

**2012**  
**PERIODIC REEXAMINATION REPORT**  
**OF THE MASTER PLAN AND**  
**DEVELOPMENT REGULATIONS**

**Township of Mount Olive**

**Morris County, New Jersey**

**March 15, 2012**

Prepared by the Mount Olive Planning Board

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The original of this document has been signed and sealed pursuant to N.J.A.C. 13:41-1.3

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## INTRODUCTION

The Municipal Land Use Law (MLUL), at N.J.S.A. 40:55D-89, includes the following statement relative to the periodic examination of a municipal Master Plan, as amended in May 2011:

The governing body shall, at least every ten years, provide for a general reexamination of its master plan and development regulations by the planning board which shall prepare and adopt by resolution a Report on the findings of such reexamination, a copy of which Report and resolution shall be sent to the county planning board and the municipal clerk of each adjoining municipality. The first such reexamination shall have been completed by August 1, 1982. The next reexamination shall be completed by August 1, 1988. Thereafter, a reexamination shall be completed at least once every 10 years from the previous reexamination.

Mount Olive Township last adopted a comprehensive Master Plan in December 2003. Subsequently, the Planning Board amended the Land Use Plan Element in December 2004 to clarify policies with regard to the C-2 zone, adopted a Stormwater Management Plan in March 2005, adopted a Natural Resources Inventory in January 2007, further amended the Land Use Plan Element in July 2007 to establish the R-7 Active Adult/Inclusionary Housing Zone district, adopted a new Housing Element and Fair Share Plan in September 2009 to address COAH's Third Round, a Master Plan Reexamination Report in June 2010, as amended in July 2010, and an Amendment to the Land Use Plan in October 2010..

Significant changes in the Township's land use policies will result from the implementation of the **Highlands Water Planning and Protection Act** enacted by the New Jersey State Legislature and signed into law by Governor McGreevy in August 2004 by virtue of placing 79 percent of Mount Olive within the restrictive *Preservation Area*. The Highlands Council, established by the Act, produced the **Highlands Regional Master Plan** (RMP) in 2008 setting forth numerous policies, goals, and objectives. Municipalities affected by the Preservation Area are required to bring their Master Plans and development regulations into conformance with the RMP. This is a multi-year process, beginning with "basic plan conformance" which Mount Olive addressed in 2009 with a Highlands **Initial Assessment Report** in April 2009 and the Highlands conformance modules in December 2009. On January 20, 2011 the Highlands Council adopted Resolution 2001-1 to approve the Township's Petition for Plan Conformance for the Preservation Area portion of the Township.

## STATUTORY REQUIREMENTS

The **Municipal Land Use Law (MLUL)** sets forth the following five questions to be addressed in preparing the Reexamination Report:

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<u>C. 40:55D-89a</u>	The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination Report.
<u>C. 40:55D-89b</u>	The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
<u>C. 40:55D-89c</u>	The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.
<u>C. 40:55D-89d</u>	The specific changes for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be proposed.
<u>C. 40:55D-89e</u>	The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law”, P.L. 1992, c. 79 (C. 40A:12A-1 et seq.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

**[40:55D-89a] THE MAJOR PROBLEMS AND OBJECTIVES RELATING TO LAND DEVELOPMENT IN THE MUNICIPALITY AT THE TIME OF THE ADOPTION OF THE LAST REEXAMINATION REPORT.**

The last Master Plan Reexamination Report approved by the Mount Olive Planning Board on June 17, 2010 and revised on July 15, 2011 called attention to the Highlands Plan Conformance process and the need to adopt the appropriate Master Plan documents and development regulations for the Preservation Area portion of the Township.

The Planning Board also took note of the changing state-wide regulations pertaining to solar and wind energy facilities and called for an evaluation of the Light and General Industrial zone districts and the FTZ districts to determine if any changes would be necessary. Other recommendations were as follows:

- Consider reduction of the permitted intensity in the Commercial/Residential-3 zone district which currently allows up to 10,000 square feet of nonresidential use within converted residential dwellings.

