal, county, and State entities, the council shall assist municipalities or counties in analyzing voluntary receiving zone capacity.

f. In consultation with municipal, county, and State entities, the council shall work with municipalities outside of the preservation area to assist these municipalities in developing ordinances necessary to implement the transfer of development rights. The council shall also establish advisory or model ordinances and other information for this purpose.

The council shall make assistance available to municipalities that desire to create additional

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sending zones on any lands within their boundaries which lie within the planning area and are designated for conservation in the regional master plan.

g. Notwithstanding the provisions of P.L.2004, c.2 (C.40:55D-137 et seq.) to the contrary, the council shall perform the real estate analysis for the Highlands Region that is required to be performed by a municipality prior to the adoption or amendment of any development transfer ordinance pursuant to P.L.2004, c.2.

h. (1) The council shall set the initial value of a development right. The Office of Green Acres in the Department of Environmental Protection and the State Agriculture Development Committee shall provide support and technical assistance to the council in the operation of the transfer of development rights program. The council shall establish the initial value of a development right considering the Department of Environmental Protection rules and regulations in effect the day before the date of enactment of this act.

(2) The council shall give priority consideration for inclusion in a transfer of development rights program any lands that comprise a major Highlands development that would have qualified for an exemption pursuant to paragraph (3) of subsection a. of section 30 of this act but for the lack of a necessary State permit as specified in subparagraph (b) or (c), as appropriate, of paragraph (3) of subsection a. of section 30 of this act, and for which an application for such a permit had been submitted to the Department of Environmental Protection and deemed by the department to be complete for review on or before March 29, 2004.

i. (1) The council may use the State Transfer of Development Rights Bank established pursuant to section 3 of P.L.1993, c.339 (C.4:1C-51) for the purposes of facilitating the transfer of development potential in accordance with this section and the regional master plan. The council may also establish a development transfer bank for such purposes.

(2) At the request of the council, the Department of Banking and Insurance, the State Transfer of Development Rights Bank, the State Agriculture Development Committee, and the Pinelands Development Credit Bank shall provide technical assistance to the council in establishing and operating a development transfer bank as authorized pursuant to paragraph (1) of this subsection.

(3) Any bank established by the council shall operate in accordance with provisions of general law authorizing the creation of development transfer banks by municipalities and counties.

j. The Office of Smart Growth shall review and coordinate State infrastructure capital

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investment, community development and financial assistance in the planning area in furtherance of the regional master plan. Prior to the council establishing its transfer of development rights program, the Office of Smart Growth shall establish a transfer of development rights pilot program that includes Highlands Region municipalities.

k. Any municipality in the planning area whose municipal master plan and development regulations have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act, and that amends its development regulations to accommodate voluntary receiving zones within its boundaries which are identified pursuant to subsection c. of this section and which provide for a minimum residential density of five dwelling units per acre, shall, for those receiving zones, be: eligible for an enhanced planning grant from the council of up to \$250,000; eligible for a grant to reimburse the reasonable costs of amending the municipal development regulations; authorized to impose impact fees in accordance with subsection m. of this section; entitled to legal representation pursuant to section 22 of this act; accorded priority status in the Highlands Region for any State capital or infrastructure programs; and eligible for any other appropriate assistance, incentives, or benefits provided pursuant to section 18 of this act.

l. Any municipality located outside of the Highlands Region that (1) has received plan endorsement by the State Planning Commission pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), or the State Planning Commission, in coordination with the Highlands Water Protection and Planning Council, determines has designated an appropriate project area as a receiving zone, (2) establishes a receiving zone which provides for a minimum residential density of five dwelling units per acre for the transfer of development rights from a sending zone in the Highlands Region, and (3) accepts that transfer of development rights, shall, for those receiving zones, be eligible for the same grants, authority, and other assistance, incentives, and benefits as provided to municipalities in the planning area pursuant to subsection k. of this section except for legal representation as provided pursuant to section 22 of this act and priority status in the Highlands Region for any State capital or infrastructure programs.

m. (1) A municipality that is authorized to impose impact fees under subsection k. of this section shall exercise that authority by ordinance.

(2) Any impact fee ordinance adopted pursuant to this subsection shall include detailed standards and guidelines regarding: (a) the definition of a service unit, including specific measures of consumption, use, generation or discharge attributable to particular land uses, densities and characteristics of development; and (b) the specific purposes for which the impact fee revenues may be expended.

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(3) An impact fee ordinance shall also include a delineation of service areas for each capital improvement whose upgrading or expansion is to be funded out of impact fee revenues, a fee schedule which clearly sets forth the amount of the fee to be charged for each service unit, and a payment schedule.

(4) An impact fee may be imposed by a municipality pursuant to this subsection in order to generate revenue for funding or recouping the costs of new capital improvements or facility expansions necessitated by new development, to be paid by the developer as defined pursuant to section 3.1 of P.L.1975, c.291 (C.40:55D-4). Improvements and expansions for which an impact fee is to be imposed shall bear a reasonable relationship to needs created by the new development, but in no case shall an impact fee assessed pursuant to this subsection exceed \$15,000 per dwelling unit unless and until impact fees are otherwise established by law at which time the impact fee shall be 200% of the calculated impact fee.

(5) No impact fee shall be assessed pursuant to this subsection against any low or moderate income housing unit within an inclusionary development as defined under P.L.1985, c.222 (C.52:27D-301 et al.).

No impact fee authorized under this subsection shall include a contribution for any transportation improvement necessitated by a new development in a county which is covered by a transportation development district created pursuant to the "New Jersey Transportation Development District Act of 1989," P.L.1989, c.100 (C.27:1C-1 et al.).

13:20-14 Submission of revisions to regional master plan by municipalities, counties in preservation area for conformance.

