

TOWNSHIP OF LOPATCONG  
COUNCIL MEETING

July 10, 2013

The Meeting of the Lopatcong Township Council was called to order at 7:30 pm by Council President Camporine. The meeting was held in the Municipal Building located at 232 S. Third St., Phillipsburg, New Jersey 08865.

Council President Camporine stated “adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star Gazette and The Express-Times and by posting a copy on the bulletin board in the Municipal Building.”

A prayer was offered followed by the Oath of Allegiance.

Present: Council President Camporine, Councilman Belcaro, Councilwoman Ciesla and Councilwoman McCabe. Also present were Tax Collector Edinger, Attorney Campbell and Engineer Sterbenz.

Resolution No. 13-68 - was passed to hold an Executive Session to discuss contractual and personnel and litigation matters.

**Public Comment:** Public asked questions on agenda items.

**Old Business:**

**Minutes** – Council President Camporine asked for a motion to approve the minutes of June 5, 2013. Motion by Councilwoman Ciesla, seconded by Councilman Belcaro. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe, and Council President Camporine.

NAYS: None

**New Business:**

**Ordinance No. 2013-08** – First reading to adopt the Highlands Checklist Ordinance.

**TOWNSHIP OF LOPATCONG  
WARREN COUNTY, NEW JERSEY  
Ordinance No. 2013-08**

**AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWNSHIP  
OF LOPATCONG TO UPDATE SUBMISSION REQUIREMENTS FOR  
APPLICATIONS FOR DEVELOPMENT**

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

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

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

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

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

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

WHEREAS, Section 15 of the Highlands Act provides for voluntary Plan Conformance where any municipality located wholly or partially in the Planning Area may at any time voluntarily revise and conform its local master plan and development regulations, as related to the development and use of land in the Planning Area, with the goals, requirements and provisions of the Regional Master Plan; and

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

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

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

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

WHEREAS, the Governing Body of the Township of Lopatcong has, on behalf of the municipality, petitioned the Highlands Council for Plan Conformance with respect to the whole of the municipality; and

WHEREAS, the Petition filed with the Highlands Council contains proposed amendments to the municipal planning program, including amendments to the Environmental Resource Inventory, Master Plan, and Land Use Ordinance, which together are intended to achieve conformance with the Regional Master Plan and provide immediate protections to vital Highlands Resources located within the Township; and

WHEREAS, the Petition in addition included a request for Highlands Council designation of a Highlands Center, to be effectuated by additional Master Plan and Land Use Ordinance provisions and modifications, as needed to effectuate same; and

WHEREAS, the Township Petition for Plan Conformance, inclusive of the requested Highlands Center designation, was approved by the Highlands Council with conditions, as memorialized by Highlands Council Resolution #2011-11, adopted on March 17, 2011; and

WHEREAS, the Township Planning Board did subsequently adopt the revised Highlands Environmental Resource Inventory during a joint meeting with the Township Environmental Commission, on June 27, 2012; and

WHEREAS, the Township Council adopted a Planning Area Petition Ordinance, as required pursuant to the Highlands Act and the Highlands Council Resolution approving the municipality's Petition for Plan Conformance, on December 29, 2011; and

WHEREAS, the Township, by adoption of Resolution R11-97, dated December 7, 2011, petitioned the Highlands Council for an amendment to the approved Petition to provide for designation of a Highlands Center, to be effectuated by additional Master Plan and Land Use Ordinance provisions and modifications, a request that was subsequently approved with conditions by the Highlands Council, as memorialized by Highlands Council Resolution #2012-3, adopted on January 19, 2012; and

WHEREAS, the Governing Body finds that the remaining changes to the municipal planning program needed to complete the Plan Conformance process, are of broad and significant effect, are vital to the protection of the Highlands resources of the municipal Highlands Area, and are compelling to the interests and general welfare of the community; and

WHEREAS, the Governing Body recognizes that preparation and formal municipal adoption of each component of the revised planning program must take place, in sequential order in accordance with all statutory requirements, involving public hearings and deliberation by the Planning Board and Governing Body; a process that will require an additional undetermined period of time; and