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- Update and consolidate all definitions into one section
- Review and update all applicable fees for reviews, inspections, etc.
- Eliminate subsection ‘C’ in §400-77 which allows the Zoning Officer to modify a zone boundary under limited circumstances. Such decisions should not be resolved on an administrative basis.
- Modify sign regulations to reduce the permitted height of signs, particularly in the commercial zone districts.
- Eliminate the procedure for an “informal discussion” pertaining to potential subdivisions as presently provided in §400-32, subsection B.

Further, the Planning Board recommended certain modifications to the Township’s zone plan, specifically to lots 2 and 3 in Block 4400 to establish a new zone district focusing on recreational facilities; Lot 8 in Block 4500 to be placed in the P-Public zone district; and lots 19, 20, and 21 in Block 8500 to be rezoned to a new district similar to the Professional-Business zone in place in Budd Lake along Route 46.

The Planning Board, with the guidance of the Mount Olive Open Space Committee, set forth a Vision Statement and a series of Goals and Objectives to plan effectively for trails. Lastly, the Board acknowledged the Township Council’s support for the Sustainable Jersey Program and incorporated the Sustainable Land Use Pledge approved by the Council.

**[40:55D-89b] THE EXTENT TO WHICH SUCH PROBLEMS AND OBJECTIVES HAVE BEEN REDUCED OR HAVE INCREASED SUBSEQUENT TO SUCH DATE.**

Mount Olive Township’s mandatory Petition for Plan Conformance for the Preservation Area was approved by the Highlands Council on January 20, 2011 thus completing the initial Plan Conformance phase.

The zoning district changes called for in the 2010 Reexamination Report were implemented with Township Ordinance No. 28-2010, adopted by the Township Council in November 2010 thus creating the AR/Active Recreation zone district for lots 2 and 3 in Block 4400 , the Professional/Commercial - 2 Zone District to cover lots 19, 20, and 21 in Block 8500, and replaced residential zoning on Lot 8 in Block 4500 to the Public zone classification in recognition of its status as a municipal park.

Other modifications recommended to the Township’s Land Use Code are under active consideration and refinement by the Planning Board’s Ordinance Committee.

**[40:55D-89c] THE EXTENT TO WHICH THERE HAVE BEEN SIGNIFICANT CHANGES IN THE ASSUMPTIONS, POLICIES AND OBJECTIVES FORMING THE BASIS FOR THE MASTER PLAN OR DEVELOPMENT REGULATIONS AS LAST REVISED, WITH PARTICULAR REGARD TO THE DENSITY AND DISTRIBUTION OF POPULATION AND LAND USES, HOUSING CONDITIONS, CIRCULATION, CONSERVATION OF NATURAL RESOURCES, ENERGY CONSERVATION, COLLECTION, DISPOSITION AND RECYCLING OF DESIGNATED RECYCLABLE MATERIALS, AND CHANGES IN STATE, COUNTY AND MUNICIPAL POLICIES AND OBJECTIVES.**

1. Highlands Water Planning and Protection Act

The New Jersey Legislature enacted the *Highlands Water Protection and Planning Act* (N.J.S.A. 13:20-1 et seq.) on August 10, 2004 thus placing 88 municipalities, including Mount Olive Township, within the Highlands Region. This Region consists of some 859,358 acres in northwest New Jersey and is divided between the Planning Area (444,399 acres) and the Preservation Area (414,959 acres). Mount Olive Township is located entirely within the Highlands Region with the majority of the Township, 15,865 acres (79 percent of the municipality) situate in the Preservation Area. The remaining 4,131 acres (21 percent) are within the Planning Area.

The Highlands Act (N.J.S.A. 13:20-14) mandates that the Preservation Area of every Highlands municipality be brought into conformance with the “goals, requirements, and provisions” of the *Highlands Regional Master Plan*. In August 2008 the Highlands Water and Planning Protection Council (Highlands Council) approved the *2008 Highlands Regional Master Plan* (RMP) leading to its formal adoption on September 8, 2008. The Act does not require conformance with respect to the Planning Area portion of a municipality, leaving the option to do at the discretion of the municipality.

