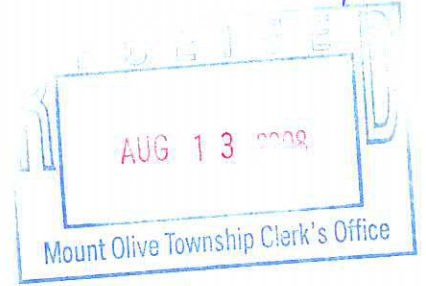


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cc: Admin
Plan



RESOLUTION
R08-106

**RECOGNITIONING THE DISTINCT SEPARATION IN THE HIGHLANDS ACT OF
PRESERVATION AREA AND PLANNING AREA COMPLIANCE WITH THE
HIGHLANDS REGIONAL MASTER PLAN**

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) (N.J.S.A.13:20-1 et al) was signed into law on August 10, 2004; and

WHEREAS, the Highlands Act defines the Highlands Region, which includes 32 of 39 municipalities in Morris County, and divides the Highlands Region into two sub-areas identified as the Preservation Area and Planning Area; and

WHEREAS, the Highlands Act mandates the creation of the Highlands Council, which has amongst its powers and duties, the task of developing a Regional Master Plan for the entire Highlands Region; and

WHEREAS, the Highlands Act specifies that municipalities and counties are required to comply with the provisions of the Highlands Regional Master Plan only with respect to that portion of the municipality or county lying within the Preservation Area; and

WHEREAS, N.J.S.A.13:20-14(f) specifies that mandatory conformance to the Regional Master Plan shall not apply to any municipality located wholly in the Planning Area and that conformance with the Regional Master Plan as it applies to any portion of a municipality lying within the Planning Area shall be voluntary; and

WHEREAS, N.J.A.C.7:38-1.1 (k) of the NJDEP "Highlands Water Protection and Planning Act Rules" states that the NJDEP will only approve Water Quality Management Plan amendments for both the Planning Area and the Preservation Area upon receiving from the Highlands Council a determination of consistency with the Regional Master Plan; and

WHEREAS, the Highlands Council has developed unique nitrate dilution standards and a wide variety of other environmental standards as part of its Regional Master Plan that will be required to be adopted by all conforming Planning Area communities; and

WHEREAS, the Highlands Council is currently debating whether or not to require Planning Area municipalities that do not voluntarily opt into the Regional Master Plan to adopt the Regional Master Plan nitrate dilution standards and other Regional Master Plan environmental standards before obtaining a determination of consistency with the Regional Master Plan by the Highlands Council: and

WHEREAS, the Township of Rockaway Municipal Council is concerned that the Highlands Council anticipates that, through their consistency review, Planning Area municipalities will be mandated by the NJDEP to adopt Regional Master Plan nitrate dilutions standards and other Regional Master Plan environmental standards in order to obtain NJDEP approval of their Wastewater Management Plans, thereby making these requirements of the Regional Master Plan mandatory through State agency regulation, for municipalities for which this choice is to be voluntary pursuant to the clear intent of the Highlands Act; and

WHEREAS, the Highlands Council has the power to incorporate the NJDEP statewide nitrate dilution standard and other Water Quality Management Rule requirements into the Regional Master Plan for nonconforming municipalities in the Planning Area in order to comply with the Act's specific mandate to maintain voluntary conformance within the Planning Area; and

WHEREAS, the staff of the Highlands Council has on two separate occasions formally advised the Highlands Council to amend the draft Regional Master Plan to recognize the NJDEP statewide nitrate dilution standard as appropriate for nonconforming municipalities and counties in the Planning Area, provided that municipalities in the Planning Area that voluntarily agree to conform to the Regional Master Plan amend their plans and ordinances to comply with the standards in the Regional Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Township of Rockaway Municipal Council of the County of Morris in the State of New Jersey as follows:


1. The Township of Rockaway recognizes the distinct separation in the Highlands Act of the Preservation Area and the Planning Area and the clear intent of the Highlands Act to permit municipalities located wholly or partially in the Planning Area to choose whether they wish to voluntarily comply with the Highlands Regional Master Plan

2. The Township of Rockaway objects to any action by the Highlands Council or the NJDEP that would require Planning Area municipalities to adopt the nitrate dilution standards or any other requirement in the Highlands Regional Master Plan where the municipalities have not voluntarily opted into the Highlands Regional Master Plan pursuant to N.J.S.A. 13:20-15 of the Highlands Act.
3. The Township of Rockaway strongly opposes the consideration of a municipality's conformance or lack of conformance with the Regional Master Plan as a factor in any decision by a State department or agency, including, but not limited to, the Council on Affordable Housing, the Department of Community Affairs, the Department of Environmental Protection, the Department of Transportation, and the Highlands Water Protection and Planning Council to:
 - a. award a grant or loan
 - b. determine the amount of a grant or loan
 - c. provide aid or assistance
 - d. grant or deny a permit or approval
 - e. determine the terms or conditions of a permit or approval for any portion of a municipality located in the Planning Area of the Highlands Region.

The consideration of municipality's conformance or lack of conformance with the Highlands Regional Master Plan should only be considered for priority ranking for the above noted purposes where the State agency has discretion in accordance with State Statutes.

4. Copies of this resolution are to be sent to the Highlands Council, the Morris County Board of Chosen Freeholders, and all Morris County municipalities in the Highlands area.

I HEREBY CERTIFY the foregoing to be a true copy of a Resolution Adopted by the Township Council of the Township of Rockaway at a duly convened meeting held on August 5, 2008.


Mary Cilurso, RMC/CMC
Township Clerk