WHEREAS, the Governing Body is aware that lands within the Planning Area are not regulated by the New Jersey Department of Environmental Protection's Highlands Rules (N.J.A.C. 7:38-1 et seq.) and, with the exception of Wastewater Management Plans and Water Allocation Permits, would remain without the full suite of Highlands Regional Master Plan protections during the interim period preceding adoption of the applicable ordinances and regulations that will provide such protections; and

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

WHEREAS, the adoption of revised submission requirements pertinent to Applications for Development therein is essential to ensuring that Applicants achieve compliance with the standards and protections required under the Highland Regional Master Plan despite the interim status of the municipal Plan Conformance ordinances and regulations, this interim period not constituting an appropriate instance in which municipal approvals based upon existing municipal regulatory requirements, can appropriately be issued conditioned upon subsequent approval by the Highlands Council or the New Jersey Department of Environmental Protection (NJDEP), as may occur under usual circumstances; and

WHEREAS, the Governing Body finds that the adoption of such submission requirements are important not only to provide such immediate resource protections, but to ensure the proper management of Applications for Development involving lands within the Highlands Area of the municipality; and

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

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

**SECTION 1. APPLICABILITY**

This Ordinance shall apply to any Application for Development involving lands located within (or partially within) the Township Highlands Area (as illustrated in Exhibit 1, "Township of Lopatcong Highlands Area") that seeks approval of a site plan,

subdivision, or change in use, where approval of such Application would: a) for nonresidential development, result in the ultimate disturbance of one (1) acre or more of land or produce a cumulative impervious surface area of one-quarter (1/4) acre, or more; b) in the case of residential development, create three or more dwelling units; or c) introduce or expand on any of the following land uses/facilities:

- A. Landfills;
- B. Permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills;
- C. Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials;
- D. Industrial treatment facility lagoons; or
- E. Any Major or Minor Potential Contaminant Source (as identified in Appendix A and Appendix B of this Ordinance, respectively) on lands located within 200 feet of the wellhead of any public community well or public non-community well, as these are defined at Section 4 below. For purposes of this Ordinance, the phrases “Application for Development,” “Highlands Area,” “residential development,” “ultimate disturbance,” and “cumulative impervious surface area” shall be defined as provided at Section 4 below.

## **SECTION 2. ADMINISTRATIVE COMPLETENESS**

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

1. A Consistency Determination from the Highlands Council indicating that the application is consistent with the Highlands Regional Master Plan and with the Highlands Council Resolutions (#2011-11, #2012-3) granting approval of the municipality’s Petition for Plan Conformance; or
2. A Consistency Determination from the Highlands Council indicating that the application is not consistent with the Highlands Regional Master Plan, accompanied by a certification, as detailed in Section 2.B below, by the Applicant’s professional(s) that the application has been revised since review by the Highlands Council to achieve consistency with the Highlands Regional Master Plan and Highlands Council Resolutions (#2011-11, #2012-3) granting approval of the municipality’s Petition for Plan Conformance.

**B. FINDINGS OF INCONSISTENCY.** Where a Highlands Council Consistency Determination indicates that an Application for Development is inconsistent with the Highlands Regional Master Plan or with the Highlands Council Resolutions (#2011-11, #2012-3) granting approval of the municipality’s Petition for Plan Conformance, no such application shall be deemed complete or considered for review by the applicable Township land use Board, until or unless the Applicant has obtained from the professional(s) responsible for preparation of the Applicant’s plans, a certification indicating that to the best of the knowledge and abilities of such professional(s), the application has been revised to achieve consistency with the Highlands Regional Master Plan and the Highlands Council Resolutions (#2011-11, #2012-3) granting approval of the municipality’s Petition for Plan Conformance, and specifically describing the revisions made to achieve such consistency.

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

1. The activity, improvement or development proposed by the subject Application for Development has not yet been formally determined to be exempt from the Highlands Act (see Section 3.B, below), but eligibility for an exemption has been sufficiently established by the Applicant; or

2. The activity, improvement or development proposed in the Application for Development will neither encroach upon a Highlands Resource or Highlands Resource Area, nor be of detrimental impact to any Highlands resource or Highlands Resource Area as these are identified and delineated in the Highlands Regional Master Plan. The Applicant's professional(s) responsible for preparation of the Applicant's plan shall establish compliance of the above through a formal certification specifically addressing the Highlands Resources and Resource Areas and related policies and objectives as identified in Chapter 4 of the Highlands Regional Master Plan.