Mount Olive completed the requirements of “basic plan conformance” and followed with a Petition for Plan Conformance (for the Preservation Area) in December 2009 which was approved by the Highlands Council at their public meeting on January 20, 2011. the Township is now engaged in meeting the various requirements of Plan Conformance including this Reexamination Report and the following tasks:

- Highlands Area Checklist Ordinance
- Highlands Environmental Resource Inventory
- Highlands Master Plan Element
- Highlands Preservation Area Ordinance

Highlands RMP: Map Adjustments

Mount Olive sought and was granted a “map correction” by the Highlands Council to reclassify the former landfill site known as Combe Fill North from Existing Community Zone (ECZ)–Environmentally Constrained to ECZ without the “environmentally

constrained” classification. This change increases the viability of redevelopment potential for the former landfill.

2. State Strategic Plan: New Jersey’s Development & Redevelopment Plan

In response to Governor Christie’s Executive Order No. 78 issued October 19, 2011, the State Planning Commission (SPC) voted on November 14, 2011 to adopt a final draft of the State Plan which differs significantly from the existing **State Development and Redevelopment Plan** (SDRP). Following a series of public hearings and revisions if required, the SPC will consider approving the new plan, entitled **Proposed Final Draft – State Strategic Plan: New Jersey’s State Development & Redevelopment Plan** (SSP).

The new SSP does away with the State Plan Policy Map which divides the State into Planning Areas to delineate growth and preservation areas. (Virtually all of Mount Olive Township falls within the PA5 – Environmentally Sensitive category.) It likewise eliminates the Plan Endorsement process and Center designation. Instead the SSP intends to identify “*priority industry clusters...complemented with a local agenda...*” to determine where development and redevelopment can be supported by existing, expanded and new infrastructure. A primary goal of the SSP seeks to achieve better inter-agency coordination of such efforts in contrast with the experience under the SDRP. At the other end of the spectrum the SSP proposes “*priority preservation investment areas*”.

The following offers highlights of the new plan followed by observations on the issues and concerns for Mount Olive Township.

A. GOALS OF THE STATE STRATEGIC PLAN

1. Targeted Economic Growth

Enhance opportunities for attraction and growth of industries of statewide and regional importance.

Objectives

- 1.1 Map priority industry clusters for sectors of statewide significance
- 1.2 Improve conditions for sectors of statewide significance
- 1.3 Support of land and water based industries
- 1.4 Align partnerships and working groups

2. Effective Planning for Vibrant Regions

Guide and inform regional planning so that each region of the State can experience appropriate growth according to the desires and assets of that region.

Objectives

- 2.1 Establish “priority growth investment area” criteria
- 2.2 Increase readiness and availability of redevelopment sites
- 2.3 Invest in growth infrastructure
- 2.4 Influence implementation of priority growth investment area development
- 2.5 Assist urban center evolve into components of healthy metropolitan areas



2.6 Strengthen county planning role to facilitate regional collaboration

3. Preservation and Enhancement of Critical State Resources

Ensure that strategies for growth include preservation of the State's critical natural, agricultural, scenic, recreation and historic resources, recognizing the role they play in sustaining and improving the quality of life for New Jersey residents and attracting economic growth.

Objectives

- 3.1 Provide for the continued success of the State's preservation programs
- 3.2 Coordinate functional plans related to transportation, energy and the environment with land use and economic development initiatives
- 3.3 Coordinate State preservation and economic development initiatives
- 3.4 Strengthen and expand regional and municipal land use tools

4. Tactical Alignment of Government

Ensure effective resource allocation, coordination, cooperation and communication among those who play an imperative role in meeting the mission of the Plan.

