

LEGAL NOTICE  
BOROUGH OF RINGWOOD  
COUNTY OF PASSAIC  
NEW JERSEY

Ordinance No. 2014-#-1

AN ORDINANCE TO AMEND AND  
SUPPLEMENT THE REVISED GENERAL  
ORDINANCES OF THE BOROUGH OF  
RINGWOOD BY ADDING CHAPTER XLI  
ENTITLED "HIGHLANDS AREA EXEMPTIONS"  
TO REGULATE THE MANNER IN WHICH THE  
BOROUGH MAY APPROVE APPLICATIONS  
THAT ARE EXEMPT FROM HIGHLANDS  
REGULATIONS

NOTICE is hereby given that the ordinance published herewith was introduced and passed first reading at a Meeting of the Municipal Council of the Borough of Ringwood, in the County of Passaic, New Jersey held at the Violet E. Bogert Municipal Annex, 60 Margaret King Avenue, Ringwood, New Jersey on Tuesday, January 21, 2014, and will be considered for final passage at a Business Meeting of said Municipal Council of the Borough of Ringwood to be held on Tuesday, March 4, 2014 at 8:00 p.m., or as soon thereafter as same can be considered, at the Violet E. Bogert Municipal Annex, 60 Margaret King Avenue, Ringwood, New Jersey, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning same. During the week prior and up to the time of public hearing, copies of said Ordinance will be available to the members of the general public who request same.

KELLEY A. ROHDE, RMC  
BOROUGH CLERK

1t: Sunday, February 2, 2014  
Fees: \$  
The Suburban Trends

**EXHIBIT A  
BOROUGH OF RINGWOOD  
COUNTY OF PASSAIC  
Ordinance No. 2014-#01**

AN ORDINANCE TO AMEND AND SUPPLEMENT THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF RINGWOOD. BY ADDING CHAPTER XLI ENTITLED “HIGHLANDS AREA EXEMPTIONS” TO REGULATE THE MANNER IN WHICH THE BOROUGH MAY APPROVE APPLICATIONS THAT ARE EXEMPT FROM HIGHLANDS REGULATIONS.

BE IT ORDAINED by the Governing Body of the Borough of Ringwood that the Revised General Ordinances of the Borough of Ringwood be and it is hereby amended and supplemented as follows:

**SECTION 1.** The Revised General Ordinance of the Borough of Ringwood are hereby amended and supplemented by the addition of the following Chapter XLI entitled “Highlands Area Exemptions:

**CHAPTER XLI. HIGHLANDS AREA EXEMPTIONS**

**41-1 TITLE, PURPOSE, SCOPE**

**41-1.1 TITLE**

This Chapter shall be known and cited as the “Ringwood Highlands Preservation Area Exemption Chapter.”

**41-1.2 PURPOSE**

The purpose of this Chapter is to set forth the procedural and substantive requirements by which Ringwood may issue Highlands Act Exemption Determinations for proposed activities, improvements or development projects within the Borough of Ringwood that are exempt from regulation under the Highlands Act pursuant to N.J.S.A. 13:20-28 (a), subparagraphs (1), (2) (4), (5), (6), (7), or (8). Such Highlands Act Exemption Determinations indicate whether such proposed activities, improvements or development projects are exempt from the Highlands Act, the Highlands Regional Master Plan (RMP), NJDEP Preservation Area Rules and from any amendments to the Ringwood’s master plan, development regulations, or other regulations which are, or hereafter may be, adopted pursuant to the approval of the Ringwood’s Petition for Plan Conformance by the Highlands Council.

**41-1.3 SCOPE/APPLICABILITY**

The provisions of this Chapter apply to activities, improvements and development projects involving lands in the Ringwood Highlands Preservation Area, which encompasses the entire Borough. The provisions of this Chapter shall not be construed to exempt any person or entity from the provisions and requirements of any other applicable ordinances, rules, or regulations of the municipality, or from any other applicable law, regulation, or requirement of any county, state, or federal authority having jurisdiction. Nor shall the provisions of this Chapter deprive any person or entity from seeking a Highlands exemption determination from the NJDEP instead of seeking a Municipal Highlands Exemption.