14. a. Within nine to 15 months after the date of adoption of the regional master plan or any revision thereof, according to a schedule to be established by the council, each municipality located wholly or partially in the preservation area shall submit to the council such revisions of the municipal master plan and development regulations, as applicable to the development and use of land in the preservation area, as may be necessary in order to conform them with the goals, requirements, and provisions of the regional master plan. After receiving and reviewing the revisions, the council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

Upon rejecting or conditionally approving any such revised plan or development regulations, the council shall identify such changes therein that it deems necessary for council

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approval thereof, and the relevant municipality shall adopt and enforce the plan or development regulations as so changed.

b. Within nine to 15 months after the date of adoption of the regional master plan or any revision thereof, according to a schedule to be established by the council, each county located wholly or partially in the preservation area shall submit to the council such revisions of the county master plan and associated regulations, as applicable to the development and use of land in the preservation area, as may be necessary in order to conform them with the goals, requirements, and provisions of the regional master plan. After receiving and reviewing the revisions, the council shall approve, reject, or approve with conditions those revised plans and associated regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

Upon rejecting or conditionally approving any such revised plan or associated regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the relevant county shall adopt and enforce the plan or associated regulations as so changed.

c. The council may revoke a conformance approval granted pursuant to this section or section 15 of this act, after conducting a hearing, if the council finds that the local government unit has taken action inconsistent with the regional master plan.

d. In the event that any municipality or county fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council, as required pursuant to subsection a. or b. of this section, the council shall adopt and enforce such rules and regulations as may be necessary to implement the minimum standards contained in the regional master plan as applicable to any municipality or county within the preservation area. If any municipality or county fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council, as required pursuant to subsection a. or b. of this section, the council shall have all local enforcement authority provided pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., and this act, as well as the authority to issue stop construction orders, as may be necessary to implement the provisions of this act, any rules and regulations adopted pursuant thereto, and the requirements and provisions of the regional master plan.

e. A municipality or county may adopt revisions to its master plan, development regulations, or other regulations for the purposes of this section that are stricter, as determined by the council, than the minimum necessary to obtain approval of conformance with the regional

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master plan.

f. The requirements of this section shall not apply to any municipality or county located wholly within the planning area. Any municipality or county located partially within the preservation area and partially within the planning area shall be required to comply with the provisions of this section and the regional master plan only with respect to that portion of the municipality or county lying within the preservation area. Voluntary conformance with the regional master plan as it may apply to those portions of a municipality or county lying within the planning area shall be permitted as provided pursuant to section 15 of this act.

13:20-15 Municipalities, counties in planning area may petition council relative to revision.

15. a. (1) For any municipality located wholly in the planning area or for any portion of a municipality lying within the planning area, the municipality may, by ordinance, petition the council of its intention to revise its master plan and development regulations, as applicable to the development and use of land in the planning area, to conform with the goals, requirements, and provisions of the regional master plan.

The municipality shall proceed in revising its master plan and development regulations in accordance with the framework adopted by the council pursuant to subsection a. of section 14 of this act.

After receiving and reviewing those revisions, and after consulting with the State Planning Commission, the council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

(2) Upon rejecting or conditionally approving any such revised plan or development regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the municipality may adopt and enforce the plan or development regulations as so changed in order for them to be deemed approved in conformance with the regional master plan.

(3) Any municipality approved by the council to be in conformance with the regional master plan pursuant to this subsection shall be entitled to any financial or other assistance or incentives received by a municipality from the State as a benefit or result of obtaining council approval pursuant to section 14 of this act.

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(4) Upon the commencement of each reexamination by the municipality of its master plan and development regulations as required pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89) which have been previously approved by the council to be in conformance with the regional master plan pursuant to this subsection, the municipality shall so notify the council and, thereafter, submit to the council the draft revision of its master plan and development regulations for review, by the council, of conformance with the regional master plan. If, after conducting the reexamination, the municipality does not resubmit to the council its master plan and development regulations as they pertain to the planning area and obtain reapproval thereof from the council in accordance with this subsection, or if the council finds the reexamined master plan or development regulations not to be in conformance with the regional master plan, the council may require the municipality to reimburse the council or the State, as appropriate, in whole or in part for any financial or other assistance or incentives received by the municipality from the State as a benefit or result of obtaining council approval pursuant to this subsection.

(5) A municipality may adopt revisions to its master plan or development regulations for the purposes of this subsection that are stricter, as determined by the council, than the minimum necessary to obtain approval of conformance with the regional master plan.

b. (1) Each county with lands in the planning area may, by ordinance or resolution, as appropriate, petition the council of its intention to revise its master plan and associated regulations, as applicable to the development and use of land in the planning area, to conform with the goals, requirements, and provisions of the regional master plan.

The county shall proceed in revising its master plan and associated regulations in accordance with the framework adopted by the council pursuant to subsection b. of section 14 of this act.

After receiving and reviewing those revisions, and after consulting with the State Planning Commission, the council shall approve, reject, or approve with conditions the revised plan and associated regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

(2) Upon rejecting or conditionally approving any such revised plan or associated regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the county may adopt and enforce the plan or associated regulations as so changed in order for them to be deemed approved in conformance with the regional master plan.

(3) Any county approved by the council to be in conformance with the regional master

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plan pursuant to this subsection shall be entitled to any financial or other assistance or incentives received by a county from the State as a benefit or result of obtaining council approval pursuant to section 14 of this act.

13:20-16 Council may provide comments, recommendations on projects.

16. a. The council may provide comments and recommendations on any capital or other project proposed to be undertaken by any State entity or local government unit in the Highlands Region.

b. Within the preservation area, any capital or other project of a State entity or local government unit that involves the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more shall be submitted to the council for review, except that no such submission shall be required for (1) 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, or (2) the construction of transportation safety projects and bicycle and pedestrian facilities, provided that the activity does not result in the construction of any new through-capacity travel lanes. The council shall establish procedures for conducting such reviews and shall have the power to approve, approve with conditions, or disapprove the project. No such project shall proceed without the approval of the council; provided that, in the case of a project of a State entity, if the council disapproves the project, the head of the appropriate principal department of State government with primary responsibility for the project may override the council's disapproval upon making a written finding, which shall be submitted to the council and the Governor, that the project is necessary for public health, safety, or welfare and including with that finding a factual basis and explanation in support thereof. In the case of a project of an independent State authority or commission or a bi-state entity, any such finding shall be made by the Governor or such other State governmental official as the Governor may designate for that purpose.