Objectives

- 4.1 Cohesive State government
- 4.2 Connect spending to the State's goals and values
- 4.3 Re-focus the State Planning Commission for local government coordination
- 4.4 Reposition the Office for Planning Advocacy

B. PRIORITY GROWTH INVESTMENT AREA

Growth areas will now be identified through a process to determine "priority growth investment areas" which are to include:

- Major Urban Centers, as previously identified by the 2001 State Plan
- Areas identified as —Priority Industry Clusters
- SPC Designated Centers (currently or previously designated as such by the SPC)
- Port areas
- Existing Communities and/or Growth areas, as designated by Regional or County Master Plans
- Municipally designated redevelopment areas and receiving areas under Municipal Transfer of Development Rights Programs
- Areas designated by existing or future federal and/or State targeted public investment programs

C. PRIORITY PRESERVATION INVESTMENT AREAS

The SSP includes both agricultural lands and areas deemed important to protect open space and critical environment resources in this category.

D. GARDEN STATE VALUES

To The SSP establishes what are known as the *Garden State Values* to assist in establishing the priority growth investment areas. The ten elements comprising the *Garden State Values* are:

1. Concentrate development and mix uses
2. Prioritize redevelopment, infill and existing infrastructure
3. Increase job and business opportunities in priority growth investment areas
4. Create high-quality, livable places
5. Provide transportation choice and efficient mobility of goods
6. Advance equity
7. Diversity housing opportunities
8. Provide for healthy communities through environmental protection and enhancement
9. Protect, restore and enhance agricultural, recreational and heritage lands
10. Make decisions within a regional framework

E. ISSUES/CONCERNS FOR MOUNT OLIVE

Mount Olive Township worked diligently to revise the PA5 (Environmentally Sensitive) classification in Budd Lake in recent years to recognize the existing development pattern and infrastructure, particularly within the International Trade Center (ITC) and did manage to have this designation changed to PA2 (Suburban Planning Area) on the Draft version of the Final State Plan. As noted above, that plan has been replaced by the State Strategic Plan which will do away with the Planning Area designations altogether.

With regard to Goal 1 “Targeted Economic Growth”, the SSP states: “*Retaining and attracting firms that will employ New Jersey’s existing and future residents is at the core of this goal.*” To that end the SSP seeks to map out what are termed “Priority Industry Clusters”, which are described as follows:

To meet the goal of “targeted economic growth,” the State will identify “priority industry clusters” and develop strategies that allow firms to flourish in place, to the greatest extent feasible. These strategies, however, must be complemented with a local agenda that makes those places attractive for new firms to locate. The preferred location for RICs is at or in close proximity to assets such as commuter transit hubs, freight lines, nautical ports, airports, higher education facilities and existing corporate campuses where adequate infrastructure exists. In addition, studies have documented that high-technology businesses, research and development firms, and corporate headquarters rely on “knowledge” or “talent” workers who strongly consider quality of life, and recreational resources in particular, when making employment decisions. Goal 2 deals with strategies for these types of amenities within a regional framework. (SSP, page 22)

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Based upon the initial mapping provided with the SSP, Mount Olive shows concentrations in the following “key industry clusters”:

- Advanced manufacturing
- Finance and insurance
- Health care
- Life science
- Technology
- Transportation logistics distribution

One of the Objectives under Goal 2 is to establish “Priority Growth Investment Area” criteria with the intent of ensuring that policies and decisions of various State agencies work in support of this effort. It appears that the ITC in particular and the Budd Lake area in general should qualify for such a designation thus it will be important to follow and participate in the discussions with the Office for Planning Advocacy and the State Planning Commission in this regard.

### 3. Affordable Housing

Mount Olive Township prepared its Third Round Housing Element and Fair Share Plan (HE/FSP) in accordance with COAH’s Third Round rules. The Township officially petitioned COAH for substantive certification and was scheduled for approval at that agency’s February 2007 meeting, however; a decision at the Appellate Division level several weeks earlier invalidated substantial parts of the Third Round rules, prompting extensive revisions and delays in approval.