#### **41-1.4 STATUTORY AUTHORITY**

This Chapter is adopted under the authority of the Highlands Act and the MLUL. In N.J.S.A. 13:20-28 of the Highlands Act, the Legislature identified numerous categories of activities that are exempt from the Act, the RMP, the Preservation Area Rules, and any amendments to a master plan, development regulations, or other regulations adopted by a local government to conform them with the RMP. The Legislature granted the Highlands Council the authority to administer the plan conformance process and to approve, reject, or approve with conditions, municipal plan conformance petitions. See N.J.S.A. 13:20-14, -15. The Legislature, through the MLUL, granted authority to New Jersey municipalities to govern land use and development within their borders and, through the Highlands Act, established requirements for Highlands municipalities to conform their land use and development regulations with the RMP. In a July 19, 2012 Memorandum of Understanding (MOU) between the Highlands Council and the NJDEP, the Council and the NJDEP recognized the circumstances in which it would be appropriate for conforming Highlands Council-certified municipalities to make determinations regarding specified Highlands Act exemptions.

#### **41-2 DEFINITIONS**

##### **41-2.1 WORD USAGE**

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

##### **41-2.2 DEFINITIONS**

For purposes of this Chapter the following definitions shall apply:

**Agricultural or Horticultural Development** – Construction for the purposes of supporting common farmsite activities, including but not limited to, the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants,

animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing. (N.J.S.A. 13:20-3.)

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

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

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

**Application for Development** – The application form and all accompanying documents required by Chapter 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 MLUL (N.J.S.A. 40:55D-34 or N.J.S.A.40:55D-36).

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

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

**Development** – The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the MLUL. (N.J.S.A. 13:20-3; N.J.S.A. 40:55D-4.)

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

**Disturbance, Ultimate** – The total existing or proposed area of disturbance of a lot, parcel, or other legally designated (or otherwise legally recognized) tract or subdivision of land, for

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

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

**Farm Management Unit (or Farmsite)** – A parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise. (N.J.S.A. 13:20-3.)

**Forest Management Plan** – A written guidance document describing the forest resources present on a property, the landowner's management goals and objectives, and the recommended practices or activities to be carried out over time on the land. This tool is used to evaluate a forest land's current state and provide a management process which, over time, meets the landowner's objectives, while maintaining health and vigor of the resource. Forest Management Plans are typically written for a ten year period. (RMP, Glossary.)

**Highlands Act** – The Highlands Water Protection and Planning Act (N.J.S.A. 13:20-1 et seq.),

**Highlands Applicability Determination** – A determination made by the NJDEP (pursuant to N.J.A.C. 7:38-2.4) indicating whether a project proposed for the Preservation Area is a major Highlands development, whether any such major Highlands development is exempt from the Highlands Act, and whether the project is consistent with the applicable Areawide Water Quality Management Plan

**Highlands Area** – That portion of the municipality for which the land use planning and regulation are in conformance with, or are intended or proposed to be in conformance with, the Highlands RMP.

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

**Immediate Family Member** – A spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister, whether the individual is related by blood, marriage, or adoption. (N.J.S.A. 13:20-3.)

**Impervious Surface** – Any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, including, but not limited to, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements. (N.J.S.A. 13:20-3.)

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

**Major Highlands Development** – Except as otherwise provided pursuant to subsection a. of N.J.S.A. 13:20-28 (“Exemptions”): (1) any non-residential development in the Preservation Area; (2) any residential development in the Preservation Area that requires an environmental land use or water permit from the NJDEP, or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more; (3) any activity undertaken or engaged in the Preservation Area that is not a development but results in the ultimate disturbance of one-quarter acre or more of forested area or that results in a cumulative increase in impervious surface by one-quarter acre or more on a lot; or (4) any capital or other project of a state entity or local government unit in the Preservation Area that requires an environmental land use or water permit from the NJDEP, , or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more. Major Highlands Development shall not include any agricultural or horticultural development or agricultural or horticultural use. Solar panels shall not be included in any calculation of impervious surface. (As defined by the Highlands Act, N.J.S.A. 13:20-1 et seq., as amended.)

**Master Plan** – For purposes of this Chapter, all references to the “Ringwood Master Plan,” “master plan,” or “Master Plan,” refer to the municipal master plan, as defined in the MLUL, as adopted by the Ringwood Planning Board.

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

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

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

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

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

**Preservation Area** – Lands within the Highlands Region that are located in that portion designated by the Highlands Act as the “Preservation Area” (see metes and bounds description at N.J.S.A. 13:20-7b). For purposes of this Chapter, this terminology shall also be used to refer to all lands in Ringwood unless the Highlands Act is amended to modify the metes and bounds description of the Preservation Area insofar as it affects Ringwood.

