



JON S. CORZINE  
Governor

**State of New Jersey**  
Highlands Water Protection and Planning Council  
100 North Road (Route 513)  
Chester, New Jersey 07930-2322  
(908) 879-6737  
(908) 879-4205 (fax)  
www.highlands.state.nj.us



JOHN R. WEINGART  
Chairman

EILEEN SWAN  
Executive Director

**DRAFT – FOR CONSIDERATION AT THE NOVEMBER 8, 2007  
MEETING OF THE HIGHLANDS COUNCIL**

**RMP Program: Plan Conformance**  
***Version: November 7, 2007***

<b>Issue Overview</b>	Municipal and county Conformance with the RMP (Plan Conformance) is the overall goal for implementation of the various elements of the Plan. The Highlands Act establishes the requirement that all municipalities and counties with land in the Preservation Area bring their local plans and development regulations into conformance with the “goals, requirements, and provisions of the regional master plan.” Voluntary conformance for municipalities and counties with land in the Planning Area is also provided for in the Act, which outlines the benefits that shall accrue to those municipalities and counties that conform.
<b>RMP Policies and Objectives Addressed</b>	This program relates to most components of the RMP regarding the modification of municipal master plans, zoning ordinances and development review ordinances for Plan Conformance, and regarding the modification of county master plans and development review requirements for Conformance.
<b>Program Summary</b>	Plan Conformance is intended to align municipal and county plans, regulations and programs with the goals, requirements and provisions of the RMP. The process to achieve that conformance will be logical, time efficient and comprehensive. The conformance process will begin with the development of detailed guidance for municipalities and counties, which will be provided along with planning and technical guidance from the Highlands Council. Each municipality and county going through the conformance process will follow a general approach that includes an assessment of current plans and regulations, an evaluation of future planning needs and conditions, modification of plans and regulations as necessary, and a public involvement process. The Highlands Council will review Petitions for Plan Conformance and decide to approve, approve with conditions or reject the petition. Conformance approval will in most cases be with conditions, where a finding is made that the municipality or county has conformed with all immediate mandatory Conformance requirements, and will conform with all other mandatory Conformance requirements within an agreed upon implementation schedule. The Highlands Council will then track progress of the municipality or county in meeting that schedule, and will monitor development reviews and capital projects for compliance with the conformance approval.
<b>Plan Conformance</b>	<b>Program Description</b> The Highlands Council will prepare and distribute to all Highlands municipalities and

<b><i>Guidelines</i></b>	<p>counties <i>Plan Conformance Guidelines</i> outlining the procedures for Plan Conformance. The <i>Plan Conformance Guidelines</i> will include a matrix outlining all of the immediate mandatory elements, the long term mandatory elements, and the discretionary elements. The Guidelines will outline the details of each Conformance element in detail. The Guidelines will also provide descriptions and criteria for all of the associated grant programs that will be available to municipalities and/or counties in support of Plan Conformance.</p>
<b><i>Planning and Technical Assistance</i></b>	<p><b>Program Description</b></p> <p>The Highlands Council has assembled a significant amount of data and analyses relative to the Region and will make this information available to municipal and county representatives prior to commencement of Plan Conformance.</p> <p>The application of the Land Use Capability Map Series to individual municipalities will involve translating the boundaries in the LUCM Series to a more refined scale and to reflect local conditions. In order to ensure that municipal mapping of the Land Use Capability Zone Map is consistent with the goals, policies and objectives of the RMP, RMP Updates and Map Adjustments may be made during Plan Conformance.</p> <p>The Highlands Council website will continue to serve as a means for sharing current technical data and Plan Conformance information. The Council will provide information in support of Plan Conformance to each municipality and county. The information will include but not be limited to: the Highlands Build out analysis, Highlands Resource data layers, the LUCM Series and supporting data layers, and various discretionary Plan Conformance tools such as the Enhanced Growth analysis and TDR. This information will support local knowledge and planning during Plan Conformance.</p> <p>The Highlands Council will make grant funds and other financial and technical assistance available to Highlands municipalities and counties to support any revision of their master plans, development regulations or other regulations which are designed to bring those plans or regulations into conformance with the RMP or the implementation of a transfer of development rights program (see <b>Grant Programs</b>, below).</p> <p>The Highlands Council staff will be available to offer planning and technical assistance throughout Plan Conformance and during municipal and county implementation of the elements of the RMP. Additionally, funding will be available in the form of grants to municipalities and counties to further assist them in implementing the elements of the RMP.</p>
<b><i>Procedures for Municipal and County Plan Conformance</i></b>	<p><b>Program Description</b></p> <p><u>Overview Meeting</u> – After the adoption and release of the RMP, the Highlands Council will host a series of meetings throughout the Highlands Region to explain the elements of the Plan and the ensuing Plan Conformance process. Attendance at an Overview Meeting will be mandatory for Preservation Area communities and Planning Area communities that desire to participate in the Initial Municipal Assessment Grant Program. Subsequent to the Overview Meeting, municipalities and counties that intend to pursue Plan Conformance shall submit a letter to the Highlands Council indicating their decision. This “notice of interest” shall be accompanied by a duly adopted resolution authorizing the action.</p> <p><u>Municipal Process</u> – The municipal Plan Conformance process will commence with a thorough analysis of all municipal planning, zoning and development documents and</p>