Mount Olive has subsequently revised its Third Round HE/FSP, adopted by the Planning Board on September 17, 2009 and submitted to COAH shortly thereafter. On October 8, 2010 the Appellate Division again issued a decision [In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing] which invalidated the “growth share” methodology along with a number of other provisions in COAH’s third round rules. This matter is now pending before the New Jersey Supreme Court.

COAH has since been replaced by Governor Christie with a new entity known as Local Planning Services within the Department of Community Affairs.<sup>1</sup> As of this Reexamination Report there are no specific changes recommended in the HE/FSP until such time as the NJ Supreme Court issues a decision and appropriate rule changes are instituted. Mount Olive will request approval of its Spending Plan and take the necessary measures to ensure that existing funds in the Township’s Affordable Housing Trust Fund are committed pursuant to Section 8 of P.L. 2008, c. 46.

### 4. Utility Plan

Changes in NJDEP regulations with regard to Water Quality Management Plans has essentially ruled out expansion of sanitary sewer service areas beyond those already

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<sup>1</sup> The Appellate Division issued a decision on March 8, 2012 finding that the abolition of COAH by the Governor’s Reorganization Act is invalid.

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approved. And in the Highlands Preservation Area, which covers 79 percent of the Township, no such expansion is permitted.

The following synopsis on the Utility Plan issues is provided by Eugene Buczynski, P.E., the Mount Olive Township Engineer:

The Township of Mount Olive has a Wastewater Management Plan that was prepared by Canger and Cassera, Inc. dated October 1993; revised August 1994, which was adopted by the State of New Jersey Department of Environmental Protection on April 29, 1994. The plan also had several Plan Amendments after adoption. The Township also engaged Schoor DePalma, Inc. to update the adopted Wastewater Management and a "Draft" WMP was prepared dated July 2003, however, it was never finalized by the NJDEP; and therefore, never adopted.

The NJDEP readopted the Water Quality Management Rules with Amendments (N.J.A.C.-7:15) effective July 7, 2008 (40 NJR. 4000(a)) assigning primary wastewater management planning responsibilities to the twenty-one Counties within the State of New Jersey. The rules originally required Counties to update the County-wide Wastewater Management Plan by April 7, 2009.

The difficulty in feasibly meeting these deadlines resulted in the State of New Jersey Department of Environmental Protection approving Administrative Order No. 2010-03 on March 24, 2010, extending the submission deadline for all Wastewater Management Plans to April 7, 2011. The Administrative Order further states that properties that were already included in an adopted sewer service area of an existing Wastewater Management Plan shall not be removed from the future sewer serve area as part of an updated Wastewater Management Plan under the NJDEP rules if the property owner can demonstrate that the project has the approval required by N.J.A.C. 7:15-8.1.

Additional legislation was passed on January 16, 2012 requiring all Counties to submit the Sewer Service Area mapping to the NJDEP within 180 days of the date of the legislation

The Township of Mount Olive will be included in the Morris County Wastewater Management Plan, and the Township is presently assisting the County of Morris in finalizing the Wastewater Management Plan for the Municipality. The Township of Mount Olive will be included as part of the County Wastewater Management Plan since it did not petition to the Highlands Council for conformance within the Highland's Planning Area.

The Township continues to upgrade deficiencies in the existing municipal water system, connecting the Turkey Brook Park well into the municipal water system and interconnecting Goldmine Estates water system with the Morris Chase water system. The Township is also proceeding in interconnecting adjoining municipal systems within the municipality. Recently the Tinc Farm Water System was interconnected into the Goldmine water system .

The future extension of water systems may also be limited because of the Highland Regulations and the need to receive waivers or exemptions for future expansion and interconnections of the water systems.

The Township continues to implement NJDEP Stormwater Regulations – Best Management Practices for Stormwater Control throughout the Township of Mount Olive to stay in compliance with their Tier “A” Municipal Stormwater General Permit. The Township continues to assure that all future developments are in strict conformance with the Residential Site Improvement Standards (RSIS), when applicable.