The council shall review any submission pursuant to this subsection within 30 days after receipt. If the council fails to act within the 30-day period, or within such other time period as may be mutually agreed upon by the parties, the project shall be deemed approved.

c. Within the planning area, any capital or other project of a State entity or local government unit that provides for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more shall be submitted to the council

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for a nonbinding review and comment, except that no such submission shall be required for (1) 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, or (2) the construction of transportation safety projects and bicycle and pedestrian facilities by a State entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes. The council shall establish procedures for conducting such reviews within 30 days after receipt or within such other time period as may be mutually agreed upon by the parties. The failure of the council to act within the 30-day or other agreed upon time period on any such review pursuant to this subsection shall not be cause for delay of the project, and the project may proceed whether or not the council has conducted the review authorized pursuant to this subsection.

L.2004,c.120,s.16.

13:20-17 Review by council of regional applications for development.

17. a. (1) Subsequent to adoption of the regional master plan, the council may review, within 15 days after any final local government unit approval, rejection, or approval with conditions thereof, any application for development in the preservation area. Upon determining to exercise that authority, the council shall transmit, by certified mail, written notice thereof to the person who submitted the application to the local government unit. The council shall, after public hearing thereon, approve, reject, or approve with conditions any such application or decision within 60 days after transmitting the notice; provided, however, that an application shall not be rejected or conditionally approved unless the council determines that the development does not conform with the regional master plan, as applicable to the local government unit wherein the development is located, or that the development could result in substantial impairment of the resources of the Highlands Region. Such approval, rejection, or conditional approval shall be binding upon the person who submitted the application, shall supersede any local government unit decision on any such development, and shall be subject only to judicial review as provided in section 28 of this act. Pending completion of the review by the council of any final local government approval or approval with conditions of an application for development in the preservation area and the issuance of the council's decision thereon, the applicant shall not proceed with the development.

(2) No cause of action may be filed in the Superior Court to contest a local government unit decision on an application for development in the preservation area if the council exercises its review authority pursuant to this section. Any such cause of action filed before the date that

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the council exercises its review authority pursuant to this section shall be dismissed by the court for lack of jurisdiction. Upon determination of the council to exercise its review authority pursuant to this section, judicial review of the decision of the local government unit and of the council pursuant to this section shall proceed as provided pursuant to section 28 of this act.

b. Every person submitting an application for development in the preservation area shall be required to provide a notice of the application to the council in accordance with such procedures therefor as shall be established by the council.

c. Notwithstanding any provision of subsection a. or b. of this section to the contrary, for any municipality or county that has adopted an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council, the requirements of this section shall apply only to applications for development that provide for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more. The council, however, may provide, pursuant to subsection d. of section 14 of this act, that the requirements of this section apply to any application for development within the preservation area in any municipality or county that fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council.

d. Any member of the public may request the council to consider reviewing an application for development in the preservation area as provided in this section.

13:20-18 Qualification for State aid, grants.

18. a. Any municipality in the Highlands Region whose municipal master plan and development regulations, and any county in the Highlands Region whose county master plan and associated regulations, have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act shall qualify for State aid, planning assistance, technical assistance, and other benefits and incentives that may be awarded or provided by the State to municipalities and counties which have received plan endorsement by the State Planning Commission pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.) or which otherwise practice or implement smart growth strategies and principles. Any such municipality or county shall also qualify for any State aid that may be provided for smart growth projects.

b. The council shall make available grants and other financial and technical assistance to municipalities and counties for any revision of their master plans, development regulations, or other regulations which is designed to bring those plans, development regulations, or other

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regulations into conformance with the regional master plan or for implementation of a transfer of development rights program pursuant to this act. The grants and other financial assistance shall pay for the reasonable expenses therefor incurred by a municipality or county and shall be distributed according to such procedures and guidelines as may be established by the council. The council shall make the grants and other financial assistance from any State, federal, or other funds that shall be appropriated or otherwise made available to it for that purpose, including monies required to be made available therefor from the "Highlands Protection Fund" created pursuant to section 21 of this act.

13:20-19 "Highlands Protection Fund"; use.

21. a. There is created in the Department of the Treasury a special non-lapsing fund to be known as the "Highlands Protection Fund." The monies in the fund are dedicated and shall be used only to carry out the purposes enumerated in subsection b. of this section. The fund shall be credited with all revenues collected and deposited in the fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8), all interest and other income received from the investment of monies in the fund, and any monies which, from time to time, may otherwise become available for the purposes of the fund. Pending the use thereof pursuant to the provisions of subsection b. of this section, the monies deposited in the fund shall be held in interest-bearing accounts in public depositories, as defined pursuant to section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in such securities as are approved by the State Treasurer. Interest or other income earned on monies deposited into the fund shall be credited to the fund for use as set forth in subsection b. of this section for other monies in the fund.

b. Monies deposited in the "Highlands Protection Fund" shall be used only for:

(1) payments to the "Highlands Municipal Property Tax Stabilization Fund" established pursuant to subsection b. of section 19 of this act in such amounts as are necessary to provide property tax stabilization aid pursuant to that section;

(2) payments of watershed moratorium offset aid pursuant to section 1 of P.L.1999, c. 225 (C.58:29-8);

(3) the making of grants by the Highlands Water Protection and Planning Council pursuant to sections 13 and 18 of this act; and

(4) allocations to the Pinelands Property Tax Assistance Fund established pursuant to section 20 of this act.

