ORDINANCE NO. 1187-2023

AN ORDINANCE OF THE TOWNSHIP OF CLINTON IN HUNTERDON COUNTY, NEW JERSEY AMENDING THE TOWNSHIP'S STORMWATER MANAGEMENT REGULATIONS SET FORTH IN ARTICLE XXXV (SURFACE WATER MANAGEMENT) OF CHAPTER 165 (LAND USE REGULATIONS) OF THE "CODE OF THE TOWNSHIP OF CLINTON"

WHEREAS, on March 2, 2020, the New Jersey State Department of Environmental Protection (NJDEP) adopted amendments to the Stormwater Management Rules for Tier A & B Municipalities, N.J.A.C. 7:8; and

WHEREAS, in accordance with the Township of Clinton's New Jersey Pollutant Discharge Elimination System (NJPDES) Municipal Separate Storm Sewer System (MS4) Permit, municipalities were required to adopt new stormwater management regulations in conformance with the NJDEP's amended rules; and

WHEREAS, to that end, the NJDEP also published, in March 2020, a Model Stormwater Control Ordinance for municipalities; and

WHEREAS, on January 27, 2021, the Clinton Township Mayor and Council adopted a customized version of the NJDEP's March 2020 Model Stormwater Control Ordinance (Ordinance #1146-2021) in order to ensure the Township's compliance with the DEP's new stormwater management rules; and

WHEREAS, it is necessary to amend the Township's stormwater management rules to remove existing prime groundwater recharge area designations from certain critical sites and replace them with municipally important groundwater recharge area designations; and

WHEREAS, the Highlands Council's staff has assisted the Township in preparing the necessary amendments; and

WHEREAS, the Mayor and Council find that adopting the said amendments will benefit the public health, safety, and general welfare;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of Clinton, in Hunterdon County, New Jersey as follows:

SECTION 1. New definitions added to section 165-224, "Definitions" in Article XXXV, "Surface Water Management" in Chapter 165, "Land Use" of the "Code of the Township of Clinton" ("Code") amended. The following new definitions are hereby added to section 165-224 of the Code:

> "Carbonate Rock Area" means an area where rock consisting chiefly of calcium and magnesium carbonates, such as limestone and dolomite, has been identified.
>
> "Current Deficit Area" means any United States Geological Survey 14-digit Hydrologic Unit Code subwatershed area that is identified in the Highlands Regional Master Plan as having negative Net Water Availability, meaning that existing consumptive and depletive water uses exceed the capacity of the ground water supply to sustain.
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> "Karst" means a distinctive topography that indicates solution of underlying carbonate rocks (such as limestone and dolomite) by surface water or groundwater over time, often producing surface depressions, sinkholes, sinking streams, enlarged bedrock fractures, caves, and underground streams.
>
> "Mitigation" means an action by an applicant providing compensation or offset actions for onsite stormwater management requirements where the applicant has demonstrated the inability or impracticality of strict compliance with the stormwater management requirements set forth in NJAC 7:8, in an adopted regional stormwater management plan, or in this local ordinance, and has received a waiver from strict compliance from the municipality. Mitigation shall include the implementation of the approved mitigation plan within the same drainage area where the subject project is proposed, or a contribution of funding toward a municipal stormwater control project, or provision for equivalent treatment at an alternate location, or any other equivalent water quality benefit as approved by the municipality.

"Municipally Important Ground Water Recharge Area" means preserved or constrained lands that cannot be developed or built upon under current regulations and that have recharge rates above the median recharge rate for the subwatershed in which they are located. They provide 40% or greater total recharge volume for the subwatershed. Constrained lands are comprised of undeveloped lands within the Highlands Open Water buffer as well as moderately and severely constrained steep slopes. Preserved lands are those that as of 2015 were permanently preserved by local, county, state, federal or non-profit entities and that also meet or exceed the average recharge value for the subwatershed in which they are located.

"Non-Exempt Project" means any project not eligible for an exemption from the Highlands Water Protection and Planning Act Rules, pursuant to N.J.A.C. 7:38-2.3.

"Regional Master Plan" means the Highlands regional master plan or any revision thereof adopted by the Highlands Water Protection and Planning Council pursuant to N.J.S.A. C.13:20-8.

SECTION 2. Definition of "Impervious surface" amended. The definition of "impervious surface" set forth in section 165-224 of the Code is hereby amended as follows (new text is underlined thus; deleted text is in brackets [thus]):

"Impervious surface" means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements. To be considered an impervious surface, the structure, surface or improvement must have the effect of reducing or preventing stormwater absorption[a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water].

SECTION 3. Groundwater recharge requirements for major developments amended.

Subsection P, "Groundwater recharge standards" in section 165-230, "Stormwater Management Requirements for Major Development" is hereby amended as follows (new text is underlined thus; deleted text is in brackets [thus]):

A through O no changes.