5. Renewable Energy

A number of statutory changes have been adopted concerning wind and solar energy facilities, as follows:

A. DEFINITION

Wind, solar and photovoltaic systems are defined in the Municipal Land Use Law as follows:

“Wind, solar or photovoltaic energy facility or structure” means a facility or structure for the purpose of supplying electrical energy produced from wind, solar, or photovoltaic technologies, whether such facility or structure is a principal use, a part of the principal use, or an accessory use or structure. [40:55D-7]

B. STANDARDS FOR MUNICIPAL ORDINANCE

Municipalities may adopt an ordinance to regulate “small wind energy systems”<sup>2</sup> (typically an individual wind turbine) subject to certain limitations which are set forth in the MLUL. Thus the ordinance cannot impose unreasonable limits or hinder the functional ability of such facilities by prohibiting them in all zone districts and it must account for the type of towers associated with wind turbines when setting height restrictions. It cannot require setbacks from property boundaries greater than 150 percent of the system height while restrictions on noise levels cannot be set below 55 decibels. The standards in the MLUL are as follows:

Municipal ordinances relative to small wind energy systems

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<sup>2</sup> “Small wind energy system” means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity consistent with applicable provisions of the State Uniform Construction Code promulgated pursuant to the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) and technical bulletins issued pursuant to section 2 of P.L.2009, c.244 (C.40:55D-66.13), and which will be used primarily for onsite consumption (*N.J.S. 40:55D-66.12, d*)

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- a. Ordinances adopted by municipalities to regulate the installation and operation of small wind energy systems shall not unreasonably limit such installations or unreasonably hinder the performance of such installations. An application for development or appeal involving a small wind energy system shall comply with the appropriate notice and hearing provisions otherwise required for the application or appeal pursuant to the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.).
- b. Unreasonable limits or hindrances to performance of a small wind energy system shall include the following:
  - (1) Prohibiting small wind energy systems in all districts within the municipality;
  - (2) Restricting tower height or system height through application of a generic ordinance or regulation on height that does not specifically address allowable tower height or system height of a small wind energy system;
  - (3) Requiring a setback from property boundaries for a tower that is greater than 150 percent of the system height. In a municipality that does not adopt specific setback requirements for small wind energy systems, any small wind energy system shall be set back from the nearest property boundary a distance at least equal to 150 percent of the system height; provided, however, that this setback requirement may be reduced by the zoning board of adjustment or, if otherwise appropriate, by the planning board upon application in an individual case if the applicant establishes the conditions for a variance under the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.) to the board’s satisfaction;
  - (4) Setting a noise level limit lower than 55 decibels, as measured at the site property line, or not allowing for limit overages during short-term events such as utility outages and severe wind storms; and
  - (5) Setting electrical or structural design criteria that exceed applicable provisions of the State Uniform Construction Code promulgated pursuant to the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) and technical bulletins issued pursuant to section 2 of P.L.2009, c.244 (C.40:55D-66.13).

- c. If the Commissioner of Environmental Protection has issued a permit for the development of a small wind energy system under the “Coastal Area Facility Review Act,” P.L.1973, c.185 (C.13:19-1 et seq.), prior to the effective date of P.L.2009, c.244 (C.40:55D-66.12 et al.), provisions of subsection b. of this section shall not apply to an application for development for that small wind energy system if the provisions of that subsection would otherwise prohibit approval of the application or require the approval to impose restrictions or limitations on the small wind energy system, including but not limited to restrictions or limitations on tower height or system height, the setback of the system from property boundaries, and noise levels.
- d. For the purposes of this section: “Small wind energy system” means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity consistent with applicable provisions of the State Uniform Construction Code promulgated pursuant to the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) and technical bulletins issued pursuant to section 2 of P.L.2009, c.244 (C.40:55D-66.13), and which will be used primarily for onsite consumption;
- “System height” means the height above grade of the tower plus the wind generator;
  - “Tower height” means the height above grade of the fixed portion of the tower, excluding the wind generator; and
  - “Wind generator” means blades and associated mechanical and electrical conversion components mounted on top of the tower. [40:55D-66.12] *Adopted. L. 2009, c. 244, §1, effective January 16, 2010.*