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13:20-20 Council to provide legal representation to local units, conditions.

22. The council shall provide legal representation to any requesting local government unit located in the Highlands Region in any cause of action filed against the local government unit and contesting an act or decision of the local government unit taken or made under authority granted pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), or this act, provided that:

a. the municipal master plan and development regulations, or, in the case of a county governmental entity, the county master plan and associated regulations, have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act;

b. the council determines that the act or decision of the local government unit which is the subject of the cause of action is consistent with the regional master plan; and

c. the act or decision of the local government unit that is the subject of the cause of action involves an application for development that provides for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more.

13:20-21 Guidelines, instructions to local government units.

23. Within 10 days after the date of enactment of this act, the Department of Community Affairs, in consultation with the Department of Environmental Protection, shall provide guidelines and instructions to all local government units located wholly or partially within the preservation area with respect to the processing, review, and enforcement of applications for development after the date of enactment of this act and before adoption of the regional master plan.

13:20-22 Plans, regulations entitled to strong presumption of validity.

24. The municipal master plan and development regulations of any municipality, and the county master plan and associated regulations of any county, located in the Highlands Region which have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act shall be entitled to a strong presumption of

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validity. In any cause of action filed against such a local government unit and contesting an act or decision of the local government unit taken or made under authority granted pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), or this act, the court shall give extraordinary deference to the local government unit, provided that the municipal master plan and development regulations, or, in the case of a county governmental entity, the county master plan and associated regulations, have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act. The plaintiff shall have the burden of proof to demonstrate by clear and convincing evidence that the act or decision of any such local government unit was arbitrary, capricious, or unreasonable or in patent abuse of discretion.

13:20-23 Regional master plan considered in allocation of prospective fair housing share.

25. a. The Council on Affordable Housing shall take into consideration the regional master plan prior to making any determination regarding the allocation of the prospective fair share of the housing need in any municipality in the Highlands Region under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) for the fair share period subsequent to 1999.

b. Nothing in this act shall affect protections provided through a grant of substantive certification or a judgment of repose granted prior to the date of enactment of this act.

13:20-24 Modification of site improvement standards for residential development.

26. Within 90 days after the first meeting of the Highlands Water Protection and Planning Council, the Site Improvement Advisory Board established pursuant to section 3 of P.L.1993, c.32 (C.40:55D-40.3) and the Commissioner of Community Affairs shall consult with the council and the Commissioner of Environmental Protection concerning whether the site improvement standards for residential development adopted pursuant to P.L.1993, c.32 (C.40:55D-40.1 et seq.) are appropriate and sufficiently protective for the Highlands Region, especially for the preservation area; and if it is determined they are not, those standards shall be modified accordingly as soon as practicable thereafter to meet that objective.

13:20-25 Council may institute action, proceeding for injunctive relief.

27. The council may institute an action or proceeding in Superior Court for injunctive relief for any violation of this act, or any rule or regulation adopted pursuant thereto, or, in the

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preservation area for any violation of, or nonconformance with, the regional master plan. The council may also institute an action or proceeding for injunctive relief for any violation of the regional master plan in the planning area as it relates to a municipality or county that has been approved to be in conformance with the regional master plan pursuant to section 15 of this act. In any action or proceeding brought pursuant to this section, the court may proceed in a summary manner and may also grant temporary or interlocutory relief.

13:20-26 Council decision deemed final agency action, appellate review.

28. Any decision rendered or action taken by the council pursuant to this act shall be a final agency action subject to judicial review in the Appellate Division of the Superior Court of New Jersey in accordance with the Rules of Court. The court may grant such relief as it deems just and proper, and to make and enter an order enforcing, modifying, and enforcing as so modified, remanding for further specific evidence or findings, or setting aside in whole or in part, the decision of the council. The findings of fact upon which the council's decision is based shall be conclusive if supported by substantial evidence on the record considered as a whole.

13:20-27 Annual report of council.

29. On or before March 31 in each year the council shall make an annual report of its activities for the preceding calendar year to the Governor, the Legislature, and the governing body and the chief executive officer of each municipality and county in the Highlands Region. Each such report shall set forth a complete operating and financial statement covering its operations during the year.

13:20-28 Exemptions.

30. a. The following are exempt from the provisions of this act, the regional master plan, any rules or regulations adopted by the Department of Environmental Protection pursuant to this act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan:

(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 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) 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

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one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more;

(3) a major Highlands development that received on or before March 29, 2004:

(a) one of the following approvals pursuant to the "Municipal Land Use Law," P.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.).

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) 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;

(5) 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) 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) an activity conducted in accordance with an approved woodland management plan pursuant to section 3 of 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;

(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;

(9) the routine maintenance and operations, rehabilitation, preservation, reconstruction,

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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) the construction of transportation safety projects and bicycle and pedestrian facilities by a State entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes;

(11) the routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade of public utility lines, rights of way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of this act;

(12) the reactivation of rail lines and rail beds existing on the date of enactment of this act;

(13) the construction of a public infrastructure project approved by public referendum prior to January 1, 2005 or a capital project approved by public referendum prior to January 1, 2005;

(14) the mining, quarrying, or production of ready mix concrete, bituminous concrete, or Class B recycling materials occurring or which are permitted to occur on any mine, mine site, or construction materials facility existing on June 7, 2004;

(15) the remediation of any contaminated site pursuant to P.L.1993, c.139 (C.58:10B-1 et seq.);

(16) any lands of a federal military installation existing on the date of enactment of this act that lie within the Highlands Region; and

(17) 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.).

b. The exemptions provided in subsection a. of this section shall not be construed to

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alter or obviate the requirements of any other applicable State or local laws, rules, regulations, development regulations, or ordinances.

c. Nothing in this act shall be construed to alter the funding allocation formulas established pursuant to the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.).

d. Nothing in this act shall be construed to repeal, reduce, or otherwise modify the obligation of counties, municipalities, and other municipal and public agencies of the State to pay property taxes on lands used for the purpose and for the protection of a public water supply, without regard to any buildings or other improvements thereon, pursuant to R.S.54:4-3.3.