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

### **SECTION 3. EXCLUSIONS AND EXEMPTIONS**

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

1. The reconstruction, within the same footprint, of any building or other structure lawfully existing as of the effective date of this Ordinance, in the event of its destruction or partial destruction by fire, storm, natural disaster, or any other unintended circumstance.
2. Any improvement or alteration to a building or other structure lawfully existing as of the effective date of this Ordinance, where such improvement or alteration is necessary for compliance with the provisions of the Americans with Disabilities Act, or to otherwise provide accessibility to the disabled.
3. Any Agricultural or Horticultural Use or Development that would not result in either:
  - a. An increase, since the date of enactment of the Highlands Act (August 10, 2004), either individually or cumulatively, of new agricultural impervious cover of greater than three percent (3%) to the total land area of a Farm Management Unit. Solar panels shall not be included in any calculation of agricultural impervious cover (all terms as defined in Section 4, below); or
  - b. Construction of three (3) or more residential dwelling units (including accessory dwelling units) served by individual on-site septic system(s).

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

1. *State Agency Determination.* State Agency Determinations shall include either, a Highlands Applicability Determination (HAD) issued by the NJDEP for a Preservation Area proposal, or a Highlands Exemption Determination issued by the Highlands Council for a Planning Area proposal, in either case, indicating that the proposal qualifies as a Highlands Act Exemption.

2. *Municipal Determination.* The Township has the option to adopt an ordinance entitled “Township of Lopatcong Highlands Area Exemption Ordinance”. For any application under this Ordinance involving Highlands Act Exemptions #4, #6, #7, or #8, the applicant may request and shall be deemed to have satisfied the evidentiary requirement by obtaining a Municipal Exemption Determination issued by the Municipal Exemption Designee, provided such Determination indicates that the proposal qualifies as a Highlands Act Exemption. The applicant may rely upon the findings of a Municipal Exemption Determination to the same extent and with the same protections as would apply in the case of a Highlands Exemption Determination issued by the Highlands Council, or of a HAD issued by the NJDEP.

#### **SECTION 4. DEFINITIONS.**

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

**Agricultural or Horticultural Development** – means construction for the purposes of supporting common 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.

**Agricultural or Horticultural Use** – means 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.

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

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

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

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

**Disturbance, Ultimate** – means the total existing or proposed area of disturbance of a lot, parcel, or other legally designated (or otherwise legally recognized) tract or subdivision of land, for the purpose of, and in connection with, any human activity, property improvement, or development, including the surface area of all buildings and structures, all impervious surfaces, and all associated land disturbances such as excavated, filled, and graded areas, and all lawn and landscape areas. Ultimate disturbance shall not include areas of prior land disturbance which at the time of evaluation: a) contain no known man-made structures (whether above or below the surface of the ground) other than such features as old stone rows or farm field fencing; and b) consist of exposed rock outcroppings, or areas which, through exposure to natural processes (such as weathering, erosion, siltation, deposition, fire, flood, growth of trees or other vegetation) are no longer impervious or visually obvious, or

ecologically restored areas which will henceforth be preserved as natural areas under conservation restrictions.

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

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

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

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

**Highlands Area** – means that portion of the municipality for which the land use planning and regulation are in conformance with, or are intended or proposed to be in conformance with, the Highlands Regional Master Plan, including specifically in the case of the Township of Lopatcong, the whole of the municipality.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **SECTION 5**

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

## **SECTION 6**

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

## **SECTION 7**

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

**NOTICE**

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Lopatcong held on July 10, 2013 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on August 7, 2013 at 7 p.m. or as soon thereafter as the Township Council may hear this Ordinance at the Municipal Building, 232 S. Third Street, Phillipsburg, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Margaret B. Dilts, CMC  
Township Clerk

Council President Camporine asked for a motion to adopt this Ordinance on first reading. Motion by Councilwoman McCabe, seconded by Councilman Belcaro. Roll call vote: AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine. NAYS: None

**Ordinance No. 2013-07** – First reading to Amend, Revise and Supplement Chapter 227, “Vehicles and Traffic”, including Section 15 “Parking Prohibited during Certain Hours on Certain Streets” relative to Briarstone Avenue.

