

Section II ~ Resource Protection and Regulatory Program Overview

2.1 Introduction

An Environmental Resource Inventory (ERI) is a collection of text and visual materials, such as maps and photos, to help characterize the environmental resources of a municipality, and evaluate environmental trends. These reports may also be referred to as a Natural Resource Inventory. The ERI includes detailed descriptions of the location, character and quality of those resources, which generally include wetlands, streams, aquifers, floodplains, prime agricultural soils, forests, open space, and water bodies. In addition, landmarks, cultural and aesthetic resources—such as roads, population centers, zoning boundaries and historic sites are often included in an ERI because they influence a municipality's character.

The ERI reflects currently available data and serves as a complement to the municipal Master Plan, and a guide for the Borough's land development related ordinances and activities related to the preservation and enhancement of a community's natural, cultural and aesthetic resources. It may also be useful in substantiating the municipal zoning ordinances (ANJEC 2004). The Borough recognized that in order to protect and enhance the community's cultural and natural resources from continued development pressures, an updated ERI was needed that could assist the Environmental Commission (EC), Planning Board, Borough Committee, residents and potential developers as a guidance and decision making tool for prudent planning, resource preservation, conservation and sound land development.

The following section summarizes the planning and regulatory provisions that are currently in place to protect the Borough's natural resources. These provisions include current zoning, land development, open space planning and resource protection policies, ordinances and regulations.

2.2 Municipal Land Use Law

Local planning and land use initiatives, zoning, open space preservation, and resource protection ordinances largely determine the intensity, magnitude and character of land development activities within a municipality. However, the State of New Jersey has also adopted a variety of important laws and regulations that directly affect land development activities at the municipal level. The following provides a brief overview of New Jersey's current regulatory landscape and its significance with respect to the protection of the Borough's environmental and cultural resources.

The **New Jersey Municipal Land Use Law** (MLUL, N.J.S.A. 40:55D-1 et seq.) enacted in 1975, is the enabling legislation that grants land use regulatory authority (e.g., planning and zoning) to municipalities. The purpose of the MLUL is to encourage appropriate land use and land development procedures that ensure public health, safety,

welfare and the protection and preservation of the Borough's natural, cultural, historic and visual environment features and attributes (N.J.S.A. 40:55D-28). The Municipal Land Use Law (NJSA 40:55D-2) recognizes fifteen purposes that encourage appropriate land use planning, procedures and development zoning. Several of these purposes provide legal support for local efforts to preserve natural and cultural resources, including: <http://www.state.nj.us/dep/hpo/3preserve/mlul.pdf>

- Protect public health, safety, and general welfare
- Provide security from fire, floods or other disasters
- Provide adequate light, air and land for agriculture, recreation and open space.
- Ensure compatible land uses, densities, and aesthetic designs
- Conserve historic, cultural and natural resources and energy
- Prevent sprawl and degradation of the environment

The MLUL also instructs communities to update or amend the Master Plan, Official Map, Land Use Regulations and relevant review procedures every six years. The ERI can be an integral part of the amendment processes. As specified in the MLUL, the Master Plan must include four basic elements in order to enact zoning ordinances, including: a Statement of Purposes, the Land Use Element, the Housing Plan Element, and a Consistency Analysis with other regional plans and regulations (N.J.S.A. 40-55D-28).

2.3 Green Building and Environmental Sustainability Plan Element

The Municipal Land Use Law was amended in 2008 to authorize a local planning board to allow in its Master Plan a green buildings and environmental sustainability plan element (MLUL N.J.S.A. 40:55D-28 (15)). To promote this effort, the New Jersey State League of Municipalities initiated the *Sustainable Communities Program* in 2009 to encourage communities to evaluate the current conditions, processes and practices and initiate measures towards improving Sustainable Practices in their communities. The *Sustainable Communities Program* offers a certification process that identifies thirteen key sustainable practices for communities to consider, and detailed descriptions and guidance are provided at their website and in Section II of this report.

<http://www.sustainablejersey.com/actionlist.php>

The *Sustainable Communities Program* is also supported by the Association of New Jersey Environmental Commissions (ANJEC) and can serve as a framework to consider implementing the recommendations outlined in this ERI, and the Borough can also work towards becoming a *Certified Sustainable Community*.

Green Buildings

Green building construction practices were also inserted into the State Uniform Construction Code Act (UCC). Green buildings are designed to minimize the negative impact of buildings on the environment and their occupants and may consider five broad areas including: 1) sustainable site planning; 2) safeguarding water and water efficiency; 3) energy efficiency and renewable energy use; 4) conservation of materials and resources; and 5) indoor environmental quality.

Green building project development describes, construction practices that reduce energy, water and land consumption and protect important natural resources, which are similar to the Highland Policies. The concept of green development incorporates environmental concerns early in the site design process, and addresses environmental issues holistically to integrated systems, such as stormwater measures and landscaping designs. The amendment to the MLUL encourages towns to adopt plans and ordinances that encourage and facilitate green building projects.