13:20-29 Agricultural, horticultural development, review required; enforcement.

31. a. (1) Any agricultural or horticultural development in the preservation area that would result in the increase, after the date of enactment of this act either individually or cumulatively, of agricultural impervious cover by three percent or more of the total land area of a farm management unit in the preservation area shall require the review and approval by the local soil conservation district of a farm conservation plan which shall be prepared and submitted by the owner or operator of the farm management unit. Upon approval of the farm conservation plan by the local soil conservation district, the owner or operator of the farm management unit shall implement the plan on the farm management unit. The local soil conservation district shall transmit a copy of an approved farm conservation plan to the State Soil Conservation Committee, and, if any part of the farm management unit is preserved under any farmland preservation program, to the State Agriculture Development Committee.

(2) Any agricultural or horticultural development in the preservation area that would result in the increase, after the date of enactment of this act either individually or cumulatively, of agricultural impervious cover by nine percent or more of the total land area of a farm management unit in the preservation area shall require the review and approval by the local soil conservation district of a resource management systems plan which shall be prepared and submitted by the owner or operator of the farm management unit.

Prior to the approval of a resource management systems plan by a local soil conservation district, a copy of the resource management systems plan shall be forwarded by the local soil conservation district to the Department of Environmental Protection for review and approval, with or without conditions, or denial within 60 days after receipt by the department. Upon approval of the resource management systems plan by the local soil conservation district and the

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Department of Environmental Protection, the owner or operator of the farm management unit shall implement the plan on the farm management unit. The local soil conservation district shall transmit a copy of an approved resource management systems plan to the State Soil Conservation Committee, and, if any part of the farm management unit is preserved under any farmland preservation program, to the State Agriculture Development Committee.

(3) A farm conservation plan required pursuant to paragraph (1) of this subsection and a resource management systems plan required pursuant to paragraph (2) of this subsection shall be prepared in accordance with science-based standards, consistent with the goals and purposes of this act, which standards shall be established by the State Board of Agriculture and the Department of Agriculture, in consultation with the Department of Environmental Protection, the State Agriculture Development Committee, Rutgers Cooperative Extension, and the Natural Resources Conservation Service in the United States Department of Agriculture. Within 270 days after the date of enactment of this act, the State Department of Agriculture, in consultation with the Department of Environmental Protection, shall develop and adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), these standards and any other rules and regulations necessary to implement this section.

(4) Solar panels shall not be included in any calculation of agricultural impervious cover pursuant to this subsection.

b. (1) If any person violates any provision of subsection a. of this section, any rule or regulation adopted pursuant to subsection a. of this section, or a farm conservation plan or a resource management systems plan approved pursuant to subsection a. of this section, the Department of Agriculture or the local soil conservation district may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent the violation or violations and the court may proceed in a summary manner.

(2) (a) Any person who violates any provision of subsection a. of this section, any rule or regulation adopted pursuant to subsection a. of this section, or a farm conservation plan or a resource management systems plan approved pursuant to subsection a. of this section shall be liable to a civil administrative penalty of up to \$5,000 for each violation. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. No assessment shall be levied pursuant to this subsection until after the party has been notified by certified mail or personal service and provided an opportunity for a hearing.

(b) Any amount assessed under this subsection shall fall within a range established in a penalty schedule adopted by the Department of Agriculture pursuant to the "Administrative Procedure Act," which shall take into account the seriousness and duration of the violation and

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whether the violation involves the failure to prepare or to implement a farm conservation plan or resource management systems plan. The schedule shall also provide for an enhanced penalty if the violation causes an impairment to water quality. Any civil administrative penalty assessed under this subsection may be compromised by the Secretary of Agriculture upon the posting of a performance bond by the violator, or upon such terms and conditions as the secretary may establish by regulation.

(c) Any person who fails to pay a civil administrative penalty in full pursuant to this subsection shall be subject, upon order of a court, to a civil penalty of up to \$5,000 for each violation. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. Any such civil penalty imposed may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this subsection.

(d) All penalties collected pursuant to this subsection shall either be used, as determined by the council, by the State Agriculture Development Committee for the preservation of farmland in the preservation area or by any development transfer bank used or established by the council to purchase development potential in the preservation area.

c. Nothing in this act, the regional master plan, any rules or regulations adopted by the Department of Environmental Protection pursuant to this act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan shall be construed to alter or compromise the goals, purposes, policies, and provisions of, or lessen the protections afforded to farmers by, the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and any rules or regulations adopted pursuant thereto.

d. The provisions of this section shall not be construed to alter or obviate the requirements of any other applicable State or local laws, rules, regulations, development regulations, or ordinances.

13:20-30 Highlands Preservation Area, major development approvals; required, fee schedule.

32. a. Commencing on the date of enactment of this act and until the effective date of the rules and regulations adopted by the Department of Environmental Protection pursuant to sections 33 and 34 of this act, all major Highlands development in the preservation area shall

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require a Highlands Preservation Area approval from the department. The Highlands Preservation Area approval shall consist of the related aspects of other regulatory programs which may include, but need not be limited to, the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-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.), the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and regulations adopted pursuant thereto. For the purposes of this section, the provisions of P.L.1975, c. 232 (C.13:1D-29 et seq.) shall not apply to an application for a permit pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

b. The Highlands Preservation Area approval shall also require:

