**Ordinance No. 08 - 15**

# ORDINANCE OF THE BOROUGH OF MOUNT ARLINGTON, MORRIS COUNTY, NEW JERSEY, TO AMEND THE LAND USE ORDINANCE OF THE BOROUGH OF MOUNT ARLINGTON TO UPDATE PUBLIC NOTICE AND SUBMISSION REQUIREMENTS AND INCORPORATE HIGHLANDS COUNCIL CALL-UP PROVISIONS FOR APPLICATIONS FOR DEVELOPMENT IN THE HIGHLANDS PRESERVATION AREA

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

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

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

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

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

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

**WHEREAS,** Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may at any time voluntarily revise and conform its local master plan and development regulations,

as related to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan; and

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

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

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

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

**WHEREAS,** the Governing Body of the Borough of Mount Arlington, on behalf of the municipality, petitioned the Highlands Council for Plan Conformance with respect to Borough lands located within the Preservation Area portion of the Highlands Region; and

**WHEREAS,** the Petition filed with the Highlands Council proposed amendments to the municipal planning program, including amendments based on Highlands Council models, to the Environmental Resource Inventory, Master Plan, and Land Use Ordinance, which were intended to achieve conformance with the Regional Master Plan; and

**WHEREAS,** due to the extremely limited development potential of the Preservation Area in the Borough of Mount Arlington (resulting from both the application of NJDEP Preservation Area Rules to the particular characteristics of Preservation Area lands in the Borough and the existence of extensive areas of already preserved lands), the Governing Body and the Highlands Council together have determined that the adoption of the complete Master Plan Highlands Element and Highlands Preservation Area Land Use Ordinance based on Highlands Council models, is not necessary to implement Plan Conformance standards in the Borough; and

**WHEREAS,** the Governing Body and the Highlands Council together have determined that the adoption of revised submission requirements pertinent to Applications for Development provides a more efficacious means to ensure that development within the

municipality achieves compliance with the standards and protections required under the Highland Regional Master Plan; and

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

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

**NOW THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Mount Arlington that the Land Use Ordinance of the Borough of Mount Arlington be and is hereby amended to incorporate the following provisions:

## SECTION 1. APPLICABILITY

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

A. For residential development, create three (3) or more dwelling units;

B. For non-residential development:

1. Result in the ultimate disturbance of one (1) acre or more of land;

2. Produce a cumulative impervious surface area of one-quarter (¼) acre, or more; or

3. Introduce or expand on any of the following land uses/facilities:

a) Landfills;

b) Permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills;

c) Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials;

d) Industrial treatment facility lagoons; or

e) Any Major or Minor Potential Contaminant Source (as identified in Appendix A and Appendix B of this Ordinance, respectively) on lands located within 200 feet of the wellhead of any public community well or public non-community well, as these are defined at Section 6 below.

All thresholds in A. and B., above, shall be interpreted to apply cumulatively over time, beginning as of the effective date of this Ordinance. If or when any one of the thresholds is reached, the Ordinance shall apply to any and all development in excess of that threshold. Where an application proposes a mixed use, the thresholds in B., for non-residential development shall apply to the whole of the project, while that in A., shall apply to the residential component. For purposes of this Ordinance, the phrases "Application for Development," "Highlands Area," "residential development," "ultimate disturbance," and "cumulative impervious surface area" shall be defined as provided at Section 6 below.

## SECTION 2. ADMINISTRATIVE COMPLETENESS

A. CONSISTENCY DETERMINATIONS REQUIRED. No Application for Development included in Section 1 above, shall be deemed complete or considered for review by the applicable Land Use Board until and unless the Applicant has obtained and provided a copy of:

1. A Consistency Determination from the Highlands Council indicating that the application is consistent with the Highlands Regional Master Plan; or

2. A Consistency Determination from the Highlands Council indicating that the application is not consistent with the Highlands Regional Master Plan, accompanied by a certification, as detailed in Section 2.B below.

