

REGULATORY LANDSCAPE

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

The **New Jersey Municipal Land Use Law** (MLUL, N.J.S.A. 40:55D-1 et seq.) (<http://www.state.nj.us/dep/hpo/3preserve/mlul.pdf>), enacted in 1975, is the enabling legislation that grants state land use regulatory authority (e.g., zoning) to municipalities. The purpose of the MLUL is to encourage land use and land development procedures that ensure public health, safety, welfare and the protection and preservation of the Township's natural, cultural, historic and visual environment features and attributes. Pursuant to the MLUL, municipal planning boards in New Jersey are authorized to prepare and adopt a Master Plan "to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare" (N.J.S.A. 40:55D-28). As specified in the MLUL, the Master Plan must include a "statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the municipality are based," as well as a Land Use Plan Element based on those objectives and policies that indicates the location of current and potential future development and land uses (N.J.S.A. 40-55D-28). In addition, municipal planning boards have the option of developing additional Master Plan elements, which may include one or more of the following (N.J.S.A. 40-55D-28):

- Housing Plan Element
- Circulation Plan Element (transportation)
- Utility Service Plan Element (water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and other related utility planning, including a stormwater management plan)
- Community Facilities Plan Element (educational and cultural facilities, historic sites, libraries, hospitals, firehouses, police stations and other related facilities)
- Recreation Plan Element
- Conservation Plan Element (provides for the preservation, conservation, and utilization of natural resources, including energy, open space, water supply, etc.; and systematically analyzes the impact of each other component and element of the Master Plan on the present and future preservation, conservation and utilization of those resources)
- Economic Plan Element
- Historic Preservation Plan element (indicates the location and significance of historic sites and historic districts, identifies the standards used to assess worthiness for historic site or district identification, and analyzes the impact of each component and element of the Master Plan on the preservation of historic sites and districts)
- Appendices or separate reports containing the technical foundation for the Master Plan and its constituent elements
- Recycling Plan Element

Through the MLUL, Franklin Township has the authority to periodically update the Master Plan, Official Map, Land Use Regulations and all other development review procedures. The NRI should be an integral part of this process.

The **New Jersey State Planning Act** was adopted in 1985 (N.J.S.A. 52:18A-196 et seq.). It requires sound land use planning to conserve natural resources, provide housing and public services and promote economic growth. The guiding natural resource protection principle of the State Planning Act is that natural resources should be conserved because the protection of environmental qualities is “vital to the quality of life and economic prosperity.” The NRI is a key tool in any such planning initiative as it identifies key resources and sets the tone for their protection. This was most recently reflected in the process on cross-acceptance associated with the latest update of the State Plan. Additional information about the State Plan is available online (<http://www.nj.gov/dca/osg/plan/>).

Of particular significance to Franklin Township is the 2004 adoption of the new State rules concerning stormwater management, including compliance with Phase II New Jersey Discharge Elimination Permit (NJPDES) requirements. In 2004, the State of New Jersey adopted the revised **Stormwater Management Rules** (N.J.A.C. 7:8), (http://www.nj.gov/dep/rules/adoptions/2004_0202_watershed.pdf) and **Municipal Stormwater Management Rules** (N.J.A.C. 7:14A), (<http://www.state.nj.us/dep/dwq/714a.htm>). The revisions to these rules also impacted other key State regulations affecting most land development in New Jersey, including the Residential Site Improvement Standards (RSIS) (N.J.A.C. 5:21), (<http://www.nj.gov/dca/codes/nj-rsis/index.shtml>), the Freshwater Wetlands Protection Act (N.J.A.C. 7:7A), (<http://www.state.nj.us/dep/landuse/7-7a.pdf>), the Flood Hazard Area Control Act (N.J.A.C. 7:13), (<http://www.state.nj.us/dep/landuse/7-13.pdf>) and the New Jersey Dam Safety Standards (N.J.A.C. 7:20), (<http://www.state.nj.us/dep/nhr/engineering/damsafety/standard.pdf>).

The NJ Stormwater Rules stipulate that municipal stormwater management plans must evaluate the extent to which the municipality’s entire master plan (including the land use plan element), official map and development regulations (including the zoning ordinance) implement the principles expressed in N.J.A.C. 7:8-5.3(b). This evaluation must also be included (with updates, as appropriate) in the reexamination report adopted under N.J.S.A. 40:55D-89 (N.J.A.C. 7:8-4.2(c)8).

The NJ Stormwater Rules provide a framework and incentives for managing runoff and resolving nonpoint source impairment on a drainage-area basis for new development, redevelopment and existing developed areas. In addition, they establish a hierarchy for implementation of best management practice (BMP) stormwater management measures, with initial reliance on low impact development (LID) site design techniques to maintain natural vegetation and drainage patterns before incorporating structural measures. These new rules also establish runoff control performance standards for groundwater recharge, water quality, and water quantity; establish special protection area measures for pristine and exceptional value waters; provide regulatory consistency among local and State regulatory agencies; and provide safety standards for stormwater management basins.

Pohatcong Creek and its various tributaries, Category One (C1) waters under the NJ Surface Water Quality Standards, are subject to the 300-foot buffer required for C1 waterbodies and their tributaries under the Stormwater Rules. These buffers significantly limit not only the extent of development that can occur adjacent to the streams, but also the discharge of runoff from new development to these waterbodies.

Franklin Township is regulated under a NJPDES Stormwater Tier B General Permit (NJ municipalities are classified as Tier A or Tier B based on population density). The permit requires the Township to develop, implement and enforce a Stormwater Program made up of several Statewide Basic Requirements (SBRs). These include adopting a stormwater management plan and ordinance, ensuring compliance with Residential Site Improvement Standards for stormwater management, ensuring adequate long-term operation and maintenance of BMPs, ensuring that new storm drain inlets meet specific new design standards, distributing a public education brochure, and establishing a storm drain inlet labeling program. Each SBR has a deadline established by an implementation schedule included in the MSWMP.

As of February 2, 2004, the stormwater management design requirements pertaining to groundwater recharge, water quality and water quantity must be met for all projects regulated under RSIS. Furthermore, N.J.A.C. 7:8-4 requires that all municipalities within the State adopt a municipal Stormwater Management Plan. Each municipality is assigned a General Permit which mandates that this be completed no later than 12 months from the effective date of the permit authorization. Additionally, N.J.A.C. 7:8-4 mandates that stormwater control ordinances be adopted and implemented for all municipalities in the State no later than 12 months from the date of adoption of the Stormwater Management Plan. There are also specific provisions within N.J.A.C. 7:15 that must be satisfied by Franklin Township concerning existing nonpoint source pollution sources over a 60-month timeframe. Additional information on the stormwater rules can be found on the NJDEP's website: <http://www.njstormwater.org>.

Of great significance is the passage of the **Highlands Water Protection and Planning Act** (N.J.S.A. 13:20-1 et seq.) (<http://www.nj.gov/dep/highlands/>). The Highlands Act is a comprehensive plan to protect and promote water quality in the Highlands through regulated planning and conservation. The act establishes both Preservation and Planning Areas. Streams and rivers that flow through designated Preservation Areas of the Highlands Region are protected with 300 foot buffers. All Highlands areas are specifically exempted from the recently passed Smart Growth Law. Further explanation of the Highlands Act is presented in Section 16.

This NRI should be interpreted and used in the context of the State regulations summarized above. The data and Figures included herein can be used by the Township to facilitate the implementation of various land use, land preservation, resource protection and impact mitigation measures needed to meet the requirements of these regulations, as well as to satisfy Township planning and environmental ordinances and land development/land use design standards.