(1) a prohibition on major Highlands development within 300 feet of any Highlands open waters, and a 300-foot buffer adjacent to all Highlands open waters; provided, however, that this buffer shall not extend into the planning area. For the purposes of this paragraph, major Highlands development does not include linear development for infrastructure, utilities, and the rights-of-way therefor, provided that there is no other feasible alternative, as determined by the department, for the linear development outside of the buffer. Structures or land uses in the buffer existing on the date of enactment of this act may remain, provided that the area of disturbance shall not be increased. This paragraph shall not be construed to limit the authority of the department to establish buffers of any size or any other protections for category one waters designated by the department pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), or any other law, or any rule or regulation adopted pursuant thereto, for major Highlands development or for other development that does not qualify as major Highlands development;

(2) the quality of all Highlands open waters and waters of the Highlands within the preservation area to be maintained, restored, or enhanced, as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, and any new or expanded point source discharge, except discharges from water supply facilities, shall not degrade existing water quality. In the case of water supply facilities, all reasonable measures shall be taken to eliminate or minimize water quality impacts;

(3) notwithstanding the provisions of subsection a. of section 5 of P.L.1981, c.262

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(C.58:1A-5), or any rule or regulation adopted pursuant thereto, to the contrary, any diversion of more than 50,000 gallons per day, and multiple diversions by the same or related entities for the same or related projects or developments of more than 50,000 gallons per day, of waters of the Highlands shall require a permit pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be based on consideration of individual and cumulative impacts of multiple diversions, maintenance of stream base flows, minimization of depletive use, maintenance of existing water quality, and protection of ecological uses. Any new or increased diversion for nonpotable purposes that is more than 50% consumptive shall require an equivalent reduction in water demand within the same subdrainage area through such means as groundwater recharge of stormwater or reuse. Existing unused allocation or allocations used for nonpotable purposes may be revoked by the department where measures to the maximum extent practicable are not implemented to reduce demand. All new or increased diversions shall be required to implement water conservation measures to the maximum extent practicable;

(4) a zero net fill requirement for flood hazard areas pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

(5) the antidegradation provisions of the surface water quality standards and the stormwater regulations applicable to category one waters to be applied to Highlands open waters;

(6) a prohibition on impervious surfaces of greater than three percent of the land area of a lot existing on the date of enactment of this act, except that Highlands open waters shall not be included in the calculation of that land area;

(7) a prohibition on development, except linear development for infrastructure, utilities, and the rights-of-way therefor, provided that no other feasible alternative, as determined by the department, exists for the linear development, on steep slopes with a grade of 20% or greater; and

(8) a prohibition on development that disturbs upland forested areas, in order to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats. Notwithstanding the provisions of this paragraph to the contrary, if a major Highlands development complies with all other applicable requirements for a Highlands Preservation Area approval pursuant to this subsection and disturbance to an upland forested area is unavoidable, the department shall allow the disturbance to an upland forested area of no more than 20 feet directly adjacent to a structure and of no more than 10 feet on each side of a driveway as necessary to access a non-forested area of a site.

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c. Application for a Highlands Preservation Area approval shall be made on forms made available by the department and shall be accompanied by a fee established in accordance with a fee schedule issued by the department within 10 days after the date of enactment of this act and published in the New Jersey Register. The fee schedule shall be exempt from the rulemaking requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and shall expire upon the adoption of the rules and regulations required pursuant to subsection a. of section 33 of this act.

d. The requirements and provisions of this section shall not apply in the planning area.

L.2004,c.120,s.32.

13:20-31 Adoption of rules, regulations; procedure.

33. a. Within 270 days after the date of enactment of this act, and notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Environmental Protection, after consultation with the Department of Agriculture, the Department of Community Affairs, the State Planning Commission, and the Department of Transportation, shall, immediately upon filing proper notice with the Office of Administrative Law, adopt the rules and regulations prepared by the department pursuant to section 34 of this act and any other rules and regulations necessary to establish the Highlands permitting review program established pursuant to section 35 of this act.

b. The rules and regulations adopted pursuant to subsection a. of this section shall be in effect for a period not to exceed one year after the date of the filing. These rules and regulations shall thereafter be adopted, amended, or readopted by the commissioner in accordance with the requirements of the "Administrative Procedure Act," after consultation with the council, the Department of Agriculture, the Department of Community Affairs, the State Planning Commission, and the Department of Transportation.

c. The requirements and provisions of sections 33 through 43 of this act shall not apply in the planning area.

L.2004,c.120,s.33.

13:20-32 Rules, regulations, standards.

34. The Department of Environmental Protection shall prepare rules and regulations

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establishing the environmental standards for the preservation area upon which the regional master plan adopted by the council and the Highlands permitting review program administered by the department pursuant to this act shall be based. These rules and regulations shall provide for at least the following:

a. a prohibition on major Highlands development within 300 feet of any Highlands open waters, and the establishment of a 300-foot buffer adjacent to all Highlands open waters; provided, however, that this buffer shall not extend into the planning area. For the purposes of this subsection, major Highlands development does not include linear development for infrastructure, utilities, and the rights-of-way therefor, provided that there is no other feasible alternative, as determined by the department, for the linear development outside of the buffer. Structures or land uses in the buffer existing on the date of enactment of this act may remain, provided that the area of disturbance shall not be increased. This subsection shall not be construed to limit any authority of the department to establish buffers of any size or any other protections for category one waters designated by the department pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), or any other law, or any rule or regulation adopted pursuant thereto, for major Highlands development or for other development that does not qualify as major Highlands development;

b. measures to ensure that existing water quality shall be maintained, restored, or enhanced, as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, in all Highlands open waters and waters of the Highlands, and to provide that any new or expanded point source discharge, except discharges from water supply facilities, shall not degrade existing water quality. In the case of water supply facilities, all reasonable measures shall be taken to eliminate or minimize water quality impacts;

c. notwithstanding the provisions of section 23 of P.L.1987, c.156 (C.13:9B-23), or any rule or regulation adopted pursuant thereto, to the contrary, the criteria for the type of activity or activities eligible for the use of a general permit for any portion of an activity located within a freshwater wetland or freshwater wetland transition area located in the preservation area, provided that these criteria are at least as protective as those provided in section 23 of P.L.1987, c.156 (C.13:9B-23);

d. notwithstanding the provisions of subsection a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted pursuant thereto, to the contrary, a system for the regulation of any diversion of more than 50,000 gallons per day, and multiple diversions by the same or related entities for the same or related projects or developments of more than 50,000 gallons per day, of waters of the Highlands pursuant to the "Water Supply Management Act,"