In the mid-1990s the United State Green Building Council (USGBC), a national nonprofit organization, created a voluntary certification program called LEED (Leadership in Energy and Environmental Design). LEED establishes a series of criteria with a point credit system, which recognizes construction projects that promote good environmental design. The USGBC has established LEED criteria for new construction, existing buildings, homes, commercial interiors, and neighborhood development, which focus on green building (Smart Growth) guidelines. LEED building projects also tend to receive good marketing appeal.

Environmental Sustainability Plan Element

The New Jersey State League of Municipalities initiated the Sustainable Communities Program in February 2009 to encourage communities to evaluate the current conditions, processes and practices and initiate measures towards improving Sustainable Practices in their communities. This program is also supported by the Association of New Jersey Environmental Commissions (ANJEC) and can serve as a framework towards implementing the recommendations in this ERI. One of the initial steps of the Sustainability Program includes establishing a “Green Team Advisory Committee” to advise the local officials on ways to improve municipal operations with “Green” initiatives, which are economically and environmentally sound. Members of the municipal Environmental Commission should also serve on a Community Green Team/Sustainability Team.

<http://www.sustainablejersey.com/>

This Green Team could be tasked to:

1. Collaborate with township employees, service providers and other governmental agencies to share resource information and ideas to promote more sustainable practices in the community.
2. Develop strategies for sustainable green initiatives for community operations that are practical, environmental and financially sensible for the community.
3. Track progress, implementation, and measureable success or changes of the sustainable practices or green initiatives for community operations.

The *Sustainable Communities Program* offers a certification process that identifies thirteen key sustainable practices for communities to consider. These key practices are outlined below and provided in Appendix C, and detailed descriptions are provided at the website.

<http://www.sustainablejersey.com/actionlist.php>

- **Improve Community Partnership And Outreach**, including school and community green fairs
- **Address diversity and equity**, including evaluating environmental justice in planning and zoning measures
- **Improve Energy Efficiency**, including performing facility audits and enhance sites and facilities by applying energy and resource conservation measures
- **Address Greenhouse Gas emissions**, by improving community outreach regarding emissions and impacts, the community carbon footprint, and NJ Climate Action Plan
- **Address Green Design** by incorporating national green design principles and objectives into local planning documents and efforts, and supporting their implementation in the community.
- **Address Health and Wellness**, by initiating a Mayors Wellness Campaign and enforce anti-idling programs for buses
- **Improve Land Use & Transportation**, by incorporating sustainable principles and environmental protective strategies in planning initiatives, such as promoting walking and bicycling connective pathways, and reduce the length and number of daily automobile trips.
- **Improve Local Economies**, including promoting local businesses and green business development
- **Address Natural Resources**, by conducting an Environmental Resource Inventory (ERI), and initiating environmental protective measures such as adopting ordinances, water conservation, and forest and wildlife habitat management
- **Improve Operations and Maintenance** practices by implementing IPM programs, improve park stewardship, green purchasing, and green fleets
- **Address Sustainable Planning**, by mapping community assets, and ensure that community Master Plans and planning documents address preserving and properly managing large contiguous areas of open space, woodlands, wetlands, grasslands and farmland, protecting surface water and ground water resources, protect habitats for threatened and endangered plants and animals, consider adopting green building initiatives.
- **Improve Waste Reduction and Recycling**
- **Initiate Innovative Demonstration Projects**, including alternative energy projects, water conservation and treatment.

The Sustainable Practices highlighted above can serve as a framework to consider implementing the recommendations outlined in this ERI, and work towards becoming a *Certified Sustainable Community*.

2.4 Bergen County Master Plan

The Bergen County Planning Department website reports that Bergen County's last Master Plan was written and formally adopted on December 10, 1962 and amended on March 14, 1966 (the oldest in the State of New Jersey). In 1968, Bergen County initiated the County Comprehensive Plan program, which studied and developed recommendations on the present and future needs for basic County facilities. Each report would study and review a particular element of the Master Plan and was published in the form of twenty-six (26) separate County Reports since 1969. However, since 1975 the only documents that are somewhat related to county master planning, have been related to working with the State Planning Commission to adopt the State Plan through the Cross Acceptance process through public meetings with local municipalities. Cross Acceptance reports were submitted to the State Planning Commission in 1989, 1998, and 2005, as required for the New Jersey State Development and Redevelopment Plan (SDRP, 2000).

<http://www.co.bergen.nj.us/planning/>

In 2008, Bergen County reported that they are undertaking the creation of a County Master Plan that will provide a guidance tool for future development, redevelopment, and preservation throughout Bergen County, as well as provide municipalities with a regional framework for their local planning processes. This plan will be consistent with the New Jersey Municipal Land Use Law as well as consistent with the goals and objectives of the New Jersey State Development and Redevelopment Plan. Officials and Board members from the Borough should participate in the process of creating the Bergen County Master Plan to ensure that your community goals will be addressed.