**ORDINANCE NO. 2013-07**

**ORDINANCE OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN, STATE OF NEW JERSEY TO AMEND, REVISE AND SUPPLEMENT CHAPTER 227 "VEHICLES AND TRAFFIC", INCLUDING SECTION 15 "PARKING PROHIBITED DURING CERTAIN HOURS ON CERTAIN STREETS" RELATIVE TO BRIARSTONE AVENUE**

**WHEREAS**, Chapter 227 "Vehicles and Traffic" of the Code of the Township of Lopatcong contains various parking and traffic regulations; and

**WHEREAS**, there is a need to amend provisions relative to parking prohibitions on Briarstone Avenue due to impacts on residents from adjacent businesses.

**NOW THEREFORE, BE IT ORDAINED** by the Council of the Township of Lopatcong, County of Warren and State of New Jersey that Chapter 227 "Vehicles and Traffic", Section 15 be amended, revised and supplemented as follows:

Section 1:

No person shall park a vehicle between the hours specified any day (except Sundays and public holidays) upon any of the streets or parts of streets described:

Name of Street	Sides	Hours	Location
Briarstone Avenue	Both	Thursday, Friday and Saturdays 8pm-6am	Entire Length

Section 2:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder off this Ordinance shall not be affected thereby.

Section 3:

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 4:

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

**NOTICE**

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Township of Lopatcong held on July 10, 2013 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Council to be held on August 7, 2013 at 7 p.m. or as soon thereafter as the Township Council may hear this Ordinance at the Municipal Building, 232 S. Third Street, Phillipsburg, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Margaret B. Dilts, CMC  
Township Clerk

Council President Camporine asked for a motion to adopt this Ordinance on first reading. Motion by Councilman Belcaro, seconded by Councilwoman McCabe. Roll call vote:  
AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.  
NAYS: None

**Resolution No. 13-69** – Approve 2012 Audit Report and execute Group Affidavit acknowledging review.

R 13-69

**RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND  
STATE OF NEW JERSEY CERTIFYING THE ANNUAL AUDIT FOR 2012**

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the year 2012 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A:5-6 and a copy has been received by each member of the Governing Body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled “Comments and Recommendations; and

WHEREAS, the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled “Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of the certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with at least, the minimum requirements of the Local Finance Board of the State of New Jersey,

as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, a failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27bB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Township of Lopatcong, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of the Resolution and the required affidavit to said Board to show evidence of said compliance.

#### CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, July 10, 2013.

Margaret B. Dilts, CMC

Council President Camporine asked for a motion to adopt this Resolution. Motion by Councilman Belcaro, seconded by Councilwoman Ciesla. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.

NAYS: None

**Resolution No. 13-70** – Approve 2012 Corrective Action Plan.

R13-70

#### RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY APPROVING CORRECTIVE ACTION PLAN PER 2012 ANNUAL AUDIT RECOMMENDATIONS

WHEREAS, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey have reviewed the Corrective Action Plan submitted by CFO Dobes in relation to the 2012 Annual Audit; and

WHEREAS, CFO Dobes has planned to resolve comments and recommendations by end of year 2013; and

WHEREAS, this plan has been prepared in accordance with Federal and State Guidelines and has been filed with the Division of Local Government Services.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey do hereby approve this Corrective Action Plan as submitted by CFO Dobes in accordance with 2012 Annual Audit.

#### CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, July 10, 2013.

Margaret B. Dilts, CMC

Council President Camporine asked for a motion to adopt this Resolution. Motion by Councilwoman McCabe, seconded by Councilman Belcaro. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.

NAYS: None

**Invoice Zoning Officer** – Approve payment in the amount of \$291.60 for James Onembo, Zoning Officer for the Brass Rail matter. Motion by Councilwoman McCabe, seconded by Councilman Belcaro. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.

NAYS: None

**Resolution No. 13-71 – Animal Control Officer** – Hire Vincent Catalli as Animal Control Officer at a rate of \$8400.00 per year.