P. Groundwater recharge standards.

(1) This subsection contains the minimum design and performance standards for groundwater recharge as follows.

(2) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at §165-231, either:

(a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual pre-construction groundwater recharge volume for the site; or

(b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the two-year storm is infiltrated.

(c) Additional standards set forth below may apply as required.

[1] Non-Exempt Projects located in a Current Deficit Area: Where the project is located in a Current Deficit Area as identified on the Clinton Township Net Water Availability Map included in Attachment 6, Appendix G to this chapter, the project shall demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures provide for the enhanced recharge standards set forth in §165-230P(5) below.

[2] Non-Exempt Projects located in a Municipally Important Ground Water Recharge Area: Where the project is located in a Municipally Important Ground Water Recharge Area as identified on the Clinton

Township Groundwater Recharge Area Map included in Attachment 6, Appendix G to this chapter, the following standards shall apply:

[a] Where disturbance is permitted in accordance with this subsection, it shall be limited to no greater than 15% of the Municipally Important Ground Water Recharge Area on the site and shall preferentially be sited on that portion of Municipally Important Ground Water Recharge Area that has the lowest groundwater recharge rates.

[b] Where disturbance to the Municipally Important Ground Water Recharge Area is permitted, the project shall demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures provide for enhanced recharge standards set forth in §165-230P(5) below.

(3) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to §165-230P(4) below.

(4) The following types of stormwater shall not be recharged:

(a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department-approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

(b) Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is

directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

(c) Carbonate Rock Areas. Where surficial or subsurface karst features have been identified and recharge facilities cannot be designed in a manner that would eliminate the concentrated subsurface release of stormwater. (Note: the mere presence of carbonate bedrock does not constitute a karst feature).

(5) Enhanced Recharge Standards: Non-Exempt Projects that are subject to the enhanced recharge requirements by §165-230P(2)(c)[1] or §165-230P(2)(c)[2] above, shall apply the following standards, either:

(a) Recharge 125 percent of the percentage of the average annual pre-construction groundwater recharge volume for the site; or

(b) In addition to complying with the recharge requirements of §165-230P, retain and/or infiltrate on-site with no discharge, the Stormwater Quality Design Volume (SWQDv), defined as the runoff from the 1.25-inch, 2-hour rainfall event. Where meeting the recharge requirement will not result in retention and/or infiltration of the full SWQDv, the major development shall retain any additional volume to meet the requirements of this section through additional infiltration, or through evapotranspiration or capture and on-site re-use of rainfall.

(6) Mitigation Required for Non-Exempt Projects: In lieu of on-site recharge, the applicant shall be responsible for providing mitigation of the groundwater recharge volume in the required amount. The applicant should provide mitigation within the following areas, in order of priority:

(a) the same development site where feasible;

(b) the same HUC14 subwatershed, or

(c) an interrelated HUC14 subwatershed where no feasible option exists in the same HUC14 subwatershed. If none of the above options are feasible or achievable, then the applicant shall comply with the mitigation requirements set forth in §165-230P(7) below.

(7) Mitigation Required for Non-Exempt Projects: A waiver from strict compliance with the requirements of the Municipal Stormwater ordinance shall be approved by the municipality only in those cases where an applicant has demonstrated the inability to strictly comply with any standard of the municipal stormwater ordinance. A waiver from strict compliance for such projects can only be obtained if the applicant agrees to undertake a suitable mitigation measure identified in the mitigation section of the municipality's Stormwater Management Plan. In such cases, the applicant must submit a mitigation plan detailing how the project's failure to strictly comply will be compensated. In cases where a waiver is granted, an applicant should provide mitigation, if possible and/or practical, within the same drainage area within which the subject project is proposed, or contribute funding toward a municipal stormwater control project, or provide for equivalent treatment at an alternate location, or provide for another equivalent water quality benefit, in lieu of implementing the required stormwater control measures on their specific site.

SECTION 4. Maps adopted. The Highlands Council "net water availability" and "groundwater recharge area" maps for Clinton Township, copies of which are appended to this ordinance, are hereby adopted and shall be included among the maps in the Highlands Land Use Appendix Materials contained in Attachment 6 to Chapter 165.

SECTION 5. Repealer. All ordinances and resolutions or parts thereof inconsistent with this ordinance are hereby repealed as to such inconsistencies only.

SECTION 6. Severability. If any paragraph, section, subsection, sentence, sentence clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision of such holding shall not affect the validity of the remaining paragraphs or sections hereof.

SECTION 7. Referral to Planning Board. Pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-64, the Clerk shall cause a copy of this ordinance to be referred to the Clinton Township Planning Board for review prior to its adoption.