Bergen County has recent planning reports for the preservation of Open Space and Historic features, which outlines goals, objectives and procedures for these programs. The Bergen County Open Space Trust Fund was initiated in 1999 financed through an annual property tax assessment of one-half cent per \$100 of total county equalized real property valuation. This open space tax was increased to one cent in 2004. The Trust fund was also amended to allocate 70% of the Trust Fund money to the County Program and 30% to the Municipal Programs.

http://www.co.bergen.nj.us/planning/os/Program_Statement.pdf

The Bergen County Open Space program provides matching funding for land acquisitions and parkland improvements. The County has also utilized this open space funding for major improvements of two lakes in the County Park system:

- Walden Pond, a main water feature at Van Saun County Park received \$850,000 to implement sediment dredging, establish ADA compliant paths, and construct overlook viewing areas.
- The Dahnert's Lake and County Park, located in the City of Garfield, will receive \$250,000 for improvements to the pond, new landscaping, and walking path improvements. The lake will be dredged making it deeper providing a better environment for the fish; the dam will be rebuilt, the banks of the pond will be

stabilized and the existing island located in the pond will be reconstructed with a gazebo placed on the island.

Bergen County Historic Preservation

According to the information published by Bergen County, 44 of the 70 communities in the County have designated Historic Districts. Bergen County offers matching grants for the acquisition, stabilization, rehabilitation, restoration, preservation, and preparation of plans and reports for capital historic preservation projects. Municipalities and qualified non-profit organizations are eligible for the competitive grants from the County and the State. Eligible properties for grant-funded activities must be listed on or eligible for listing on the New Jersey Register of Historic Places, either individually or as a contributing part of a historic district. The County staff could be helpful in determining appropriate action for the Borough regarding the designation of a historic district. The listing of historic sites in the Borough is provided in Appendix A. http://www.co.bergen.nj.us/planning/os/hp_NJRegisterListings.pdf

2.5 The Borough of Franklin Lakes Master Plan

The Master Plan for the Borough includes planning and development information as well as policy statements intended to guide future development and to protect the Borough's resources. The Master Plan was adopted in 1991 and sections were amended in 1998 and in the November 2004 Master Plan. The Borough is currently engaged in an update to the Master Plan. The thirteen goals outlined in the Borough's 2004 Master Plan include:

1. To maintain and enhance the existing areas of stability in the community; to encourage a land use pattern which establishes areas, which have their own uniform development characteristics. A principal goal of this plan is to preserve and protect the residential character and existing density of the community; and reinforce the Borough's commercial and business areas, by restricting incompatible land uses from established neighborhoods, and limiting intensities of use to the levels prescribed herein.
2. To encourage low-density detached residential development and discourage commercial development along the Route 287 corridor and its associated interchanges in the Borough, in the manner consistent with the map designations shown on the Land Use Plan map.
3. To ensure that any prospective development and/or redevelopment is responsive to the Borough's environmental features.
4. To ensure that any future development of the community's infrastructure be limited to accommodate the Borough's present level of intensity of development as identified in this Plan.
5. To encourage and provide buffer zones to separate incompatible land uses.
6. To promote detached residential cluster development in areas characterized by environmentally sensitive features and extensive woodland vegetation as a means of preserving steep slopes, wetlands, wooded area, etc. retaining open space and reducing infrastructure costs.

7. To discourage the creation of flag lots in the Borough.
8. To preserve the spacious setting of housing sites that characterizes the Borough's residential areas.
9. To preserve and enhance the Borough's central business district by defining its functional role in the community and enhancing the quality of life within the commercial center through an appropriate mixture of activities which are oriented toward the Franklin Avenue corridor as depicted on the Land Use Plan map; encourage the utilization of specified design elements identified in the Master Plan; permit a reasonable level of development in the business district; and to encourage the consolidation and expansion of off-street parking to provide greater convenience for shoppers and reduce conflicting traffic movements on Franklin Avenue.
10. To address the community's housing obligation in a manner consistent with other goals and objectives set forth herein.
11. To promote a safe and efficient traffic circulation system that serves the community, while retaining the community's country setting within the overall framework of a two-lane circulation system.
12. To preserve the historic features of the Borough as an integral part of the community's unique character.
13. To support the overall philosophy of the State Development and Redevelopment Plan (State Plan) as a means of providing growth management on a state wide basis while retaining the principles of home rule.

2.6 The Borough of Franklin Lakes Zoning and Development Ordinances

The Zoning Districts for the Borough regulate land use and intensity of development on a specific site, limit and restrict the use of buildings and structures, regulate lot coverage, lot size and lot dimensions, and require performance standards. The current location and boundaries of zones and lot lines are depicted on the Borough Zoning map of 2007, which is maintained and updated by the planning and zoning boards. The zoning districts provide for uses of residential, multifamily residential, business, and commercial. The Borough's Master Plan includes the following statement.