B. FINDINGS OF INCONSISTENCY. Where a Highlands Council Consistency Determination indicates that an Application for Development is inconsistent with the Highlands Regional Master Plan, no such application shall be deemed complete or considered for review by the applicable Land Use Board, until or unless the Applicant has obtained from the professional(s) responsible for preparation of the Applicant's plans, a certification indicating that to the best of the knowledge and abilities of such professional(s), the application has, since review by the Highlands Council, been revised to achieve consistency with the Highlands Regional Master Plan, and specifically describing the revisions made to achieve such consistency.

C. CHECKLIST WAIVER. The Borough may issue a waiver from the provisions of this Section where it can be established by the Applicant and can be verified by the designated representative(s) of the Borough that:

1. The activity, improvement or development proposed by the subject Application for Development has not yet been formally determined to be exempt from the Highlands Act (see Section 5.B, below), but eligibility for an exemption has been sufficiently established by the Applicant; or

2. The activity, improvement or development proposed in the Application for Development will neither encroach upon a Highlands Resource or Highlands Resource Area, nor be of detrimental impact to any Highlands resource or Highlands Resource Area as these are identified and delineated in the Highlands Regional Master Plan. The Applicant's professional(s) responsible for preparation of the

Applicant's plan shall establish compliance of the above through a formal certification specifically addressing the Highlands Resources and Resource Areas and related policies and objectives as identified in Chapter 4 of the Highlands Regional Master Plan.

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

## SECTION 3. NOTICE REQUIREMENTS

The provisions of this section shall apply in addition to all requirements concerning public notice for Applications for Development as provided under the MLUL and required pursuant to the underlying municipal land use ordinances.

A. NOTICE TO HIGHLANDS COUNCIL OF APPLICATION. The applicant for any Application for Development shall provide notice to the Highlands Council at least ten (10) days prior to the date on which the application is scheduled for consideration by the local Board. A copy of the complete application shall accompany such notice regarding any Application for Development involving the potential disturbance of two (2) acres, or more, or a cumulative increase in impervious coverage of one (1) acre, or more. The applicant shall provide copies of any subsequent revisions to such applications to the Highlands Council at the same time these are provided to the reviewing Board. If such plans or plats have been prepared in digital form, they shall be provided to the Highlands Council in a digital format that meets Highlands Council standards for such submissions.

B. NOTICE OF DECISION REQUIRED. The reviewing Board shall provide a certified copy of the fully-executed resolution memorializing its final decision regarding any Application for Development to the Highlands Council within ten (10) days of its adoption. This provision shall apply in all cases, whether the Board approves the Application for Development, denies it, or approves it with conditions.

## SECTION 4. HIGHLANDS COUNCIL CALL-UP PROVISIONS

All Board decisions pertaining to Applications for Development involving the ultimate disturbance of two (2) acres or more of land or a cumulative increase in impervious surface by one (1) acre or more, are subject to call-up and subsequent review by the Highlands

Council in accordance with procedural requirements and timeframes established pursuant to the Highlands Act. The Highlands Council may, on notice to the applicant within 15 calendar days of receipt of the memorializing resolution of the reviewing Board, review and require a public hearing on the application. In that case, subsequent to the hearing the Highlands Council may approve the Application for Development, deny it, or issue an approval with conditions.

The following conditions of approval shall be attached to any Application for Development approved pursuant to the MLUL which involves lands within or partially within the Highlands Preservation Area.

A. NO LAND DISTURBANCE. No land disturbance approved in connection with an Application for Development involving the ultimate disturbance of two (2) acres or more of land or a cumulative increase in impervious surface by one (1) acre or more, shall occur until and unless, either:

1. The Highlands Council call-up period has expired without issuance of a notice seeking review of the application by the Highlands Council; or

2. The Highlands Council has issued notice, and has reviewed the approval pursuant to N.J.S.A. 13:20-17(a)1 and has determined not to deny or modify the approval.

B. AMENDMENTS. In the event that Highlands Council review of an approved Application for Development pursuant to this Section results in a finding that the plans must be modified, the applicant shall amend the application accordingly and submit the amended application to the reviewing Board for approval. Such submissions shall include the written findings and notice of decision of the Highlands Council and any subsequent approval by the Land Use Board shall incorporate any conditions imposed by the Highlands Council.