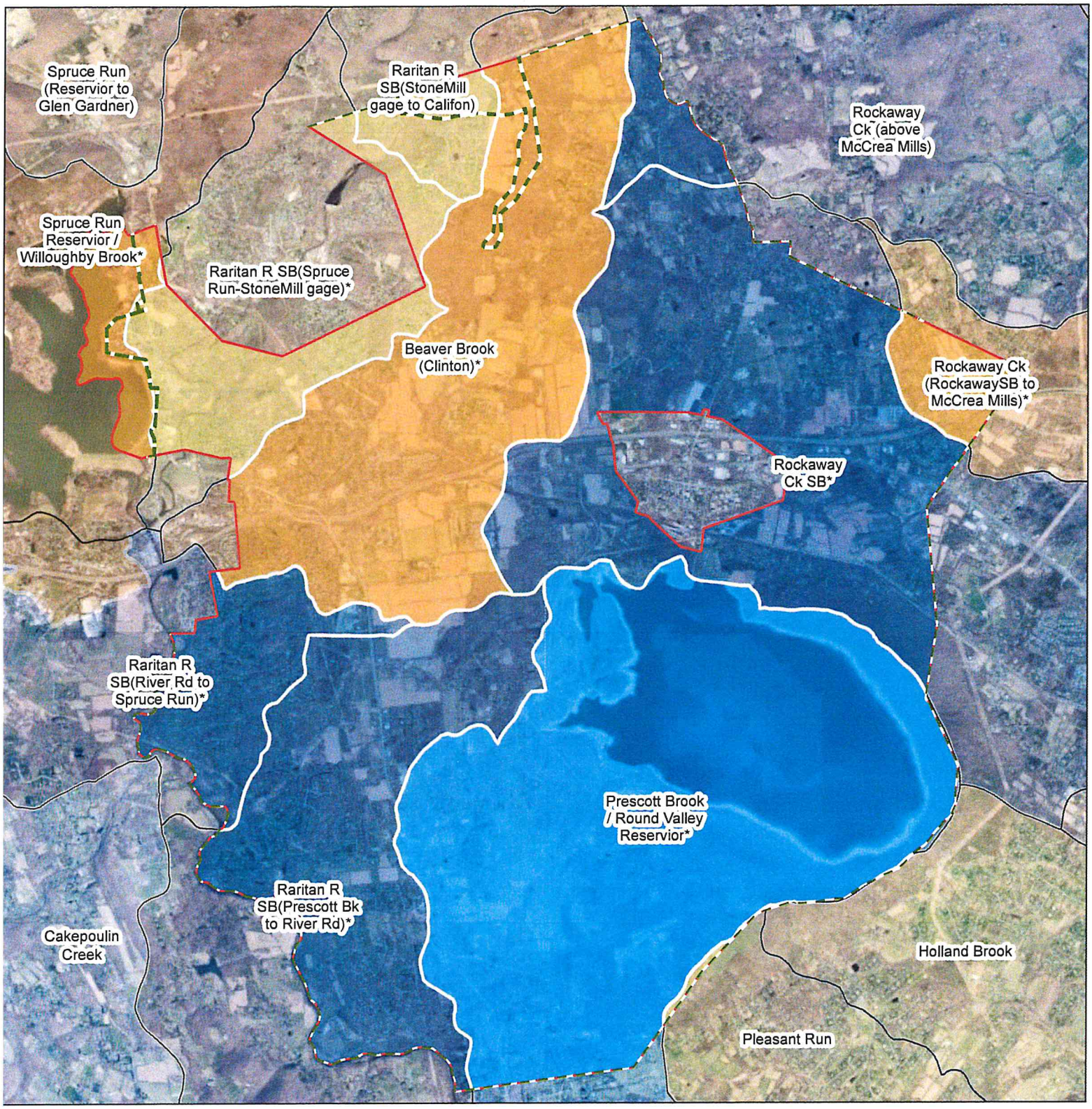
SECTION 8. Effective Date. This ordinance shall take effect 20 days after its final passage by Council and the filing of same with the Hunterdon County Planning Board, all in accordance with law.

Carla Conner, RMC, Township Clerk

Hon. Brian Mullay, Mayor

Introduced: May 10, 2023
Public hearing: July 12, 2023
Adopted: July 12, 2023

Clinton Township
Net Water Availability

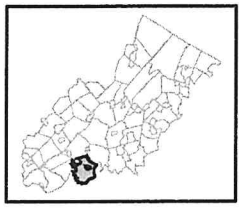


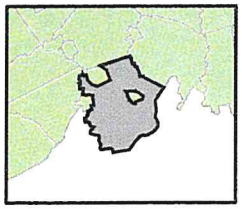
Net Water Availability by HUC14
Million Gallons Per Day (MGD)
* indicates updated data)