Issuance of technical bulletin

Within 10 months of enactment of P.L.2009, c.244 (C.40:55D-66.12 et al.), the Director of the Division of Codes and Standards in the Department of Community Affairs, in consultation with the Department of Environmental Protection, shall issue a technical bulletin which shall include model municipal ordinances for the construction of small wind energy systems. Prior to issuance of the technical bulletin, the director shall hold one or more public hearings and solicit comments from interested parties. The Division of Codes and Standards in the Department of Community Affairs shall post the technical bulletin on its Internet website. [40:55D-66.13] *Adopted. L. 2009, c. 244, §2, effective January 16, 2010.*

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Compliance

Small wind energy systems shall be built to comply with all applicable Federal Aviation Administration requirements, including 14 C.F.R. part 77, subpart B regarding installations close to airports, and all applicable airport zoning regulations. [40:55D-66.14] *Adopted. L. 2009, c. 244, §3, effective January 16, 2010.*

Conditions for deeming abandoned; legal action

A small wind energy system that is out of service for a continuous 12-month period shall be deemed abandoned. The municipal zoning enforcement officer may issue a notice of abandonment to the owner of an abandoned small wind energy system. The owner shall have the right to respond to the notice of abandonment within 30 days from the receipt date. The municipal zoning enforcement officer shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides the municipal zoning enforcement officer with information demonstrating the small wind energy system has not been abandoned. If the small wind energy system is determined to be abandoned, the owner of the small wind energy system shall remove the wind generator from the tower at the owner's sole expense within three months of receipt of notice of abandonment. If the owner fails to remove the wind generator from the tower, the municipality may pursue a legal action to have the wind generator removed at the owner's expense. [40:55D-66.15] *Adopted. L. 2009, c. 244, §4, effective January 16, 2010.*

C. PERMITTED 'AS OF RIGHT'

Wind, solar and photovoltaic systems are to be treated as a “*renewable energy facility*” and have been accorded permitted use status in any industrial zone district on a parcel consisting of at least 20 acres.

Wind and solar facilities permitted in industrial zones.

A renewable energy facility on a parcel or parcels of land comprising 20 or more contiguous acres that are owned by the same person or entity shall be a permitted use within every industrial district of a municipality. For the purposes of this section: “renewable energy facility” means a facility that engages in the production of electric energy from solar technologies, photovoltaic technologies, or wind energy. [40:55D-66.11] *Adopted. L. 2009, c. 35, §1, effective March 31, 2009.*

Wind, solar and photovoltaic systems are also to be treated as permitted uses on any landfill or “*closed resource extraction operation*”, as follows:



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Solar, photovoltaic energy facility, structure, certain, permitted use within every municipality

- a. Notwithstanding any law, ordinance, rule or regulation to the contrary, a solar or photovoltaic energy facility or structure constructed and operated on the site of any landfill or closed resource extraction operation, shall be a permitted use within every municipality.
- b. Notwithstanding any law, ordinance, rule or regulation to the contrary, a wind energy generation facility or structure constructed and operated on the site of any landfill or closed resource extraction operation, shall be a permitted use within every municipality outside the pinelands area as defined pursuant to section 3 of P.L.1979, c.111 (C.13:18A-3). The Department of Environmental Protection may adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as necessary to effectuate the purposes of this subsection. [40:55D-66.16] *Adopted. L. 2011, c. 141, §2, effective December 14, 2011.*

D. SOLAR PANELS EXEMPT FROM IMPERVIOUS COVERAGE CALCULATIONS

Local ordinances cannot include solar panels when calculating impervious coverage limits.

Solar panels not included in certain calculations relative to approval of subdivisions, site plans.