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

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

## **41-3 GEOGRAPHIC AREA OF APPLICABILITY**

### **41-3.1 Highlands Area**

The entire land area of Ringwood lies within the Highlands Preservation Area as delineated in the Highlands Act and the RMP. The Master Plan of the Borough of Ringwood incorporates the Highlands Preservation Area, inclusive of the goals applicable to it, as an integral component of the planning and land use policies of the municipality. In the event the Highlands Act, the RMP or the Master Plan of Ringwood is ever modified to reduce the Preservation Area and to create a Planning Area within the Borough of Ringwood, this Chapter shall not apply to any area designated as a Planning Area.

### **41-3.2 Applicability**

Unless and until the Highlands Act, the RMP and the Master Plan of Ringwood are modified to specifically designate both Preservation Area and a Planning Area in Ringwood, this Chapter applies to all lands in Ringwood.

## **41-4 HIGHLANDS ACT EXEMPTION DETERMINATIONS**

### **41-4.1 HIGHLANDS ACT EXEMPTIONS**

N.J.S.A. 13:20-28 (Section 30 of the Highlands Act) exempts specific activities, improvements and development projects affecting lands within the Highlands Region. Such exempt activities, improvements and development projects may be proposed as a component of any type of application submitted to the municipality for approval, including but not limited to zoning permit applications, building permit applications, and Applications for Development . Any such qualifying activity, improvement or development project is exempt, with regard specifically to that activity, improvement or development project, from the requirements of the Highlands Act, the Highlands RMP, the NJDEP Preservation Area Rules, and any amendments to Ringwood’s master plan, development regulations, or other regulations which are, or may hereafter be, specifically adopted pursuant to the approval of Ringwood’s Petition for Plan Conformance by the Highlands Council. Such an exemption specifically applies to any Highlands Area land use Chapter adopted by Ringwood pursuant to the Highlands Council’s approval of Ringwood’s Petition for Plan Conformance. Evidence that a proposed activity, improvement, or development project qualifies as a Highlands Act Exemption may be sought in the form of either, a State Agency Exemption Determination or a Municipal Exemption Determination issued by Ringwood pursuant to this Chapter.

#### **41.-4.1.1 State Agency Exemption Determination**

A State Agency Exemption Determination is a Highlands Applicability Determination issued by the NJDEP. Any applicant seeking a formal exemption determination which is not eligible for a Municipal Exemption under Section 41-4.1.2 shall proceed in accordance with N.J.S.A. 30:20-28 and N.J.A.C. 7:38-1 et seq. A State Exemption Determination shall also be required in the case of any formal exemption determination for a capital or other project of any State entity or local government unit, or for any other publicly-owned or controlled land or facility.

#### **41-4.1.2 Municipal Exemption Determination**

For an application involving any of the specific exemptions listed in Section 41-4.2, the applicant may request a Municipal Exemption Determination. The applicant may rely upon the findings of a Municipal Exemption Determination to the same extent as would apply to a State Exemption Determination.

### **41-4.2 HIGHLANDS ACT EXEMPTIONS ELIGIBLE FOR MUNICIPAL EXEMPTION DETERMINATION**

In accordance with the terms of this Chapter, a Municipal Exemption Determination may be issued by the Exemption Designee of Ringwood for the following Highlands Act Exemptions:

**41-4.2.1 Exemption 1.** The construction of a single family dwelling, for an individual's own use or the use of an immediate family member, on a lot owned by the individual on August 10, 2004 or on a lot for which the individual entered into a binding contract of sale to purchase on or before May 17, 2004.

**41-4.2.2 Exemption 2.** The construction of a single family dwelling on a lot in existence on August 10, 2004, provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more,

- a) A Municipal Exemption Determination indicating that an applicant qualifies under Highlands Act Exemption 2 shall require approval and filing of a Deed Notice along with a site plan delineating the total exempt area and the extent of the disturbance recognized in the Municipal Exemption Determination (see 41-4.4.6 below). Municipal Exemption Determinations in such instances shall not take effect until the applicant has provided proof of filing of the approved Deed Notice.

**41-4.2.3 Exemption 4.** The reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious surfaces on the site as of the date of the enactment of the Act, August 10, 2004, 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. This exemption shall not be construed to permit multiple 125% footprint expansions, but rather, to permit one or more reconstruction activities cumulatively resulting in a maximum 125% increase in the footprint of the impervious surfaces lawfully existing on the site, provided they do not cumulatively exceed the one-quarter acre limitation. Any determination of whether the expansion of impervious cover meets the statutory criteria for the exemption must account for the preexisting impervious cover, and such expansion must be contiguous to the location of the existing impervious cover.