"To ensure that any prospective development and or redevelopment is responsive to Franklin Lakes' environmental features the Borough seeks to limit development to that which is sensitive to the community's particular physical characteristics and preserves the Borough's sensitive environmental elements. In particular the Borough seeks to limit development to that which preserves steeply sloped area defined to include any slope of minimally fifteen percent grade, wetlands and flood plains, and retains existing vegetation particularly trees of a caliper of six inches or more, and clusters of trees which maybe of lesser caliper if determined appropriate. Additionally the Borough takes cognizance of the fact that there are numerous sites in the municipality that are typified by extensive environmentally

sensitive features and therefore may not be able to accommodate its full zoned development potential.”

An environmental inventory for the Borough was originally conducted in 1974, and the current inventory while building upon that work makes use of vastly improved data and existing environmental regulations to evaluate the present status of the Borough's environmental resources. In 2007-2008 the Borough re-enacted a volunteer Environmental Commission (EC) after nearly a twenty year absence. *“The mission of the Environmental Commission is to promote and enhance the environmental quality of the Borough through natural resource protection, conservation, development, and education.”* Environmental Commission Annual Report, 2008

<http://www.franklinlakes.org/>

2.7 State Plan and Policy Map

The New Jersey State Development and Redevelopment Plan, commonly known as the State Plan, is a planning tool promulgated by the State Planning Commission and the Department of Community Affairs -Office of Smart Growth. The New Jersey State Planning Act was originally adopted into law in 1986 (N.J.S.A. 52:18A-196 et seq.). The State Plan guides municipal, county and regional planning, state agency functional planning and infrastructure investment decisions. The purpose of the State Plan is to: Coordinate planning activities and establish Statewide planning objectives for land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination (N.J.S.A. 52:18A-200(f)).

The State Plan is designed to provide a comprehensive development projection that balances growth and conservation. All New Jersey governments are encouraged to review their plans with the goal of bringing them into consistency with the provisions of the State Plan. The State Plan has been amended in 1992, 2001, and through the Cross Acceptance Process of 2006-2007. Amendments to the State Plan is dependent on the Cross-Acceptance Process, whereby local governments and the community discuss the major aspects of the plan in a public forum, which must locally adopt county-wide plans before submission to the state. Additional information is available online (<http://www.nj.gov/dca/osg/plan/>).

The State Plan Policies include:

- Slow Sprawling Development
- Protect Natural Resources
- Direct Growth & Development to Appropriate Places
- Revitalize Historic Towns & Cities
- Compact Center-Based Development
- Preserve Surrounding Rural Areas

- Balanced Land Use Policies
- Guide State's Investment of Resources
- Stabilize Costs & Taxes
- Protect Quality of Life

The State Plan is driven by the identification of land areas and designation of future land uses. These designated land areas are known as Planning Areas, which are distinct geographic and economic units based on level of development and important natural resources based on a variety of environmental criteria. Each Planning Area has specific intentions and Policy Objectives that guide the application of Statewide Policies. Additional information is available online. The State Plan established five distinct Planning Area designations to help guide future growth:

- **Areas for Growth include:** Metropolitan Planning areas (Planning Area 1), Suburban Planning Areas (Planning Area 2) and Designated Centers in any planning area.
- **Areas for Limited Growth:** Fringe Planning Areas (Planning Area 3), Rural Planning Areas (Planning Area 4), and Environmentally Sensitive Planning Areas (Planning Area 5). In these planning areas, planning should promote a balance of conservation and limited growth—environmental constraints affect development and preservation is encouraged in large contiguous tracts.
- **Areas for Conservation:** Fringe Planning Area (Planning Area 3), Rural Planning Areas (Planning Area 4), and Environmentally Sensitive Planning Areas (Planning Area 5).

The Borough in its entirety is designated by the Department of Community Affairs in the State Plan as a Metropolitan Planning Area (PA1), which is generally defined as an urban area that can provide sufficient public water and wastewater services to accommodate existing and future growth. During the 2006-2007 Cross Acceptance Process the Borough had petitioned Bergen County and the Department of Community Affairs to consider modifying this designation to a PA2 or PA3 because much of the community relies on private wells and septic systems. However, the DCA determined that the Borough had been designated as a PA1 since the earlier versions of the State Plan in 1990s and the designation was not modified on the January 2008 State Plan map for Bergen County.

(<http://www.nj.gov/dca/osg/plan/>).

Bergen County Policy Issues Regarding the State Plan, 2006-2007

The Borough can continue to work with the Bergen County Planning Department to address the following regional concerns:

- Evaluate whether the designation as a Metropolitan Planning Areas (PA 1) is appropriate for several Bergen County communities, including the Borough.
- Suburban Re-Development

- Transportation
- Mass Transit Opportunities
- Future Infrastructure
 - Water Supply
 - Sewer Capacity/Sewer Service Areas

2.8 Highlands Water Protection and Planning Act, Regulations and Regional Master Plan

The Borough lies just outside of the boundaries of the Highlands Region, and the following information related to the Highland Rules and guidance from the Highlands Regional Master Plan is for informational purposes only and does not pertain directly to the Borough. However, given that many of the resources, resource management goals and resource threats of the Highlands are similar to those of the Borough, elements of the Highlands Regional Master Plan can be considered for use in some capacity to enhance or improve local planning initiatives.