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P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be based on consideration of individual and cumulative impacts of multiple diversions, maintenance of stream base flows, minimization of depletive use, maintenance of existing water quality, and protection of ecological uses. Any new or increased diversion for nonpotable purposes that is more than 50% consumptive shall require an equivalent reduction in water demand within the same subdrainage area through such means as groundwater recharge of stormwater or reuse. Existing unused allocation or allocations used for nonpotable purposes may be revoked by the department where measures to the maximum extent practicable are not implemented to reduce demand. All new or increased diversions shall be required to implement water conservation measures to the maximum extent practicable;

e. a septic system density standard established at a level to prevent the degradation of water quality, or to require the restoration of water quality, and to protect ecological uses from individual, secondary, and cumulative impacts, in consideration of deep aquifer recharge available for dilution;

f. a zero net fill requirement for flood hazard areas pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

g. the antidegradation provisions of the surface water quality standards and the stormwater regulations applicable to category one waters to be applied to Highlands open waters;

h. a prohibition on impervious surfaces of greater than three percent of the land area, except that Highlands open waters shall not be included in the calculation of that land area, and solar panels shall not be included in any calculation of impervious surface;

i. notwithstanding the provisions of the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, a limitation or prohibition on the construction of new public water systems or the extension of existing public water systems to serve development in the preservation area, except in the case of a demonstrated need to protect public health and safety;

j. a prohibition on development, except linear development for infrastructure, utilities, and the rights-of-way therefor, provided that no other feasible alternative, as determined by the department, exists for the linear development, on steep slopes in the preservation area with a grade of 20% or greater, and standards for development on slopes in the preservation area exhibiting a grade of between 10% and 20%. The standards shall assure that developments on slopes exhibiting a grade of between 10% and 20% preserve and protect steep slopes from the negative consequences of development on the site and the cumulative impact in the Highlands

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Region. The standards shall be developed to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, protect threatened and endangered animal and plant species sites and designated habitats, provide for minimal practicable degradation of unique or irreplaceable land types, historical or archeological areas, and existing scenic attributes at the site and within the surrounding area, protect upland forest, and restrict impervious surface; and shall take into consideration differing soil types, soil erodability, topography, hydrology, geology, and vegetation types; and

k. a prohibition on development that disturbs upland forested areas, in order to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats; and standards to protect upland forested areas that require all appropriate measures be taken to avoid impacts or disturbance to upland forested areas, and where avoidance is not possible that all appropriate measures have been taken to minimize and mitigate impacts to upland forested areas and to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats.

13:20-33 Highlands permitting review program.

35. a. The Department of Environmental Protection shall establish a Highlands permitting review program to provide for the coordinated review of any major Highlands development in the preservation area based upon the rules and regulations adopted by the department pursuant to sections 33 and 34 of this act. The Highlands permitting review program established pursuant to this section shall consolidate the related aspects of other regulatory programs which may include, but need not be limited to, the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-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.), the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and regulations adopted pursuant thereto, and the rules and regulations adopted pursuant to sections 33 and 34 of this act. For the purposes of this section, the provisions of P.L.1975, c.232 (C.13:1D-29 et seq.) shall not apply to an application for a permit pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

b. The Highlands permitting review program established pursuant to this section shall

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include:

- (1) a provision that may allow for a waiver of any provision of a Highlands permitting review on a case-by-case basis if determined to be necessary by the department in order to protect public health and safety;
- (2) a provision that may allow for a waiver of any provision of a Highlands permitting review on a case-by-case basis for redevelopment in certain previously developed areas in the preservation area identified by the council pursuant to subsection b. of section 9 or subparagraph (h) of paragraph (6) of subsection a. of section 11 of this act; and
- (3) a provision that may allow for a waiver of any provision of the Highlands permitting review on a case-by-case basis in order to avoid the taking of property without just compensation.

The grant of a waiver pursuant to this subsection by the department shall be conditioned upon the department's determination that the major Highlands development meets the requirements prescribed for a finding as listed in subsection a. of section 36 of this act to the maximum extent possible.

c. The waiver provisions of subsection b. of this section are limited to the provisions of the rules and regulations adopted pursuant to section 34 of this act, and shall not limit the department's jurisdiction or authority pursuant to any other provision of law, or any rule or regulation adopted pursuant thereto, that is incorporated into the Highlands permitting review program.

d. The Highlands permitting review program established pursuant to this section may provide for the issuance of a general permit, provided that the department adopts rules and regulations which identify the activities subject to general permit review and establish the criteria for the approval or disapproval of a general permit.

e. Any person proposing to construct or cause to be constructed, or to undertake or cause to be undertaken, as the case may be, a major Highlands development in the preservation area shall file an application for a Highlands permitting review with the department, on forms and in a manner prescribed by the department.

f. The department shall, in accordance with a fee schedule adopted as a rule or regulation, establish and charge reasonable fees necessary to meet the administrative costs of the department associated with the processing, review, and enforcement of any application for a

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Highlands permitting review. These fees shall be deposited in the "Environmental Services Fund," established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33), and kept separate and apart from all other State receipts and appropriated only as provided herein. There shall be appropriated annually to the department revenue from that fund sufficient to defray in full the costs incurred in the processing, review, and enforcement of applications for Highlands permitting reviews.

13:20-34 Review of applications.

36. a. The Commissioner of Environmental Protection shall review filed applications for Highlands permitting reviews, including any information presented at public hearings or during a comment period, or submitted during the application review period.