C. APPROVALS CONDITIONED ON STATE APPROVALS. All approvals shall be subject to the approval of any and all State agencies or other authorities having jurisdiction over any aspect or aspects of the approved Application for Development.

D. AS-BUILT SURVEYS REQUIRED. Prior to issuance of any final Certificate of Occupancy or Approval, or to the release of any performance bonding held in relation to the approved Application for Development, the applicant shall provide an "as-built" survey depicting the final site conditions.

E. SUBMISSION OF FINAL PLANS/PLATS TO HIGHLANDS COUNCIL. The applicant shall provide a copy of any final site plan or subdivision plat to the Highlands Council. If such plans or plats have been prepared in digital form, they shall be provided to the Highlands Council in a digital format that meets Highlands Council standards for such submissions in lieu of copies printed on paper.

## SECTION 5. EXCLUSIONS AND EXEMPTIONS

A. EXCLUSIONS. The following specific improvements and related applications shall be excluded from the provisions of this Ordinance:

1. The reconstruction, within the same footprint, of any building or other structure lawfully existing as of the effective date of this Ordinance, in the event of its destruction or partial destruction by fire, storm, natural disaster, or any other unintended circumstance.

2. Any improvement or alteration to a building or other structure lawfully existing as of the effective date of this Ordinance, where such improvement or alteration is necessary for compliance with the provisions of the Americans with Disabilities Act, or to otherwise provide accessibility to the disabled.

3. Any Agricultural or Horticultural Use or Development that would not result in either:

    a. An increase, since the date of enactment of the Highlands Act (August 10, 2004), either individually or cumulatively, of new agricultural impervious cover of greater than three percent (3%) to the total land area of a Farm Management Unit. Solar panels shall not be included in any calculation of agricultural impervious cover (all terms as defined in Section 6, below); or

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

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

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

2. *Municipal Determination.* Pursuant to Borough Ordinance #09-15, entitled "Borough of Mount Arlington Highlands Area Exemption Ordinance," effective as of October 6, 2015, for any application under this Ordinance involving Highlands Act Exemptions #4, #6, #7, or #8, the applicant may request and shall be deemed to have satisfied the evidentiary requirement by obtaining a Municipal Exemption Determination issued by the Municipal Exemption Designee, provided such Determination indicates that the proposal qualifies as a Highlands Act Exemption. The applicant may rely upon the findings of a Municipal Exemption

Determination to the same extent and with the same protections as would apply in the case of a HAD issued by the NJDEP.

## SECTION 6. DEFINITIONS

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

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

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

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

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

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

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

**Disturbance, Ultimate** – means the total existing or proposed area of disturbance of a lot, parcel, or other legally designated (or otherwise legally recognized) tract or subdivision of land, for the purpose of, and in connection with, any human activity, property improvement, or development, including the surface area of all buildings and structures, all impervious surfaces, and all associated land disturbances such as excavated, filled, and graded areas, and all lawn and landscape areas. Ultimate disturbance shall not include areas of prior land disturbance which at the time of evaluation: a) contain no known man-made structures (whether above or below the surface of the ground) other than such features as old stone

rows or farm field fencing; and b) consist of exposed rock outcroppings, or areas which, through exposure to natural processes (such as weathering, erosion, siltation, deposition, fire, flood, growth of trees or other vegetation) are no longer impervious or visually obvious, or ecologically restored areas which will henceforth be preserved as natural areas under conservation restrictions.

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

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

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

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

**Highlands Area** – means that portion of the municipality for which the land use planning and regulation are in conformance with, or are intended or proposed to be in conformance with, the Highlands Regional Master Plan, specifically in the context of this Ordinance, the Borough of Mount Arlington Highlands Preservation Area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## SECTION 7

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

## SECTION 8

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

## SECTION 9

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

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Council of the Borough of Mount Arlington, introduced on September 1, 2015 and will be further considered after a Public Hearing held on October 6, 2015 at the Municipal Building at 7:00 pm.