	<p>regulations. The municipality may choose to work jointly with neighboring municipalities, such as those assembled during the Overview Meeting on issues of common interest or where economies of scale may be achieved through joint analysis.</p> <p>During the time that the assessment is being conducted, the municipality is encouraged to conduct a community visioning session(s) to involve the local public and to develop or confirm a representative vision of their community for the future. The results of the community visioning shall be included as part of the Petition for Plan Conformance. Minimally, the municipality will be required to hold a public hearing on the municipal assessment findings and conclusions. The Highlands Council will provide templates and guidelines to be utilized to record the findings and conclusions. These shall be incorporated into a Municipal Assessment Report which will be submitted to the Highlands Council as part of the municipality's Petition for Plan Conformance.</p> <p>The Municipal Assessment Report will detail the findings and conclusions of how well municipal plans, regulations and programs support the goals, requirements and provisions of the RMP. Reimbursement in the form a grant may be made available upon submission of the Municipal Assessment Report.</p> <p>The Petition for Plan Conformance shall be the formal submittal to the Highlands Council from a municipality for consideration of Plan Conformance. The Petition shall include the Municipal Assessment Report, the community vision (if available), and all supporting documentation, i.e., municipal master plan, zoning ordinances, resource protection ordinances.</p> <p>In order to meet the requirements of Plan Conformance for immediate mandatory items, the municipality must adopt by reference the elements of the Highlands Regional Master Plan related to critical natural resources, the Housing Element, Highlands Build out analysis, water availability and water quality, water conservation measures, and septic system density standards. The <i>Plan Conformance Guidelines</i> will include a table specifying the policies and objectives which are immediate mandatory items and must be adopted by reference by the municipality in order to be eligible to receive Plan Conformance approval.</p> <p>A series of long-term mandatory items will be made a condition of approval and must be accomplished according to an established schedule. The municipality may also pursue Plan Conformance with discretionary items and these will be included in the approved schedule.</p> <p><u>County Process</u> – The county Plan Conformance process will commence with an analysis of all county planning and development documents and regulations. Specifically the counties will be responsible for plans and regulations which affect wastewater management, farmland preservation, recreation and open space, circulation and stormwater management. Counties may choose to work in coordination with their constituent municipalities. The county is encouraged to participate in the community visioning events of their constituent municipalities and/or may choose to hold a county-wide visioning session.</p> <p>In order to meet the requirements of Plan Conformance for immediate mandatory items, the county must adopt by reference the elements of the RMP related to water availability and conservation measures. The long-term mandatory items which will be accomplished according to an established schedule include Wastewater Management Plans, Comprehensive Farmland Preservation Plans, Recreation and</p>
