

ORDINANCE NO. 16-16

**AN ORDINANCE TO PETITION THE HIGHLANDS  
COUNCIL FOR PLAN CONFORMANCE FOR THE  
PLANNING AREA**

**WHEREAS**, the Borough of Kinnelon ("Borough") is located partially within the New Jersey Highlands Region Planning Area; and

**WHEREAS**, on May 19, 2011 the Highlands Council adopted Resolution #2011-16 approving the Borough's Petition for a Plan Conformance; and

**WHEREAS**, it is the desire of the Borough Council to establish that the Borough shall conform its Master Plan and all development regulations to uses and development appropriate within the Planning Area of the Highlands Region; and

**WHEREAS**, in order to achieve Plan Conformance, it is necessary to adopt an ordinance petitioning the Highlands Council for Plan Conformance for the lands within the Planning Area.

**NOW THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Kinnelon, County of Morris, State of New Jersey as follows:

**SECTION ONE. Purpose.** The Borough of Kinnelon is located partially within that portion of the New Jersey Highlands Region defined by the Highlands Act, as the "Planning Area" (see definitions, below). This Ordinance is enacted pursuant to Section 15.a. of the Highlands Water Protection and Planning Act (Highlands Act, N.J.S.A. 13:20-1, *et seq.*), which provides that a municipality may choose to conform its master plan, development regulations, and other regulations to the provisions of the Highlands Regional Master Plan, with respect to

lands located within the Planning Area, and by Ordinance, petition the New Jersey Highlands Water Protection and Planning Council (Highlands Council) for Plan Conformance approval of such planning and regulatory documents.

By adoption of this Ordinance, the Governing Body of the Borough of Kinnelon establishes that the municipality shall conform its Master Plan, development regulations, and all other regulations applicable to the use and development of land within the Planning Area of the municipality, to achieve consistency with the goals, requirements, and provisions of the Highlands Regional Master Plan. Said conformance shall be in accordance with the provisions of Highlands Council approval of the municipality's Petition for Plan Conformance, which was previously submitted to the Highlands Council by Resolution adopted by the Governing Body on November 19, 2009, and which the Highlands Council approved with certain conditions by Highlands Council Resolution No. 2011-16, adopted on May 19, 2011. Further, this Ordinance specifically reserves the rights of the municipality as specified by the Highlands Act, with respect to the voluntary nature of Plan Conformance for the Planning Area.

**SECTION TWO. Basis and Background.** The Highlands Act finds and declares that protection of the Highlands Region is an issue of State level importance because of its vital link to the future of the State's drinking water supplies and other significant natural resources. The Highlands Act creates a coordinated land use planning system requiring the Highlands Council to prepare and adopt a Regional Master Plan that serves to protect, restore and enhance the significant resources of the Highlands Region. The Highlands Act sets forth a bifurcated system for municipal conformance with the goals, requirements and provisions of the Regional Master Plan. Pursuant to Section 14.a. of the Highlands Act, a municipality located wholly or partially in the Preservation Area was required to submit by December 8, 2009 a revised municipal Master

Plan, development regulations and other regulations, as applicable to the development and use of land in the Preservation Area, to conform them with the Regional Master Plan.

Pursuant to Section 15.a. of the Highlands Act, for a municipality located wholly in the Planning Area or for any portion of a municipality lying within the Planning Area, the municipality may submit at any time a revised Master Plan, development regulations and other regulations, as applicable to the development and use of land in the Planning Area, that conforms with the Regional Master Plan. Plan Conformance by a municipality is strictly voluntary for lands in the Planning Area.

Consequently, the Borough of Kinnelon having lands in the Planning Area of the Highlands Region, did submit as part of a Petition for Plan Conformance to the Highlands Council on December 8, 2009, proposed revisions to the Master Plan, development regulations and other regulations that relate to the development and use of land in the Planning Area. On May 19, 2011 the Highlands Council adopted Resolution No. 2011-16 approving the Borough of Kinnelon's Petition for Plan Conformance. The approval was conditioned upon the Borough of Kinnelon's adoption of an ordinance pursuant to Section 15a of the Highlands Act, formally petitioning the Highlands Council for Plan Conformance for lands within the Planning Area.

**SECTION THREE. Applicability.** This Ordinance applies to the development and use of land located in the Planning Area of the Borough of Kinnelon, as defined by Section 7 of the Highlands Act.

**SECTION FOUR. 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.

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

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

**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.

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

**SECTION FIVE. Petition for Plan Conformance.** The Borough of Kinnelon hereby formalizes its Petition for Plan Conformance to the Highlands Council, declaring it fully effective for lands in the Planning Area of the municipality, said Petition having been approved by the Highlands Council subject to the conditions as set forth in Highlands Council Resolution No. 2011-16, adopted on May 19, 2011.

**SECTION SIX. Reserved Right of Withdrawal for Planning Area.** At any time, the Borough of Kinnelon may withdraw that portion of its Petition for Plan Conformance for the Planning Area. In such event, any approvals, rejections or conditions of the revised municipal Master Plan, development regulations or other regulations that pertain to the Planning Area, as set forth by the Highlands Council in approving Resolution No. 2011-16, will not be binding upon the Borough of Kinnelon. Any such withdrawal, should it occur, shall require repeal of this Ordinance, and shall be followed by formal notification to the Highlands Council, sent within ten (10) days of adoption by certified mail and including a certified copy of such repealing ordinance.

**SECTION SEVEN. Planning Grants and Technical Assistance.** Upon application of the Borough of Kinnelon, the Highlands Council has made, or will make, grant funding and other financial and technical assistance available to the Borough of Kinnelon for the reasonable costs associated with the revision of the master plan, development regulations or other regulations, which revisions are designed to bring those plans and regulations into conformance with the Regional Master Plan. The Highlands Council shall provide grant funds for all mandatory aspects of Plan Conformance in accordance with the Plan Conformance Grant Program, and may also provide grant funds for the discretionary aspects of Plan Conformance as determined by the Highlands Council. As Plan Conformance for lands in the Planning Area is strictly voluntary, the Borough of Kinnelon retains the right to withdraw that portion of the Petition relating to lands lying in the Planning Area from the Plan Conformance process at any time.

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

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

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ATTEST:

BOROUGH OF KINNELON

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Karen M. Iuele, Deputy Borough Clerk

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Robert W. Collins, Mayor

**CERTIFICATION**

I, Karen M. Iuele, Deputy Borough Clerk of the Borough of Kinnelon, County of Morris, State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance introduced, read by title and passed on the first reading at the regular meeting of the Borough held on \_\_\_\_\_ and adopted by the Governing Body at a regular meeting of the Borough held on \_\_\_\_\_.

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Karen M. Iuele, Deputy Borough Clerk