The Highlands Water Protection and Planning Act (Highlands Act, HWPPA N.J.S.A. 13:20-1 et seq.) was signed into law in August 2004 to preserve open space and protect the state's greatest diversity of natural resources including the vital drinking water resources in this region. The Highlands Act specifies the boundaries of the 800,000-acre New Jersey Highlands Region, including 88 New Jersey municipalities in the counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex and Warren.

The Highlands Region is a vital source of drinking water for over half of New Jersey's 8.5 million residents, yielding approximately 379 million gallons of water daily for approximately 5.4 million people or 65% of New Jersey residents, and businesses. In addition, over 70 percent of this region includes environmentally sensitive forests, wetlands, streams, and wildlife habitats, and hosts over 30 of the state's threatened and endangered wildlife species. The region also includes many sites of historic significance and provides abundant recreational opportunities. Over development is threatening the region's natural resources and critical drinking water supplies. The NJDEP reported that within a five year period (1995-2000), the Highlands lost 17,000 acres of forests and 8,000 acres of farmland to development. Regional growth pressures continue to consume land at a rate of approximately 3,000 acres every year. Regulations implementing the Highlands Act were adopted in June 2005 and re-adopted in December 2006 (N.J.A.C. 7:38-1 et seq.).

<http://www.state.nj.us/dep/highlands>

<http://www.highlands.state.nj.us>

Highlands Regional Master Plan

The Highlands Act and Regulations created the Highlands Water Protection and Planning Council (the Highlands Council), and established two distinct development zones, the Highlands Preservation Area and the Highlands Planning Area. It also required the

Highland Council to develop the Highland Regional Master Plan (RMP) for the entire region, which was adopted in July 2008. Development in the Highlands Region is subject to these rules, with regional standards to be implemented through the Highlands Regional Master Plan (RMP).

The Highlands Preservation Area is defined by its high ecological sensitivity, and the Planning Area, is a more intensely developed zone. The strongest development and water quality protections in the Act are provided for potential development in the Preservation Area. Lands within the Highlands Preservation Area are subject to strict limitations on the amount of impervious cover; as well as limitations of development on steep slopes, in forested areas, and flood zones. In addition, all waters located within the Highlands Preservation Areas are afforded Category One water quality protections, including a 300 foot riparian zone buffer. Municipal and County plans must conform to the Highlands Regional Master Plan's vision and regulations for the Preservation Area in lieu of the State Plan.

Within the Highlands Planning Area, the Municipal and County conformance will be voluntary, and state incentives may become available to encourage this compliance. Highlands Assessment Grants were made available in 2008 to assess a community's needs to "Conform to the Highlands RMP." Planning incentives may include funding priorities for farmland and open space preservation, as well as the imposition of impact fees to offset costs of new development.

<http://www.nj.gov/njhighlands/master/>

The Highlands Planning areas may incur additional development pressures in the future, and Bergen County reported that they intend on identifying four percent of the Planning Area (16,000 acres) as possible receiving zones for development rights transferred from the Preservation Area, where zoning must be changed to accommodate a minimum density of five homes per acre.

<http://www.highlands.state.nj.us/njhighlands/master/conform/>

Highlands RMP Conformance

The Highlands Council provides technical assistance for the revisions of master plans, and development regulations to help municipalities conform to the Highlands Regional Master Plan. The outline for Highland Conformance is included as Appendix B. While Highlands Conformance does not apply to the Borough, these planning initiatives could be considered for the Borough, including the recommendation that communities develop Management Plans for the following concerns:

http://www.highlands.state.nj.us/njhighlands/master/highlands_plan_conformance_guidelines.pdf

- Ground Water Recharge Protection and Mitigation Plan
- Water Use and Conservation Management Plan
- Wellhead Protection Plan
- Wastewater Management Plan
- Septic System Management/Maintenance Plan
- Stormwater Management Plan
- Lake Management

- Forest Management
- Critical Habitat Management

Highlands RMP Lake Management Policies

The Highlands RMP reports that, overdeveloped, damaged, and poorly managed shore land areas can result in the degradation of water quality, harm the lake ecosystem, decrease natural aesthetic values, and cause an overall loss of property values for lake communities. Lakes can be harmed by pollutant sources in the watershed area draining to them. Polluted lakes can, in turn, damage downstream streams and rivers. NJDEP data indicate that nearly every public lake in the Highlands (privately-owned lakes were not evaluated) is experiencing unacceptable contamination, often including excessive bacteria and nutrients.