An ordinance requiring approval by the planning board of either subdivisions or site plans, or both, shall not include solar panels in any calculation of impervious surface or impervious cover.

As used in this section, “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. [40:55D-38.1]  
*Adopted. L. 2010, c. 4, §9, effective April 22, 2010.*

E. USE VARIANCE

Where an application for a wind, solar or photovoltaic system requires a use variance putting the matter under the Board of Adjustment’s jurisdiction, the “positive criteria/special reasons” test is satisfied by the inclusion of such facilities within the definition for an *inherently beneficial use* in the MLUL, which reads as follows:

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“Inherently beneficial use” means a use which is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare. Such a use includes, but is not limited to, a hospital, school, child care center, group home, or a wind, solar or photovoltaic energy facility or structure. [40:55D-4]

**[40:55D-89d] THE SPECIFIC CHANGES FOR THE MASTER PLAN OR DEVELOPMENT REGULATIONS, IF ANY, INCLUDING UNDERLYING OBJECTIVES, POLICIES AND STANDARDS, OR WHETHER A NEW PLAN OR REGULATIONS SHOULD BE PROPOSED.**

1. Highlands

Mount Olive will implement the requirements of Highlands Plan Conformance applicable to the Preservation Area portion of the Township.

- Master Plan Reexamination Report
- Highlands Area Checklist Ordinance
- Highlands Environmental Resource Inventory
- Highlands Master Plan Element
- Highlands Preservation Area Ordinance

2. Land Use Code

The Planning Board will continue to study and recommend changes to the Mayor and Township Council as addressed herein and in the 2010 Reexamination Report.

**[40:55D-89e] THE RECOMMENDATIONS OF THE PLANNING BOARD CONCERNING THE INCORPORATION OF REDEVELOPMENT PLANS ADOPTED PURSUANT TO THE “LOCAL REDEVELOPMENT AND HOUSING LAW”, P.L. 1992, C. 79 (C. 40A:12A-1 ET SEQ.) INTO THE LAND USE PLAN ELEMENT OF THE MUNICIPAL MASTER PLAN, AND RECOMMENDED CHANGES, IF ANY, IN THE LOCAL DEVELOPMENT REGULATIONS NECESSARY TO EFFECTUATE THE REDEVELOPMENT PLANS OF THE MUNICIPALITY.**

At the present time Mount Olive does not have any active redevelopment plans in place or under consideration. The Township will evaluate “redevelopment” opportunities under the standards established in the RMP.

Within the Preservation Area there are several locations that lend themselves to the redevelopment policies set forth in the RMP that the Township may wish to pursue. The Existing Community Zone encompassing the industrial district on the southerly side of Gold Mine Road is one such area. Properties along Route 46 in the Lake Management Zone and along the Rt. 206 corridor in Flanders are other potential locations. Mount Olive will examine the prospects for seeking redevelopment area designation in accordance with the standards of the Highlands Act and the RMP as part of the Plan Conformance process. To date, Mount Olive has supported efforts by property owners to secure a Highlands

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Redevelopment designation in order to facilitate development plans. The areas in question are as follows:

1. Goldmine Partners (Block 4500, Lot 3) – Approved August 19, 2010 (Highland Council Resolution 2010-5) Location: Gold Mine Road in the Commercial/Light Industrial zone district
2. Sandshore Road (Block 8300, lots 5, 5.01, 5.02, 6, 7, 8, 9) – Approved May 19, 2011 (Highlands Council Resolution 2011-18) Location: Sandshore Road in the Light Industrial zone district)
3. Givaudan Fragrances Corp. (Block 402, Lot 5) – Approved August 3, 2011 (Highlands Council Resolution 2011-29) Location: Waterloo Valley Road in the FTZ-2 zone district
4. Debeck Associates LLC (Block 8200, lots 5 & 6; Block 8100, lots 49 & 50) – Approved January 12, 2011 (Highlands Council Resolution 2012-4) Location: Route 46 in the C-2 Commercial zone district.