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	<p>Open Space Plans, County Circulation Plans and Stormwater Management Plans.</p> <p>The county shall hold a public hearing on the county assessment findings and conclusions. The Highlands Council will provide templates and guidelines to be utilized to record the findings and conclusions. These shall be incorporated into a County Assessment Report which will be submitted to the Highlands Council as part of the county’s Petition for Plan Conformance.</p>
<p><b>Highlands Council Review, Evaluation and Decision Process</b></p>	<p><b>Program Description</b></p> <p>The Highlands Council will convene a committee to review municipal and county Petitions for Plan Conformance. The membership of the Committee may change based on the municipality or county being reviewed in order to avoid a conflict of interest for any Council member with review of a county or municipality where the Council member holds a political office. The Committee shall review the Municipal and County Assessment Reports, community visioning results, and all supporting documentation and make recommendations to the Highlands Council for each Petition to be approved, rejected or approved with conditions. It is anticipated that all Plan Conformance approvals will have conditions attached, at a minimum outlining all of the long-term mandatory items of Conformance.</p> <p>If a Petition is rejected or approved with conditions relative to the immediate mandatory elements of Plan Conformance, the notification will be accompanied by a specific listing of the actions the municipality or county must take in order to receive a Conformance approval.</p> <p>Approval of Plan Conformance shall last for a period of six years or, for municipalities, until the next municipal reexamination of the municipal master plan. Upon notification of approval, the municipality or county shall be eligible for all of the benefits of Conformance:</p> <ul style="list-style-type: none"> <li>• Strong Presumption of Validity, Extraordinary Deference, and Burden of Proof – A strong presumption of validity applies to master plans, land use ordinances and local decisions of municipalities and counties that are in conformance with the RMP. If a conforming municipality or county is challenged in court, the actions they have taken to conform to the RMP shall be given extraordinary deference and the burden of proof shall be on the plaintiff to prove that the municipality or county acted in an arbitrary, capricious or unreasonable manner.</li> <li>• Legal Representation –The Highlands Council will provide legal representation, when requested, to any conforming municipality or county that requests when their actions or decisions taken on the basis of Conformance are legally challenged.</li> <li>• Planning Grants – The Highlands Council is authorized to provide grants for the reasonable expenses associated with modifying master plans and land use ordinances to make them conform to the Regional Master Plan.</li> </ul> <p>Approval of Plan Conformance is equivalent to Plan Endorsement by State Planning Commission and brings with it the benefits of Plan Endorsement, such as State aid, planning assistance, technical assistance, and other benefits awarded by the State.</p>
<p><b>Grants Programs</b></p>	<p><b>Program Description</b></p> <p><b><u>I. Highlands Regional Master Plan Compliance Aid Grants</u></b></p> <p>The Highlands Regional Master Plan Compliance Aid Grants are intended to fund planning and science projects which are necessitated by the mandatory requirements of the RMP and the associated Plan Conformance and implementation process.</p>