Lake Management Plans and Standards

The Highlands Council recommends that municipalities develop Lake Management and Restoration Plans that “establish tiers of appropriate lake management strategies that help protect lake water quality and community value from the impacts of present and future development.” For Highlands Region lakes greater than ten acres in size the following lake management strategies and standards are recommended: (Policy 1L12)

- A Shore land Protection Tier consisting of an area measured 300 foot or the first property line perpendicular from the shoreline of the lake;
- A Water Quality Management Tier consisting of an area measured 1,000 foot perpendicular from the shoreline of the lake, including the Shore land Protection Tier;
- A Scenic Resources Tier consisting of an area measured 300 to 1,000 foot perpendicular from the shoreline of the lake, scaled based upon the view distance from the opposite shoreline, and determined through the size and layout of the lake, with wider portions of lakes having longer view distances; and (should we delete the word “and”?)
- A Lake Watershed Tier consisting of the entire land area draining to the lake, through the evaluation of drainage areas using topographic analyses

The Highlands RMP recommends that specific planning and zoning standards be established and implemented to prevent degradation of water quality, harm to lake ecosystems, and promote aesthetic values. Within the Shore land Protection Tier the following measures are recommended for all new development to address direct and proximate impacts upon the lake, including but not limited to shoreline modification and development including: (Policy 1L13)

- limits to the hardscaping of shorelines using bulkheads, rip-rap, and walls, docks, piers, boathouses
- limits to dredging
- limits to vegetation removal
- limits to increased impervious cover
- cesspools and other wastewater management systems within the Shore land and Water Quality tier that are failing or are inadequately designed and constructed

should be replaced or upgraded by the landowners to minimize pollutant releases to the lake. Replacement with communal septic systems or community-based wastewater systems should be considered wherever feasible and cost-effective.

Implementation of standards regarding the protection of visual and scenic resources in the Scenic Resources Tier, can include requirements for building height limitations, limits on tree and understory removal, or vegetative screening of buildings.

The Highlands Council recommends that the policies and standards that address Shoreland Protection and Water Quality Management Tiers be adopted for all lakes, by communities seeking Highlands Conformance. The standards applicable to the scenic resources tier should be adopted and implemented for all public lakes, and lakes with public access as feasible. (Policy 1L5)

2.9 Wetland Protection Rules

In many communities the Environmental Commissions are often involved in tracking and reviewing wetland determinations for proposed site development plans. Wetland Letters of Interpretations (LOIs) are generally filed with the municipal clerk and Environmental Commissions. These wetland notices are often the initial notice that a property may be considered for development or redevelopment.

- Legal classifications of wetlands are based on a functional definition of wetlands that is commonly called the three-parameter approach and is outlined in the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*. The three parameters defining wetlands are hydric soils, hydrophytic vegetation that is typically adapted for life in saturated conditions, and area hydrology that is inundated or saturated by surface or groundwater at a frequency and duration to support hydrophytic vegetation. All three parameters must be met to qualify as a wetland. Wetlands in New Jersey are regulated by the Freshwater Wetlands Protection Act, N.J.S.A 13:9B and Freshwater Wetlands Protection Regulations (N.J.A.C. 7:7A).
- Wetland Letter of Interpretations (LOIs) and state permits are needed to delineate the boundaries of jurisdictional wetlands if disturbances to wetlands and their transition areas (also called buffers) are proposed by an impending development. An inventory of the wetland flora and fauna is often required to obtain a Wetland Letter of Interpretation from the NJDEP and the appropriate state permits. In addition, the local officials and property owners within 200 feet of the disturbance must be notified.
- Wetlands and a transition area of 50 feet for Intermediate value wetlands are protected from disturbances.
- Wetlands and a transition area of 150 feet for Exceptional value wetlands are protected from disturbances. Exceptional value wetlands are defined as containing documented habitat for a threatened or endangered species.

- “State Certified” vernal pools areas are protected breeding habitat areas for salamanders and frogs and can include a transition area of 150 feet, if threatened and endangered species are present. The Highlands RMP recommends that vernal pools be protected by 1000 feet.

The NJDEP adopted Amendments to Freshwater Wetlands regulations on October 6, 2008 that strengthen wetlands protection. Outlined below is a partial list of the regulation changes summarized by ANJEC, and a complete copy of the updated Freshwater Wetlands Protection Regulations can be found at: www.state.nj.us/dep/landuse/njsa_njac.html

- Municipalities may now require Wetlands Letters of Interpretation (LOIs) on their Application Checklists for new developments. Municipalities no longer have to worry about legal challenges on this (NJAC 7:7A-3.1(b)1).
- NJDEP now requires Conservation Easements to be recorded for wetlands and their Transition Areas (buffers) for development projects. Applicants must provide a copy of the filed easement deed to the NJDEP and the municipal clerk before transfer of land and before start of construction (NJAC 7:7A-2.12 and 7:7A-6.1(e)).
- Older drainage swales (ditches) located in forested wetland areas now require a buffer, and they are no longer considered “ordinary” wetlands, because of the important functions forested areas serve (NJAC 7:7A-1.4).
- Stormwater detention facilities constructed in uplands are now classified as “ordinary” and no buffer is required for basins, regardless of the classification of the water body or wetland to which they discharge (NJAC 7:7A-2.4).
- Wetlands will now have lower appraisal values due to the definition of Fair Market Value, so they may be easier to purchase for preservation (NJAC 7:7A-1.4).
- The agricultural exemption is clarified to apply only to the part of a farm actively farmed since June 30, 1988 (NJAC 7:7A-2.8).
- Where historic resources may be present on the proposed development site, an applicant must submit a Phase 1A Historic or Archaeological survey (NJAC 7A:7-12.1).
- No stormwater can be discharged to a wetland mitigation area (NJAC 7:7A-15.2(d)).
- Applicants constructing mitigation projects must provide the same notification to counties and municipalities as required for wetland permit applications (NJAC 7:7A-15.11).

