Ord.#24-2013

AN ORDINANCE OF THE TOWNSHIP OF MOUNT OLIVE, COUNTY OF MORRIS, STATE OF NEW JERSEY TO MODIFY CHAPTER 400, "LAND USE" TO ADD A NEW SECTION TO BE KNOWN AS ARTICLE X, "HIGHLANDS PRESERVATION AREA EXEMPTION STANDARDS"

WHEREAS, the Township of Mount Olive has duly adopted land use and zoning regulations in conformance with a Master Plan, consistent with the standards set forth in the Municipal Land Use Law and in particular with regard to N.J.S. 40:55D-62; 65; and

WHEREAS, approximately eighty percent of the Township of Mount Olive is located within the Highlands Preservation Area as established by the Highlands Water Protection and Planning Act ("Act") [P.L. 2004, c. 120]; and

WHEREAS, the Act established 17 categories of exemptions; and

WHEREAS, by way of a Memorandum of Understanding dated July 19, 2012, the New Jersey Highlands Council and the New Jersey Department of Environmental Protection agreed to invest Highlands municipalities with the option to exercise authority to review and issue determinations for a select number of said exemptions, namely 1, 2, 4, 5, 6, 7, and 8; and

WHEREAS, the person(s) serving as the Exemption Designee must receive training and certification by the Highlands Council to carry out this function; and

WHEREAS, the Mayor and Township Council of the Township of Mount Olive find it is appropriate and desirable for the Township to assume the responsibility for review and determination for all seven exemption categories as provided for in the Memorandum of Understanding; and

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Mount Olive, County of Morris, State of New Jersey, that Chapter 400, "Land Use" of the Township Code of the Township of Mount Olive be amended and supplemented to establish a new Article X to be known as the Highlands Preservation Area Exemption Standards.

Section 1.

Article X. Highlands Preservation Area Exemption Standards

<u>§400-117. Purpose and authority</u>

The purpose of this Ordinance is to set forth the procedural and substantive requirements by which the municipality will issue Highlands Act Exemption Determinations. Such determinations pertain only to Highlands Act Exemptions 1, 2, 4, 5, 6, 7, and 8. Highlands Act Exemption Determinations indicate whether proposed activities, improvements or development projects affecting lands located within the Township Highlands Area are exempt from the Highlands Water Protection and Planning Act ("Highlands Act," N.J.S.A. 13:20-1 et seq.), and are therefore exempt from the Highlands Water Protection and Planning Council's ("Highlands Council") Regional Master Plan, the New Jersey Department of Environmental Protection's

(NJDEP) Highlands Water Protection and Planning Act Rules ("Preservation Area Rules," N.J.A.C. 7:38-1 et seq.), and from any amendments to the Township's master plan, development regulations, or other regulations adopted pursuant to the approval of the Township's Petition for Plan Conformance by the Highlands Council.

§400-118. Scope and applicability

The provisions of this Ordinance pertain to activities, improvements and development projects involving lands located within the Township Highlands Area. The Highlands Area comprises that portion of the municipality for which the applicable provisions of the Township Master Plan, land use ordinances and other pertinent regulations have been deemed by the Highlands Council to be in conformance with the Highlands Regional Master Plan (RMP). The provisions of this Ordinance shall not be construed to alleviate 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 Ordinance deprive any person or entity from seeking a Highlands exemption determination from the NJDEP or the Highlands Council.

§400-119. Statutory Authority

This Ordinance is adopted under the authority of the Highlands Act and the New Jersey Municipal Land Use Law ("MLUL", N.J.S.A. 40:55D-1 et seq.). In 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. See N.J.S.A. 13:20-28. 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.

§400-120. Definitions

For purposes of the Highlands Preservation Area Exemption review and determination process, 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 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 Ordinance.

Application for Development – 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 permit pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.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 – 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.)

Farmsite – A Farm Management Unit as defined above.

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 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 section 30 of the Highlands Act ("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, see definition above], 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, see definition above], 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 Ordinance, all references to the "Township Master Plan," "master plan," or "Master Plan," refer to the municipal master plan, as defined in the MLUL (N.J.S.A. 40:55D-5), as adopted by the Township Planning Board.

Master Plan, Highlands Regional (RMP) – For purposes of this Ordinance, 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). For purposes of this Ordinance, this terminology shall also be used to refer to Planning Area lands located solely within the Township.

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 Ordinance, this terminology shall also be used to refer to Preservation Area lands located solely within the Township.

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.