**41-4.2.4 Exemption 5.** Any improvement to a single family dwelling in existence on August 10, 2004, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool or septic system.

**41-4.2.5 Exemption 6.** Any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on August 10, 2004, including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility.

**41-4.2.6 Exemption 7.** An activity conducted in accordance with an approved woodland management plan pursuant to section 3 of the "Farmland Assessment Act," P.L.1964, c.48 (C.54:4-23.3) or a forest stewardship plan approved pursuant to section 3 of P.L.2009, c. 256 (the "State Park and Forestry Resources Act," 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.

**41-4.2.7 Exemption 8.** The construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established.

### **41-4.3 EXEMPTION DESIGNEE(S)**

Municipal Exemption Determinations shall be issued in Ringwood only by the Construction Code Official, Borough Engineer or other person designated by resolution of the Borough Council (an “Exemption Designee”) provided that, prior to issuance of any such Highlands Exemption such Exemption Designee has satisfactorily completed a Highlands Council training class for which the Exemption Designee has received formal certification from the Highlands Council. Each such Exemption Designee shall be required from time to time to obtain, at the cost and expense of the Highlands Council, such updated certifications as may be prescribed by the Highlands Council. If, at any time, the Borough does not have an Exemption Designee who has so qualified, a State Agency Exemption Determination shall be required for all formal Highlands Act Exemption Determinations.

### **41-4.4 -APPLICATION PROCEDURES**

#### **41-4.4.1 Applications**

A request for a Municipal Exemption Determination shall be submitted on a form provided by the Exemption Designee and shall be accompanied by the submission materials prescribed for each exemption in Section 41-8 to demonstrate whether the proposed activity, improvement or development project qualifies for the applicable exemption.

#### **41-4.4.2 Completeness Determination**

The Exemption Designee shall review the application and all accompanying materials to determine whether sufficient information has been submitted to make a determination on the application. In the event of a finding that the application is incomplete, the Exemption Designee shall, within 30 calendar days of receipt, issue such findings in writing to the applicant, indicating what information is required to make the application complete.

#### **41-4.4.3 Time for Determination**

The Exemption Designee shall issue a Municipal Exemption Determination within 60 calendar days of receipt of a complete application. The Exemption Designee may consult with the NJDEP or the Executive Director (or applicable designee) of the Highlands Council as needed in making any exemption determination, however. In such circumstance, the Exemption Designee shall seek such assistance within the 60-day period and shall issue the determination within at least ten (10) calendar days of receiving the requested guidance. Failure of the Exemption Designee to

issue a Municipal Exemption Determination within such periods shall not constitute approval of the application therefor.

#### **41-4.4.4 Determinations**

Each Municipal Exemption Determination shall be in writing, shall certify to the applicability or inapplicability of the exemption, and shall include a statement of the rationale for the decision. Any Municipal Exemption Determination certifying to the applicability of Highlands Act Exemption #2 shall be contingent upon submission of proof of recording of the required Deed Notice, as prescribed by Section 41-4.4.6.

#### **41-4.4.5 Notice of Determination Required**

The Exemption Designee shall provide a copy of each Municipal Exemption Determinations including a copy of the full application, to the Highlands Council and to the NJDEP within ten (10) business days of issuance.

#### **41-4.4.6 Deed Notice for Exemption #2**

Any Municipal Exemption Determination that certifies to the applicability of Highlands Act Exemption #2 shall not be effective until a deed notice containing the information listed below has been recorded in the office of the Passaic County Clerk. The applicant shall provide a copy of the filed Deed Notice to the Highlands Council within five (5) business days of filing, indicating the extent of the exemption that has been consumed . The deed notice shall incorporate each of the components listed below

- A. Clear identification of the name(s) and address(es) of the owner(s) in fee of the property;
- B. Designated tax block and lot number(s), street address(es), municipality and county of location of the property;
- C. Reference to the Municipal Exemption Determination (by date, numbering if applicable) issued and under which the deed notice is being filed;
- D. Description of the approved area of ultimate disturbance and the impervious surface area, with verification that these remain below the statutory limits;
- E. For properties of one acre or more in area, metes and bounds delineation indicating the portion of the property for which the ultimate disturbance has been authorized;
- F. Agreement to abide by the ultimate disturbance and impervious surface limits imposed by the Municipal Exemption Determination and providing that any increase in ultimate disturbance or impervious surface in excess of an Exemption #2 threshold, shall render the Municipal Exemption Determination null and void; and

G. Notice that the owner(s) and subsequent owner(s) and lessees shall cause all leases, grants, and other written transfers of interest in the property to contain provisions expressly requiring all holders thereof to take the property subject to the limitations set forth in the deed notice.