R 13-71

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING THE HIRE OF VINCENT CATALLI AS ANIMAL CONTROL OFFICER AT AN ANNUAL RATE OF \$8400 ANNUALLY

WHEREAS, the Office of Animal Control for the Township of Lopatcong, County of Warren and State of New Jersey has recently been vacated; and

WHEREAS, the Township hired Shawn Geiger, a licensed Animal Control Officer, for the Township of Lopatcong at a prorated rate of \$8,000.00; and

WHEREAS, due to unforeseen circumstances, Shawn Geiger resigned his position; and

WHEREAS, Vincent Catalli, a licensed Animal Control Officer and licensed Animal Cruelty Investigator, accepted the position at a prorated rate of \$8400.00.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey do hereby accept the resignation of Shawn Geiger and approve the hire of Vincent Catalli at a prorated annual salary of \$8400.00.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, July 10, 2013.

Margaret B. Dilts, CMC

Council President Camporine asked for a motion to adopt this Resolution. Motion by Councilwoman McCabe, seconded by Councilman Belcaro. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.

NAYS: None

On motion by Councilman Belcaro, seconded by Councilwoman McCabe the following three Resolutions were adopted. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.

NAYS: None

**Resolution No. 13-72** – Authorizing refund of Tax Sale Certificate and Premium on Block 88, Lot 2 in the amount of \$5384.66.

R 13-72

RESOLUTION OF THE TOWNSHIP OF LOPATCONG COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING REFUND OF REDEMPTION MONIES TO OUTSIDE LIENHOLDER ON BLOCK 88, LOT 2 IN THE AMOUNT OF \$5384.66

WHEREAS, at the Lopatcong Township Municipal Tax Sale held on June 8, 2012, a lien was sold on Block 88, Lot 2, also known as Route 519 for 2011 delinquent taxes; and

WHEREAS, this lien known as Tax Sale Certificate No. 2012-018 was sold to US Bank Cust/Pro Capital I, LLC for a premium of \$600.00; and

WHEREAS, Ruth Shandor, property owner, has satisfied the redemption amount on Certificate No. 2012-018 in the amount of \$4784.66.

NOW, THEREFORE, BE IT RESOLVED on this 10<sup>th</sup> day of July 2013 that the Chief Financial Officer be authorized to issue a check in the amount of \$5,384.66 for the redemption of Tax Sale Certificate No. 2012-018 and Premium to:

US BANK CUST/Pro Capital I, LLC  
50 S 16<sup>th</sup> St., Suite 1950  
Philadelphia, PA 19102

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, July 10, 2013.

Margaret B. Dilts, CMC

**Resolution No. 13-73** – Authorizing refund of sewer tax overpayment on Block 139, Lot 59 in the amount of \$526.60.

R 13-73

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING TO REFUND OVERPAYMENT OF SEWER TAXES FOR TAX YEAR 2013

WHEREAS, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey that warrants be drawn to the mortgage company in care of property owners listed below in the designated amounts representing a duplicate sewer tax payment for the tax year 2013.

<u>Block &amp; Lot</u>	<u>Name of Payee</u>	<u>Amount</u>
Block 139, Lot 59	Smalling, Winston & Michele Margor	\$526.60

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey have approved the refunds made rather than applying these payments to the 2013 sewer taxes due to:

Smalling, Winston & Michele, Margor  
10 Jade Lane  
Phillipsburg, NJ 08865

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, July 10, 2013.

Margaret B. Dilts, CMC

**Resolution No. 13-74** – Authorizing refund of Tax Sale Certificate and Premium on Block 133, Lot 52 in the amount of \$639.16.

R 13-74

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING REFUND OF REDEMPTION MONIES TO OUTSIDE LIENHOLDER ON BLOCK 133, LOT 52 IN THE AMOUNT OF \$639.16

WHEREAS, at the Lopatcong Township Municipal Tax Sale held on June 19, 2013, a lien was sold on Block 133, Lot 52 also known as 65 Buckeley Hill Drive for 2012 delinquent sewer; and

WHEREAS, this lien, known as Tax Sale Certificate No. 2013-039 was sold to US Bank Cust/BV001 for a premium of \$500.00; and

WHEREAS, Marlene Woolridge, property owner, has satisfied the redemption amount on Certificate No. 2013-039 in the amount of \$139.16.