**\*Initial Municipal Assessment Grant Program\***

The purpose of the Initial Municipal Assessment Grant is to enable municipalities to conduct an initial review of the policies and requirements of the RMP to determine the level of effort anticipated for the municipality to conform to the RMP, in both the Preservation and Planning Areas. The Initial Municipal Assessment Grants will support an early and preliminary assessment on the part of the municipality and will not obligate them in any way to commit to Conformance for the Planning Area in the future.

The funding assistance is to be used to review existing municipal land use planning, development and regulatory documents and mechanisms against the policies, strategies and implementation techniques contained in the RMP.

The Initial Municipal Assessment Grant program will accept applications from municipalities located within the Highlands Region. Favorable review of the grant application will be based upon the municipality's outline in meeting the prescribed tasks.

**\* Plan Analysis and Conformance Grant Program\***

Municipalities and counties within the Preservation Area are required to participate in the Conformance process to bring their local planning and zoning into conformance with the RMP. Those municipalities within the Planning Area may, after completing the Initial Municipal Assessment, choose to participate in Plan Conformance. Any municipality or county that submits a "notice of interest" to take part in Plan Conformance will be eligible for grant funding to help offset the costs associated with the process.

The Plan Analysis and Conformance grants will fund municipal and county work that builds on the Initial Municipal Assessment. Funds may be used to analyze local plans, regulations and programs and evaluate how well they support the goals, policies and objectives of the RMP. Funds may also be utilized to conduct community vision sessions, develop action plans that will align local decisions with the RMP, conduct public outreach to involve and inform the people of the community, and to prepare the Municipal or County Assessment Report.

Immediate Mandatory Elements of Conformance Approval

As part of a municipality's or county's Petition for Plan Conformance, certain elements of the RMP must be adopted and enacted to receive Highlands Council conformance approval. The Plan Analysis and Conformance Grants are intended to also assist local governments in implementing these requirements. The immediate mandatory requirements will be enumerated in the *Plan Conformance Guidelines*, during the Overview Meetings and during conformance discussions. These elements may include resource protection measures, housing and build out analysis, water availability limitations and septic density standards.

**\*Highlands Implementation Grant Program\***

Long-term Mandatory Elements of Conformance Approval

As a condition of Conformance Approval, additional elements will be required of each conforming municipality and county unless they already conform to these elements as part of their initial Petition for Plan Conformance. A schedule will be

	<p>established to outline each element and the timeframe in which they must be achieved. The Highlands Implementation Grants will be made available to assist municipalities and counties in actions to implement these requirements. They may include additional resource protection standards, fiscal sustainability measures, certain development standards, and historic and scenic resource protection methods.</p> <p><b><u>II. Highlands Incentive Planning Aid Grants</u></b></p> <p>The Highlands Incentive Planning Aid Grants are intended to fund planning and science projects which advance the goals, policies and objectives of the RMP, but are not mandatory requirements of Plan Conformance.</p> <p><u>Discretionary Elements of Conformance Approval</u></p> <p>The RMP contains a range of policies and objectives and associated elements that the Highlands Council is committed to as part of the future vision of the Highlands, but have been deemed discretionary. Highlands Incentive Planning Aid Grant monies will be available to initiate important elements of the RMP through planning studies on targeted issues. Sample projects that may be eligible include planning for brownfield and greyfield redevelopment, town center/transit village development, and local and regional economic development strategies.</p> <p><u>Transfer of Development Rights (TDR) Grants</u></p> <p>The Highlands Council has established a \$1 million Voluntary Receiving Zone Feasibility Grant Program. This grant program is designed to assist municipalities in assessing the potential for locating a receiving zone within their communities. Eligible municipalities will receive both financial support and technical assistance from the Council. Participation in the grant program requires a commitment by a municipality to fully evaluate the feasibility and desirability of designating a receiving zone. Additional grant funding will be made available to offset the costs of implementation of a TDR program.</p>
<p><b><i>Compliance Component</i></b></p>	<p><b>Program Description</b></p> <p>Once a municipality or county has received Plan Conformance approval, they have an obligation to maintain the plans, ordinances and regulations that brought them into conformance. They may not adopt additional plans, ordinances or regulations which are contrary to the mandatory elements of the RMP. According to the Highlands Act, “The council may revoke a conformance approval granted . . ., after conducting a hearing, if the council finds that the local government unit has taken action inconsistent with the regional master plan.” Section 14 (c)</p> <p>Municipal and county Plan Conformance will be periodically verified through the Grants Program with the submission of a quarterly status report.</p> <p>If the council revokes a Plan Conformance approval for a municipality or county that has received grants or funding based on their conformance status, they may be required to return those funds to the Council.</p>