#### **41-5 APPEAL OF MUNICIPAL EXEMPTION DETERMINATION**

A Municipal Exemption Determination may be appealed to the NJDEP by any affected person/entity by filing a notice of appeal within twenty (20) calendar days of issuance or receipt of said determination, whichever is later, specifying the grounds therefor. Appeals must be filed with the NJDEP. All appeals shall be copied to the Exemption Designee who shall immediately transmit to the NJDEP copies of the notice of appeal, the Municipal Exemption Determination Application, and all supplemental materials constituting the record that the Exemption Designee relied upon in issuing the Municipal Exemption Determination. Where the Municipal Exemption Determination deems an activity, improvement or development project exempt, the filing of an appeal to the NJDEP shall stay all proceedings in furtherance of its approval by the municipality.

#### **41-6 EFFECT OF CERTIFIED EXEMPTION**

A Municipal Exemption Determination issued pursuant to this Chapter is restricted solely to the extent of the specified activity, improvement, or development project as described in the language of the Highlands Act Exemption, or to any lesser activity, improvement, or development project as proposed and certified through a Municipal Exemption Determination Application. Any activity, improvement, or development project, or any part thereof, that is not specifically listed as an exemption or exceeds the limits of an exemption, remains subject to all of the above regulatory programs to the full extent of the respective applicability of each. Issuance of a Highlands Exemption Determination shall not relieve the applicant from securing all other required federal, state, or local approvals.

**41-7 APPLICATION FEES** A nonrefundable fee of \$200 shall be paid to the Borough for each Municipal Exemption Determination.

#### **41-8 SUBMISSION REQUIREMENTS; WAIVER**

All applications shall be accompanied by the Municipal Exemption Determination Application Form, the applicable fees, and the information listed in Sections 41-8.1 through -8.7, as applicable to the particular exemption(s) being sought by the applicant. references to professional preparers indicated herein shall be construed to include any and all qualified individuals licensed, certified, or otherwise eligible and authorized to complete such work, in accordance with the applicable laws and legal requirements of the State of New Jersey including but not limited to the MLUL (N.J.S.A. 40:55D-1 et seq.) and Title 13 of the New Jersey Administrative Code, Law and Public Safety. Where the Exemption Designee finds that any

submission item is not necessary to address the evidentiary requirements that must be satisfied for issuance of an Exemption Determination, either because alternate items have been provided by the applicant, or the relevant information is readily available through records, maps, or any other documents on file in the offices of the municipality, the Exemption Designee may waive the applicant's obligation to submit such information.

**41-8.1 Exemption 1.**

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

**41-8.2 Exemption 2.**

- A. A copy of the recorded deed or plat showing that the lot was created on or before August 10, 2004 or proof of subdivision approval on or before August 10, 2004;
- B. A property survey certified by a licensed New Jersey Professional Land Surveyor indicating the property boundary lines and overall lot size, and showing what structures currently exist on the lot, if any;
- C. A parcel plan certified by a licensed New Jersey Professional Engineer showing all existing and proposed development, including all structures, grading, clearing, impervious surface and disturbance, and including the calculations supporting the claim that impervious surfaces and areas of disturbance are within the limits necessary for Exemption 2; and
- D. A metes and bounds description of the area of the lot to be disturbed, limited to less than one acre and a draft conservation restriction or deed notice (pursuant to 41-4.4.6, above) to cover the balance of the lot.4

**41-8.3 Exemption 4.**

- A. A parcel plan certified by a licensed New Jersey Professional Engineer depicting:
  - i. All existing property improvements, including all structures, grading, clearing, impervious surfaces and limits of disturbance, lawfully existing on the site as of August 10, 2004; and
  - ii. All proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading; and
- B. A copy of any official documentation of the original date of construction of the building or otherwise establishing the lawfulness of existing impervious surfaces.

**41-8.4 Exemption 5.**

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

**41-8.5 Exemption 6.**

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

**41-8.6 Exemption 7.**

- A. For a private landowner with an approved woodland management plan or forest stewardship plan:

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

**41.4.8.7**      *Exemption 8.*

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

**SECTION 2. SEVERABILITY**

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

**SECTION 3. EFFECTIVE DATE**

This Chapter shall take effect after final passage and publication in the manner required by law and the issuance by the Highlands Council of a notice to proceed.