NOW, THEREFORE, BE IT RESOLVED on this 10<sup>th</sup> day of August 2013 that the Chief Financial Officer be authorized to issue a check in the amount of \$639.16 for the redemption of Tax Sale Certificate No. 2013-039 and Premium to:

US Bank Cust/for BV001 Trust  
50 S. 16<sup>th</sup> St., Suite 1950  
Philadelphia, PA 19102

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, July 10, 2013.

Margaret B. Dilts, CMC

**Resolution No. 13-75** – Approve appointment of Michael Clancy as Municipal Court Attendant per Civil Service Certification of Eligibles.

R 13-75

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY APPROVING HIRE OF MICHAEL CLANCY AS MUNICIPAL COURT ATTENDANT PER CIVIL SERVICE CERTIFICATION OF ELIGIBLES

WHEREAS, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey hereby approve the appointment of Michael Clancy as Municipal Court Attendant per Civil Service Certification of Eligibles; and

WHEREAS, Michael Clancy is paid at a salary established in the Township Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey that Michael Clancy is approved for the permanent part-time appointment of Municipal Court Attendant by Civil Service Certification of Eligibles.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, July 10, 2013.

Margaret B. Dilts, CMC

Council President Camporine asked for a motion to adopt this Resolution. Motion by Councilman Belcaro, seconded by Councilwoman Ciesla. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.

NAYS: None

**Resolution No. 13-76** – Awarded contract to Chapman, Inc., for the maintenance of the Township’s Waste Water Collection System in the amount of \$124,553.00.

R 13-76

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING AWARD OF TWO CONTRACTS TO CHAPMAN, INC., IN THE AMOUNT OF \$124,553.00

WHEREAS, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey accepted bids for the maintenance of the Township’s Waste Water Collection System on June 21, 2013; and

WHEREAS, Chapman, Inc., submitted the only bid for the maintenance of the Township’s Waste Water Collection; and

WHEREAS, Chapman’s total bid for a 24-month period was \$124,553.00. The bid comprises a lump sum of \$55,553.00 in required services and \$69,000.00 in allowances which may or may not be needed; and

WHEREAS, Chapman, Inc., has been the licensed operator for the Township of Lopatcong since 2009.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey do hereby award the bid for the maintenance of the Township’s Waste Water Collection System to Chapman, Inc., for a 24-month period in the amount of \$124,553.00.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, July 10, 2013.

Margaret B. Dilts, CMC

Council President Camporine asked for a motion to adopt this Resolution. Motion by Councilman Belcaro, seconded by Councilwoman Ciesla. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.

NAYS: None

**Abilities of Northwest NJ Raffle License** – Council President Camporine asked for a motion to approve the license. Motion by Councilwoman Ciesla, seconded by Councilwoman McCabe. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.

NAYS: None

**Council Reports:**

Lou Belcaro – Reported that the Rt. 57 Pump Station Project is out to bid and the bid opening is scheduled for July 31<sup>st</sup> at 10:00 am. Also the Warren County League of Municipalities is being reformed and hopes to begin talks with other towns about shared services. The next meeting is scheduled in September.

**Resolution No. 13-77** - Councilman Belcaro explained that the Township is in a rate dispute with the Town of Phillipsburg and after review of a resume submitted from a specialized rate attorney asked Council for a motion to retain John Inglesino in an effort to settle the dispute.

R 13-77

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING A NON-FAIR AND OPEN CONTRACT FOR PROFESSIONAL SERVICES WITH JOHN INGLESINO OF INGLESINO, PEARLMAN, WYCISKALA & TAYLOR, LLC FOR LEGAL SERVICES

WHEREAS, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey do hereby authorize a Non-Fair and Open Contract for professional services from John Inglesino of Inglesino, Pearlman, Wyciskala and Taylor, LLC with offices at 600 Parsippany Road, Suite 204, Parsippany, NJ 07054 pursuant to the provisions of N.J.S.A. 19:44A-20-4 or 20.5; and

WHEREAS, Mr. Inglesino will serve in connection with a matter involving the Town of Phillipsburg. The terms of this agreement shall reflect an hourly billing rate of \$175.00 for services provided; and

WHEREAS, as per N.J.S.A. 40A:4-57, NJACS:34-5.1 Chief Financial Officer Betty Dobes does hereby certify funds are available and encumbered; and

WHEREAS, the anticipated term of this contract is one year and may be extended as approved by the Governing body; and

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, July 10, 2013.