§400-121. Geographic area of applicability

A. Highlands Planning Area and Preservation Area

The Highlands Act establishes the Preservation Area and Planning Area of the Highlands Region. It describes the varied attributes of each and sets forth the major land use planning goals that pertain to the lands located within each. The Act defines the geographic extent of the Highlands Region to include the aggregated land area making up its constituent municipalities (N.J.S.A. 13:20-7a). It provides a physical delineation of the Preservation Area by use of a specific metes and bounds description (N.J.S.A. 13:20-7b), designating all remaining lands within the Highlands Region as the Planning Area.

B. Highlands Area

The Township Master Plan 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. For purposes of this Ordinance, this Area is designated as the Township Highlands Area. A map of the Township Highlands Area appears in Exhibit 1.

C. Applicability Specified

This Ordinance applies specifically and solely to lands designated as the Township Highlands Area, as delineated in Exhibit 1.

§400-122. Highlands Act Exemption Determinations

Section 30 of the Highlands Act identifies as exempt, specific activities, improvements and development projects affecting lands within the Highlands Region. Such activities, improvements and projects may be proposed as a component of any type of land use 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 the Township's master plan, development regulations, or other regulations adopted pursuant to the approval of Township's Petition for Plan Conformance by the Highlands Council.

Where any application submitted to the municipality for approval proposes to rely upon a Highlands Act Exemption, the applicant must, as a condition of application completeness, and

prior to review or approval of the application by the applicable municipal authority, provide sufficient evidence that the proposed activity, improvement, or development project in fact qualifies as a Highlands Act Exemption. Such evidence shall consist of either a State Agency Exemption Determination or a Municipal Exemption Determination indicating that the proposed activity, improvement, or development project qualifies for a Highlands Act Exemption.

§400-123. State Agency Exemption Determination

State Agency Exemption Determinations shall consist of a Highlands Applicability Determination issued by the NJDEP. State Agency Determinations may be requested with regard to any Highlands Act Exemption, however for applications involving any exemption not identified herein, a State Agency Exemption Determination is required. Any applicant seeking a 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, also must request a State Agency Exemption Determination.

§400-124. Municipal Exemption Determination

For an application involving any of the specific exemptions listed herein, 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 an exemption determination issued by the NJDEP.

§400-125. Highlands Act Exemptions Eligible for Municipal Determination

Effective as of the date on which the municipality receives written authorization from the Highlands Council to proceed, an applicant may seek a Municipal Exemption Determination for the Highlands Act Exemptions listed hereunder.

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 the date of enactment of the Highlands Act (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.

Exemption 2. The construction of a single family dwelling on a lot in existence on the date of enactment of the Highlands Act (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. Municipal Exemption Determinations in such instances shall not take effect until the applicant has provided proof of filing of the approved Deed Notice.

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, 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.

(a) For purposes of this Ordinance, 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. See In re August 16, 2007 Determination of NJDEP ex rel. Christ Church, 414 N.J. Super. 592 (App. Div. 2010), certif. denied, 205 N.J. 16 (2010).

(b) The applicable date of lawful existence shall be August 10, 2004, the date of enactment of the Highlands Act

Exemption 5. Any improvement to a single family dwelling in existence on the date of enactment of the Highlands Act (August 10, 2004), including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool or septic system.

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 the date of enactment of the Highlands Act (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.

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.

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.

<u>§400-126. Exemption Designees</u>
Municipal Exemption Determinations regarding Highlands Act Exemptions shall be issued by the Township Engineer, Zoning Officer, Planning Administrator or Planning Consultant. The Exemption Designees shall be authorized to issue Municipal Exemption Determinations on behalf of the municipality, and shall only begin to do so, after satisfactory completion of a Highlands Council training class for which the individuals have received formal certification from the Highlands Council.

<u>§400-127. Updates to Training Certification</u>
In the event of programmatic changes, updated information, or modifications to procedures, updated training certification may be required of Exemption Designees in order to maintain

qualifications for providing Municipal Exemption Determinations. The Highlands Council will provide training modules on an as-needed basis, to provide base training to new employees, and/or to further the expertise of already-certified individuals. Exemption Designees and the municipalities they serve will be advised of any need for upgraded training, which will be provided and funded by the Highlands Council.

§400-128. Interim Determinations

For the duration of any period during which the municipality is without a qualified Exemption Designee due to changes in personnel or other extenuating circumstances, applicants seeking Highlands Act Exemption Determinations shall be referred to the NJDEP for a State Agency Determination.

§400-129. Application Procedures

A. Municipal Exemption Applications

Requests for Municipal Exemption Determination shall be submitted on forms provided by the Planning Department and shall be accompanied by sufficient information and documentary evidence to demonstrate whether the proposed activity, improvement or development project qualifies for the applicable exemption in accordance with the required submission materials applicable to each exemption as set forth herein.

B. 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 45 calendar days of receipt, issue such findings in writing to the applicant, indicating what information is required to properly consider the application.