2.10 Water Quality Management Plan Rules

In 2008, the NJDEP adopted new Water Quality Management Planning (WQMP) Rules N.J.A.C. 7:15 that propose that each County accept responsibility for the regional planning for appropriate regional wastewater treatment. In turn each municipality is responsible to create a Wastewater Management Plan (WMP) that includes plans and mapping that depict how wastewater will be managed either via a regional treatment facility or treated via individual on-site septic systems. These WMP reports are due to the County planning offices and state in the spring 2009 for review and approval. In some instances the Counties are assisting municipalities in creating these plans; however, at this time Bergen County has not offered these services and the Borough is required to satisfy the regulatory requirements outlined in N.J.A.C. 7:15.

http://www.nj.gov/dep/rules/rules/njac7_15.pdf

The municipal planning officials and elected officials should be fully engaged in the Wastewater Management Plans and WQMP in order to assess and evaluate the existing sewer infrastructure, sewer capacities and water supplies and the potential impacts from future build out. The State Sewer Service Area (SSA) mapping provided by the Department of Community Affairs in the 2007 State Plan implies that the entire Borough is planned to be serviced by sewers. However, members of the Borough's Environmental Commission report that the majority of the Borough currently relies upon individual on-site septic systems, with limited sewer service provided to some commercial districts and dense housing complexes.

The Municipal Wastewater Management Plan shall comply with the requirements outlined in section N.J.A.C. 7:15-5.25, and some of the major requirements are highlighted below, but the regulations should be reviewed in its entirety:

- a. The WMP shall demonstrate compliance with the requirements for existing and future wastewater treatment needs, water supply demands, and nonpoint sources of pollution.
- b. Include an environmental analyses or assessments and meet the standards set forth in (c) through (g) below.
 - Environmentally sensitive areas shall be defined based on a composite geographic information systems (GIS) analysis, as any contiguous area of 25 acres, and include critical wildlife areas, wetlands, riparian zones, steep slopes, NJAC 7:15-5.24
- c. An environmental build-out analysis shall be developed for each existing and proposed wastewater service area, based on the Hydrologic Unit Code (HUC) area designated by the NJDEP, such as the HUC 11 areas.
- d. For areas identified to be served by existing or proposed expanded or new domestic or industrial treatment works that require a NJPDES permit, the applicant shall identify the existing wastewater generated and future wastewater generation potential within each existing or proposed new or expanded sewer service area

- For areas to be served by a proposed new or expanded domestic or industrial treatment works with a discharge to ground water that will require a NJPDES permit, the applicant shall demonstrate compliance with Ground Water Quality Standards, N.J.A.C. 7:9C, through the permitting process and, for domestic treatment works, shall demonstrate consistency with the number of equivalent dwelling units, using the flow or mass basis as applicable, allowable based on the nitrate planning standard
- e. In areas proposed to be served by individual subsurface sewage disposal systems discharging 2,000 gallons per day or less to ground water, the applicant shall determine the development density that can be accommodated in undeveloped and underdeveloped areas that will result in attainment of 2.0 mg/L nitrate in the ground water on a HUC 11 basis
 - Where individual subsurface sewage disposal systems will be utilized, the density necessary to achieve the 2.0 mg/L nitrate planning standard in N.J.A.C. 7:15-5.25(e) and (h)2 is met for the overall project site and the ground water quality criteria of 10 mg/L is met at the edge of the developed portion of the clustered residential development;
 - Demonstrate that areas to be served by individual subsurface sewage disposal systems are subject to a mandatory maintenance program, such as an ordinance, which ensures that all individual subsurface sewage disposal systems are functioning properly. This shall include requirements for periodic pump out and maintenance, as needed.
- f. The water supply needs associated with the environmental build-out are demonstrated to be met with existing, new or expanded water supplies that do not conflict with the most current New Jersey State Water Supply Plan, regional water supply plans, or TMDLs adopted as WQM plan amendments including, but not limited to, any limitations on withdrawals due to ecological and saltwater intrusion concerns.
- g. An assessment of nonpoint source pollution impacts of planned future development shall be conducted and it shall be demonstrated that the environmental standards for stormwater, riparian zones, and steep slopes established in this section, as well as measures identified in adopted TMDLs or watershed restoration plans, shall be met.
 - Adopt a Stormwater Plan and Ordinance that conformance with the NJ Stormwater Rules NJAC 7:8
 - Adopt an Ordinance that protects steep slopes greater than 20%
 - Limit redevelopment within the limits of existing impervious surfaces;
 - Adopt an Ordinance that protects riparian zones in conformance with the NJ Flood Hazard Control Area Rules NJAC 7:13
 - A WMP, WMP update or WQM plan amendment shall include additional measures as specified in an adopted TMDL or watershed restoration plan.