Margaret B. Dilts, CMC

Council President Camporine asked for a motion to adopt this Resolution. Motion by Councilman Belcaro, seconded by Councilwoman McCabe. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.

NAYS: None

Councilwoman Ciesla – Reported that there are four seats open for the school board and only two people submitted petitions. The Treasurer resigned from the LAA and if someone is interested in the position to submit a resume.

Councilwoman Ciesla stated that the Salary Report is ongoing and upon completion the Salary Ordinance may have to be updated and because of costs associated with this process; it will be done only once.

Finally, Facebook and Twitter are up and running.

Councilwoman McCabe – At the Planning Board Meeting, the Highlands Checklist Ordinance was reviewed and recommended to Council to adopt on first reading. South Warren Regional Police Commission had not had a meeting since the middle of June. Greenwich Township opted out of the Commission and the Commission is still in the discussion stage. The Brass Rail matter is moving forward. The Zoning Report referred the Brass Rail to the Zoning Board of Adjustment with regard to the entertainment issue.

Council President Camporine – Reported that the Township received enough donations to cover the costs associated with the Movies at the Pool and thanked Bill Taggert and his wife for donating their time managing these weekly events.

**Resolution No. 13-78** – Tax Collector Edinger asked Council to take action on the refund of a sewer payment for Block 133, Lot 52.

R 13-78

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY AUTHORIZING TO REFUND SEWER PAYMENT FOR YEAR 2013

WHEREAS, the Mayor and Council of the Township of Lopatcong, County of Warren and State of New Jersey that warrants be drawn to the property owners listed below in the designated amounts representing sewer payment cashed after lien redemption for the tax year 2013.

<u>Block &amp; Lot</u>	<u>Name of Payee</u>	<u>Amount</u>
133 52	US Bank Cust for BV001 Trust	\$341.12

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Township Council of the Township of Lopatcong, County of Warren and State of New Jersey have approved the refunds made rather than applying these payments to the 2013 sewer due.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing is a true and correct copy of a Resolution adopted by Council at a meeting held on Wednesday, July 10, 2013

Margaret B. Dilts, CMC

Council President Camporine asked for a motion to adopt this Resolution. Motion by Councilwoman Ciesla, seconded by Councilman Belcaro. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.

NAYS: None

CFO Dobes reported the total amount of refunds to the Township from FEMA for Hurricane Irene was \$66,511.00 reflecting 75% of the costs and \$679.00 for Hurricane Sandy which was also 75% of the costs.

**Department Reports:** Motion by Councilwoman Ciesla, seconded by Councilman Belcaro to accept the reports. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.

NAYS: None

**Payment of Bills:** Motion by Councilman Belcaro, seconded by Councilwoman Ciesla to accept the reports. Roll call vote:

AYES: Councilman Belcaro, Councilwoman Ciesla, Councilwoman McCabe and Council President Camporine.

NAYS: None

**Public Comment:** Council addressed numerous questions and comments from the public.

Council President Camporine asked for a motion to adopt Resolution No. 13-79 to hold an Executive Session. Motion by Councilman Belcaro, seconded by Councilwoman McCabe. All in favor.

R 13-79

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND THE STATE OF NEW JERSEY AUTHORIZING AN EXECUTIVE SESSION

WHEREAS, there are presently pending matters to be considered in Executive Session concerning possible matters listed:

Personnel and Litigation Matters

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Lopatcong, County of Warren and the State of New Jersey that the Council is authorized to hold an Executive Session.

BE IT FURTHER RESOLVED that the Council of the Township of Lopatcong will make said matters public within approximately 30 days of said meeting or until such a time as confidentiality of the matters is no longer required.

CERTIFICATION

I, Margaret B. Dilts, Municipal Clerk of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by Council at the Reorganization Meeting held on Wednesday, June 5, 2013.

Margaret B. Dilts, CMC

Council came back into regular session at 9:55 pm. No action was taken. Motion to adjourn the meeting by Councilman Belcaro, seconded by Councilwoman McCabe. All in favor.

Respectfully submitted,

Margaret B. Dilts  
Clerk/Administrator

Victor S. Camporine  
Council President