C. Time for Determination

The Exemption Designee shall issue Municipal Exemption Determinations within 45 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 45-period and shall issue the determination within at least ten (10) calendar days of receiving the requested guidance. In no case shall failure to meet this date constitute approval of the exemption.

D. Determinations

All Municipal Exemption Determinations shall be provided 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 Exemptions No. 2 shall be contingent upon submission of proof of filing of the required Deed Notice, pursuant to subsection F.

E. Notice of Determination Required

The Exemption Designee shall provide copies of all 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.

F. Deed Notice for Exemption No. 2

Any Municipal Exemption Determination that certifies to the applicability of Highlands Act Exemption No. 2, shall be issued conditionally, pending fulfillment of the requirement that a deed notice be recorded in the office of the County Clerk or Register, as applicable, indicating the extent of the exemption that has been consumed. The deed notice shall incorporate each of the components listed below and the applicant shall provide a copy of the filed Deed Notice to the Highlands Council within five (5) business days of filing.

(1) Clear identification of the name(s) and address(es) of the owner(s) in fee of the property;

(2) Designated tax block and lot number(s), street address(es), municipality and county of location of the property;

(3) Reference to the Municipal Exemption Determination (by date, numbering if applicable) issued and under which the deed notice is being filed;

(4) Description of the approved area of ultimate disturbance and the impervious surface area, with verification that these remain below the statutory limits;

(5) 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;

(6) Agreement to abide by the ultimate disturbance and impervious surface limits imposed, any furtherance thereof rendering the Municipal Exemption Determination null and void; and

(7) 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 therein set forth.

§400-130. Appeal of Municipal Exemption Determination

A Municipal Exemption Determination may be appealed 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.

§400-131. Effect of Certified Exemption

Issuance of a Municipal Exemption Determination that certifies to the applicability of a Highlands Act exemption shall recognize the applicant's exemption from the provisions of the

Highlands Regional Master Plan, NJDEP Preservation Area Rules, and any municipal ordinances and requirements adopted under the authority of the Highlands Act to achieve Highlands Plan Conformance. The exemption 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.

§400-132. Application and professional review fees

A. A fee of $25 per each Exemption Determination where no Zoning Permit is required.

B. A fee of $40 for a Combined Exemption Determination and Zoning Permit.

C. An initial deposit of seven hundred and fifty dollars ($750) for a professional review to be established in an escrow account. The professional review fee may be reduced or waived entirely at the discretion of the Exemption Designee in the event the Township's professional consultant(s) are not required to conduct a review of the exemption request.

§400-133. Submission Requirements

All applications shall be accompanied by the Municipal Exemption Determination Application Form, the applicable fees, and the information listed below, as applicable to the particular exemption or exemption(s) being sought by the applicant. All 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.

A. Exemption 1.

1. 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;

2. 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

3. 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.

B. Exemption 2.

1. 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;

2. 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;

3. 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

4. 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 to cover the balance of the lot.

C. Exemption 4.

1. A parcel plan certified by a licensed New Jersey Professional Engineer depicting:

(a) 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

(b) All proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading; and

2. A copy of any official documentation of the original date of construction of the building or otherwise establishing the lawfulness of existing impervious surfaces.

D. Exemption 5.

1. A copy of any official documentation proving the single family dwelling was in existence on August 10, 2004;

2. A description of the proposed improvement; and

3. A certification from the applicant that the property and all improvements will continue to be used for single family dwelling purposes.

E. Exemption 6.

1. 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;

2. 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;

3. A site plan certified by a licensed New Jersey Professional Engineer depicting:

(a) All existing property improvements including all structures, grading, clearing, impervious surfaces and limits of disturbance, existing on the site on August 10, 2004; and

(b) All proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading.

F. Exemption 7.

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

(a) 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;

(b) A brief description of the total area of woodlands that is the subject of the approved woodland management plan or forest stewardship plan;

(c) 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

(d) A copy of the approved woodland management plan or forest stewardship plan.

2. For the normal harvesting of forest products in accordance with a forest management plan or forest stewardship plan approved by the State Forester:

(a) A brief description of the total area where the normal harvesting of forest products occurs;

(b) 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

(c) A copy of a forest management plan or forest stewardship plan approved by the State Forester.

G. Exemption 8.

1. 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;

2. A written description of the non-impervious materials to be used; and

3. For privately owned property, a copy of a deed for the property and the conservation or recreational use easement on the property.

Section 2
All ordinances of the Township of Mount Olive which are inconsistent with the provisions of the ordinance are hereby repealed to the extent of such inconsistency.

Section 3.
If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

Section 4.
This Ordinance may be renumbered for purposes of codification.

Section 5.
This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

_____
Colleen Labow, Council President

ATTEST:

_____
Lisa M. Lashway, Township Clerk