Introduced: September 1, 2015

Attest: October 6, 2015

Attest:

**Linda DeSantis, RMC**

**BOROUGH OF MOUNT ARLINGTON**

**Arthur R. Ondish, Mayor**

## APPENDIX A. MAJOR POTENTIAL CONTAMINANT SOURCES

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

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

## APPENDIX B. MINOR POTENTIAL CONTAMINANT SOURCES

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

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

**Exhibit 1: Borough of Mount Arlington Highlands Preservation Area**

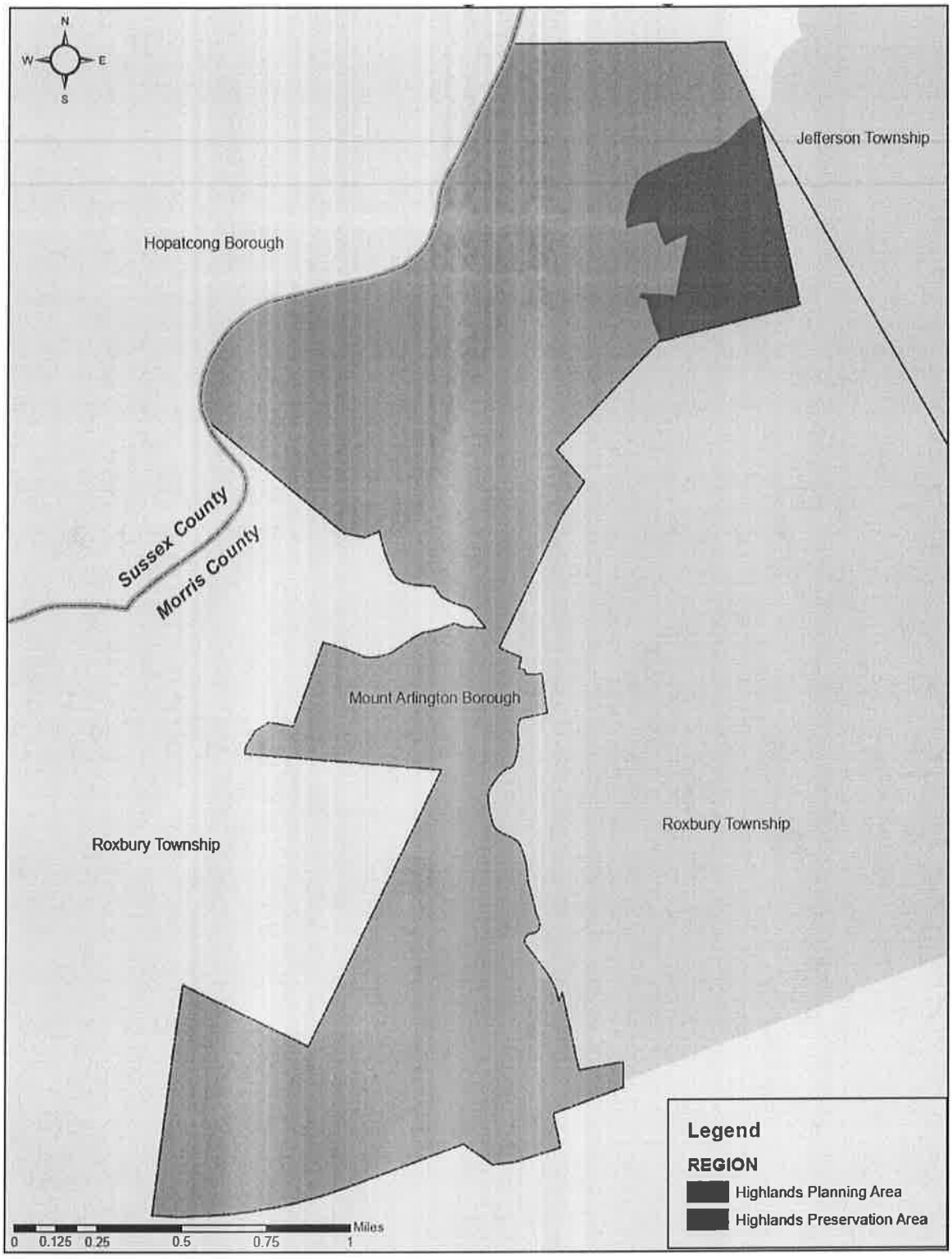


EXHIBIT 1