- > 0.10
- 0.05 - 0.09
- 0.00 - 0.04
- -0.09 - 0.00
- -0.99 - -0.10
- > -1.00

Highlands Preservation Area Boundary
Municipal Boundaries
Subwatershed Boundaries

Clinton Township





April 2023

Highlands Council
New Jersey

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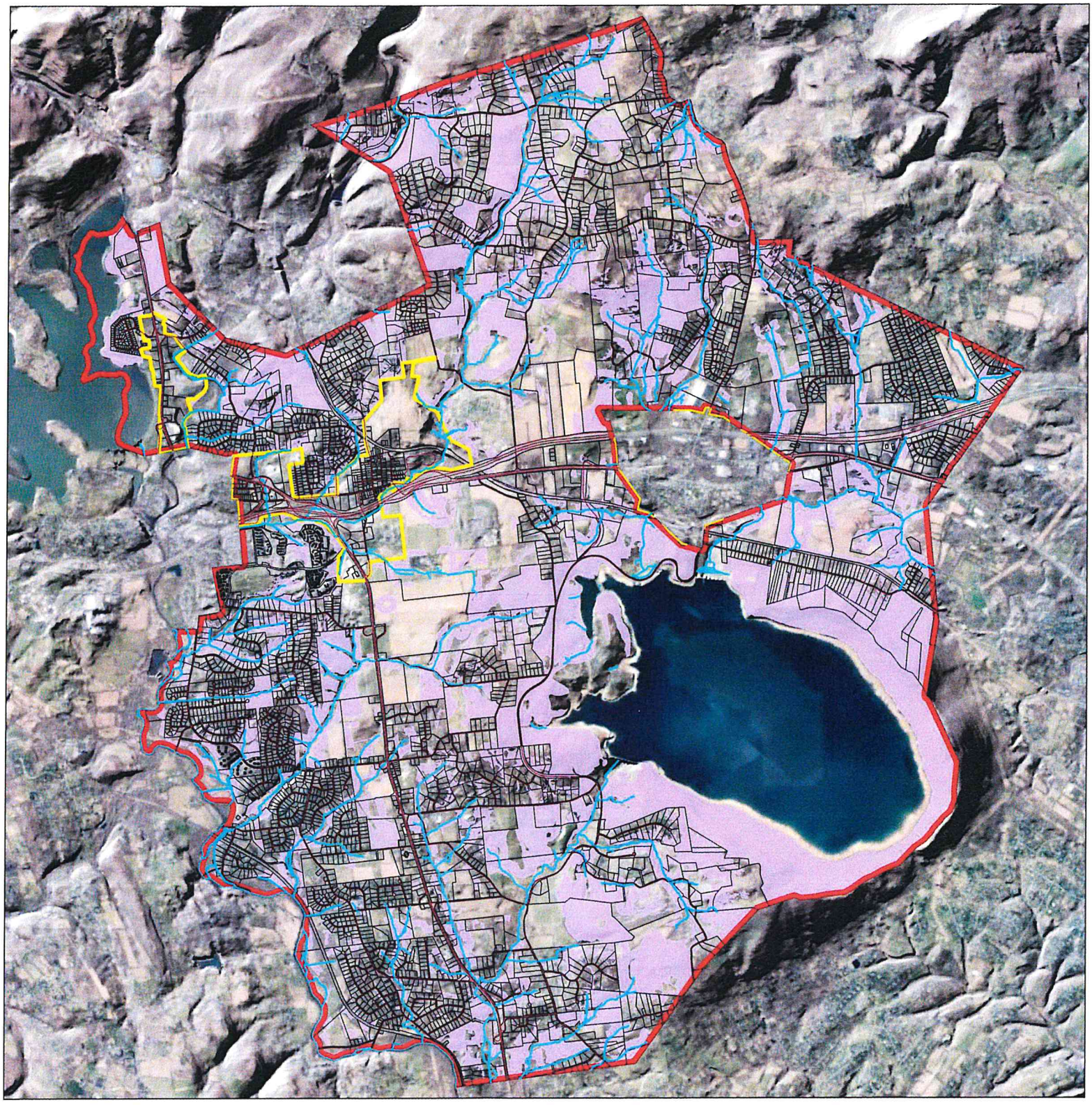
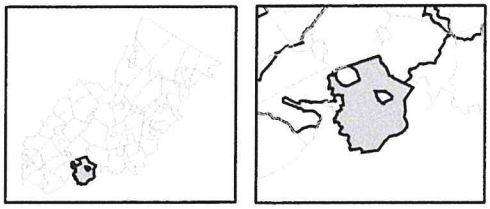
Clinton Township
Groundwater Recharge Areas



Clinton Township

Municipally Important Groundwater Recharge Areas
Highlands Center
Parcel Boundaries
Roadway Network
Streams_Headwaters



April 2023

Highlands Council
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