Except as otherwise provided by subsection b. of this section, a Highlands permitting review approval may be issued only upon a finding that the proposed major Highlands development:

(1) would have a de minimis impact on water resources and would not cause or contribute to a significant degradation of surface or ground waters. In making this determination, the commissioner shall consider the extent of any impacts on water resources resulting from the proposed major Highlands development, including, but not limited to, the regenerative capacity of aquifers or other surface or ground water supplies, increases in stormwater generated, increases in impervious surface, increases in stormwater pollutant loading, changes in land use, and changes in vegetative cover;

(2) would cause minimal feasible interference with the natural functioning of animal, plant, and other natural resources at the site and within the surrounding area, and minimal feasible individual and cumulative adverse impacts to the environment both onsite and offsite of the major Highlands development;

(3) will result in minimum feasible alteration or impairment of the aquatic ecosystem including existing contour, vegetation, fish and wildlife resources, and aquatic circulation of a freshwater wetland;

(4) will not jeopardize the continued existence of species listed pursuant to "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.) or the "Endangered Plant Species List Act," P.L.1989, c.56 (C.13:1B-15.151 et seq.), or which appear on the federal endangered or threatened species list, and will not result in the likelihood of the destruction or adverse modification of habitat for any rare, threatened, or endangered species of

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animal or plant;

(5) is located or constructed so as to neither endanger human life or property nor otherwise impair the public health, safety, and welfare;

(6) would result in minimal practicable degradation of unique or irreplaceable land types, historical or archeological areas, and existing public scenic attributes at the site and within the surrounding area; and

(7) meets all other applicable department standards, rules, and regulations and State laws.

b. A Highlands permitting review approval may be issued to a major Highlands development granted a waiver pursuant to the provisions of subsection b. of section 35 of this act notwithstanding the inability to make the finding required pursuant to subsection a. of this section.

13:20-35 Violations, certain, civil actions, penalties.

37. a. Whenever the Commissioner of Environmental Protection finds that a person has violated any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, the commissioner may:

(1) Issue an order requiring any such person to comply in accordance with subsection b. of this section; or

(2) Bring a civil action in accordance with subsection c. of this section; or

(3) Levy a civil administrative penalty in accordance with subsection d. of this section;
or

(4) Bring an action for a civil penalty in accordance with subsection e. of this section; or

(5) Petition the Attorney General to bring a criminal action in accordance with subsection f. of this section.

Recourse to any of the remedies available under this section shall not preclude recourse to

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any of the other remedies prescribed in this section or by any other applicable law.

b. Whenever, on the basis of available information, the commissioner finds a person in violation of any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, the commissioner may issue an order: (1) specifying the provision or provisions of the law, rule, regulation, permit, approval, or authorization of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; (4) requiring the restoration of the area which is the site of the violation; and (5) providing notice to the person of the right to a hearing on the matters contained in the order.

c. The commissioner is authorized to institute a civil action in Superior Court for appropriate relief from any violation of any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act. Such relief may include, singly or in combination:

- (1) A temporary or permanent injunction;
- (2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;
- (3) Assessment of the violator for any costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any unauthorized regulated activity for which legal action under this subsection may have been brought;
- (4) Assessment against the violator for compensatory damages for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by an unauthorized regulated activity;
- (5) A requirement that the violator restore the site of the violation to the maximum extent practicable and feasible.

d. The commissioner is authorized to assess a civil administrative penalty of up to \$25,000 for each violation of any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, and each day during which each violation continues

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shall constitute an additional, separate, and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, and duration. In adopting rules and regulations establishing the amount of any penalty to be assessed, the commissioner may take into account the economic benefits from the violation gained by the violator. No assessment shall be levied pursuant to this section until after the party has been notified by certified mail or personal service. The notice shall: (1) identify the section of the law, rule, regulation, permit, approval, or authorization violated; (2) recite the facts alleged to constitute a violation; (3) state the amount of the civil penalties to be imposed; and (4) affirm the rights of the alleged violator to a hearing. The ordered party shall have 20 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative penalty is in addition to all other enforcement provisions in this act and in any other applicable law, rule, or regulation, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. Any civil administrative penalty assessed under this section may be compromised by the commissioner upon the posting of a performance bond by the violator, or upon such terms and conditions as the commissioner may establish by regulation.

e. A person who violates any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection d. of this section, shall be subject, upon order of a court, to a civil penalty not to exceed \$10,000 per day of such violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of actual economic benefit accruing to the violator from the violation. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this act.

f. A person who purposely or negligently violates any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, shall be guilty, upon conviction, of

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a crime of the fourth degree and, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes. A second or subsequent offense under this subsection shall subject the violator to a fine, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, of not less than \$5,000 nor more than \$50,000 per day of violation, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes. A person who knowingly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under this act shall be guilty, upon conviction, of a crime of the fourth degree and, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine of not more than \$10,000, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes.

g. In addition to the penalties prescribed in this section, a notice of violation of any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, shall be recorded on the deed of the property wherein the violation occurred, on order of the commissioner, by the clerk or register of deeds and mortgages of the county wherein the affected property is located and with the clerk of the Superior Court and shall remain attached thereto until such time as the violation has been remedied and the commissioner orders the notice of violation removed.

h. The department may require an applicant or permittee to provide any information the department requires to determine compliance with any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act.

i. Any person who knowingly, recklessly, or negligently makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under this act shall be in violation of this act and shall be subject to the penalties assessed pursuant to subsections d. and e. of this section.

j. All penalties collected pursuant to this section shall either be used, as determined by the council, by the department for the acquisition of lands in the preservation area or by any development transfer bank used or established by the council to purchase development potential in the preservation area.

k. The department shall have the authority to enter any property, facility, premises, or

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site for the purpose of conducting inspections or sampling of soil or water, and for otherwise determining compliance with the provisions of sections 32 through 36 of this act.