2.11 Stormwater Management Rules (N.J.A.C. 7.8) and Municipal Stormwater Management Rules (N.J.A.C. 7:14a)

In 2004, the State of New Jersey adopted the Stormwater Management Rules, which provide a framework and incentives for managing runoff and resolving nonpoint source impairment on a drainage-area basis for new development, redevelopment and existing developed areas. The rules establish a hierarchy to implement stormwater best management practices (BMP), with initial reliance on low impact development (LID) site design techniques to maintain natural vegetation and drainage patterns before incorporating structural measures. These new rules also establish runoff control performance standards encouraging the infiltration of stormwater, groundwater recharge, improved water quality, and reduced stormwater runoff, establish special protection areas (riparian zones) to buffer pristine and exceptional value waters; provide regulatory consistency among local and State regulatory agencies; and provide safety standards for stormwater management basins.

http://www.nj.gov/dep/rules/adoptions/2004_0202_watershed.pdf

<http://www.state.nj.us/dep/dwq/714a.htm>.

Under the Stormwater Rules, each municipality is classified as either Tier A or Tier B based on population density. The Borough is regulated under a NJPDES Stormwater Tier A General Permit. The permit requires the Borough to develop, implement and enforce a Stormwater Program and Statewide Basic Requirements (SBRs), including: adopting a stormwater management plan and ordinance, ensuring compliance with Residential Site Improvement Standards for stormwater management, ensuring adequate long-term operation and maintenance of BMPs, ensuring that new storm drain inlets meet specific new design standards, conducting annual public education regarding non-point source pollution (NPS), and conducting a storm drain inlet labeling program. Each requirement has an established implementation schedule over a sixty- (60) month compliance timeframe from 2004 to 2009, and annual reports are to be submitted to the County indicting municipal compliance.

A municipal Stormwater Mitigation Plan is an optional element of the Stormwater Management Plan, but is required for a municipality to grant a variance or exemption to the Stormwater Management rules N.J.A.C. 7:8-5. A Mitigation Plan can list alternative stormwater projects, repairs or retrofits within the community that could be completed by a developer if a stormwater variance is being requested at a development site.

The stormwater plans are also required to be updated every six years (N.J.A.C. 7:8-5.3(b)), along with the municipality's master plan and development regulations (including the zoning ordinance). <http://www.njstormwater.org>.

2.12 Flood Hazard Control Area Rules (N.J.A.C.7:13)

The NJ Department of Environmental Protection adopted the new Flood Hazard Area Control Rules (N.J.A.C. 7:13) in November 2007 in order to incorporate more stringent standards for development in flood hazard areas and riparian zones adjacent to surface waters throughout the State. The Department adopted these new rules to better protect against the loss of life and property during flood events, preserve the quality of surface

waters, and protect the wildlife, vegetation and habitat areas within the riparian zones. The program also minimizes flood damage by ensuring that buildings are placed in safe areas, and are constructed to withstand high water.

In order to minimize the impacts of development on flooding, a 0% net-fill requirement will now apply to all non-tidal flood hazard areas of the State (which was previously implemented only in the Highlands Preservation Area and Central Passaic Basin). The new rules define stream buffers as riparian zones and expand the required preservation from 25 feet to 50, 150 or 300 feet in width along specified waterways throughout the State. The riparian zone width depends on the environmental resources being protected, with the most protective 300-foot riparian zone applicable to waters designated as Category One, such as the Rockaway Creek.

The Flood Hazard Area Control Rules include an Applicability Determination which establishes whether or not a project is subject to these regulations. The application process includes a provision to verify the flood hazard design elevation, floodway limits, and riparian zone limits. The Rules include sixteen activities that require a General Permit including: stream cleaning, scour protection, various agricultural activities, relocation and reconstruction of damaged buildings, maintenance of stormwater structures and certain activities along small streams and in tidal flood hazard areas. The Rule also created a Permits-By-Rule list of *de minimis* activities that do not require NJDEP approval.

<http://www.state.nj.us/dep/landuse/se.html>
www.state.nj.us/dep/landuse/forms/chkloiex.pdf

Additional information on state regulations of specific importance to the Borough of Franklin Lakes includes:

- Residential Site Improvement Standards (RSIS) (N.J.A.C. 5:21)
(<http://www.nj.gov/dca/codes/nj-rsis/index.shtml>)
- Freshwater Wetlands Protection Act (N.J.A.C. 7:7A)
(<http://www.state.nj.us/dep/landuse/7-7a.pdf>)
- Flood Hazard Area Control Act (N.J.A.C. 7:13)
(<http://www.state.nj.us/dep/landuse/7-13.pdf>)
<http://www.state.nj.us/dep/landuse/se.html>
- New Jersey Dam Safety Standards (N.J.A.C. 7:20)
(<http://www.state.nj.us/dep/nhr/engineering/damsafety/standard.pdf>)
- Council on Affordable Housing (COAH)
<http://www.state.nj.us/dca/coah/june08rules.shtml>