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**DRAFT – FOR CONSIDERATION AT THE OCTOBER 18, 2007  
MEETING OF THE HIGHLANDS COUNCIL**

**RMP Program: Highlands Development Credits**  
**Version: October 17, 2007**

<b>Issue Overview</b>	The Highlands Development Credit (“HDC”) Program is a regional transfer of development rights program to further the goals of the Highlands Regional Master Plan.
<b>RMP Policies and Objectives Addressed</b>	Part 7, Landowner Fairness -- Goals 7.1-7.7. Highlands Act, Section 13, N.J.S.A. 13:20-13
<b>Program Summary</b>	The HDC Program guides new growth and development away from lands with little or no capacity to accommodate human development without adversely affecting the integrity of the Highlands ecosystem. This program establishes procedures and standards by which eligible property owners may apply for an allocation of HDCs. The program provides for the designation of receiving zones where HDCs may be transferred and used for development purposes. The program also creates a Highlands Development Credit Bank to serve as the administrator of the Highlands Development Credit program.
<b>Component</b>	<b>Program Description</b>
<b>Highlands Development Credit Created.</b>	The Highlands RMP creates a right in the form of a Highland Development Credit (“HDC”) which can be used to increase the density or intensity of development in a designated Receiving Zone.
<b>Highlands Development Credit Bank Created.</b>	<ol style="list-style-type: none"> <li>1. The Highlands RMP provides for the creation of a Highlands Development Credit Bank.</li> <li>2. The Highlands Development Credit Bank is to serve as a regional clearinghouse for information with regard to the Highlands Development Credit program.</li> <li>3. The Highlands Development Credit Bank is to serve as the administrator and official recording agency for the Highlands Development Credit program.</li> <li>4. The Highlands Development Credit Bank is authorized to buy and sell HDCs.</li> </ol>
<b>Allocation of Highlands Development</b>	<ol style="list-style-type: none"> <li>1. The owners of land in the Protection Zone and the Conservation Zone in the Preservation Area, which was zoned for residential use on August 9, 2004 and which satisfy one (1) of the following criteria, are eligible to</li> </ol>

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<b>Credits.</b>	<p>apply for an allocation of HDCs:</p> <ul style="list-style-type: none"> <li>- the parcel of land has an area of at least five (5) acres; or the area of the parcel of land is at least three (3) times the minimum lot size in effect on August 9, 2004;</li> <li>- the owner voluntarily chooses not to develop the parcel of land pursuant to one or more of the exemptions under section 28 of the Act; or</li> <li>- the owner demonstrates unique and extenuating financial circumstances such as imminent bankruptcy, extraordinary medical expenses, or loss of job and inability to secure new job within 6 months, <a href="#">which may only be ameliorated through an expedient sale of his Highlands Development Credits.</a></li> </ul> <p>2. The owners of land in the Protection Zone and the Conservation Zone in the Preservation Area, which was zoned for non-residential uses on August 9, 2004, are eligible to apply for an allocation of HDCs.</p> <p>3. The owners of eligible parcels of land may apply to the Highlands Council for an allocation of HDCs by submitting an application for an HDC Allocation Determination to the Highlands Council together with the information required for the Council to make an allocation of HDCs.</p> <p>4. HDCs shall be allocated to individual parcels of land on the basis of the following formula:</p> $(C_B - E_R) \times K_{MA} \times K_{E-U} = \# \text{ HDCs}$ <p><b>C<sub>B</sub></b> = Base Credit – the residential units or residential unit equivalents that could have been developed on the parcel of land on August 9, 2004, taking into consideration all municipal development regulations and applicable state and federal laws and regulations.</p> <p><b>E<sub>R</sub></b> = Reserved Exemptions – the number of exemptions reserved by the owner for development of the parcel of land.</p> <p><b>K<sub>MA</sub></b> = Market Adjustment Factor – an adjustment factor to recognize that per unit value of land varies by location within the Highlands Region.</p> <p><b>K<sub>E-U</sub></b> = End Use Factor – an adjustment factor to recognize that the value of the land varies according to the end use to which the property can be developed.</p> <p>5. In the event that a property owner voluntarily chooses not to develop a residentially zoned parcel of land pursuant to one or more exemptions under section 28 of the Act, the Base Credit Number shall be increased as follows:</p> <ul style="list-style-type: none"> <li>➤ High Value Conservation or Agricultural Priority Area - 4 bonus credits</li> <li>➤ Moderate Value Conservation or Agricultural Priority Area - 2 bonus credits</li> <li>➤ Low Value Conservation or Agricultural Priority Area - 1</li> </ul>
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	<p style="text-align: center;">bonus credit.</p> <ol style="list-style-type: none"> <li>6. As soon as practicable after the Highlands Council receives a complete Application for an HDC Allocation Determination, the Council will issue a HDC Allocation Letter setting forth the number of HDCs allocated to the parcel of land.</li> <li>7. An HDC Allocation Letter shall include a specific restriction on the future use of the parcel of land to which HDCs are allocated.</li> <li>8. If the owner of land disputes the number of HDCs allocated to his or her property, the owner may seek reconsideration by the Highlands Council only on the grounds of specific factual errors.</li> <li>9. Lands within the Protection Zone and the Conservation Zone within the Planning Area may be made eligible for allocations of HDCs if approved by the Highlands Council through the municipal Plan Conformance process.</li> </ol>
<p><b>Highlands Development Credit Certificates</b></p>	<ol style="list-style-type: none"> <li>1. No HDC may be sold, transferred or encumbered until the property owner has obtained a HDC Certificate from the Highlands Development Credit Bank.</li> <li>2. The Highlands Development Credit Bank will not issue a HDC Certificate until a conservation easement restricting the future use of the parcel of land to which HDCs have been allocated by the Highlands Council has been recorded on the chain of title to the parcel to which the HDCs were allocated.</li> <li>3. The conservation easement shall restrict the future use of the parcel of land in accordance with the provisions of the Highlands Council’s HDC Allocation Letter and shall be enforceable by the municipality in which the parcel of land is located, the New Jersey Department of Environmental Protection, the Highlands Council, and an appropriate non-profit corporation, if applicable.</li> </ol>
<p><b>Sale and Use of HDCs</b></p>	<ol style="list-style-type: none"> <li>1. Prior to the sale, transfer or conveyance of HDCs, the holder of an HDC Certificate shall apply to the Highlands Development Credit Bank for the re-issuance of a HDC Certificate in the name of the grantee.</li> <li>2. An application for re-issuance of an HDC Certificate in conjunction with a sale, transfer or conveyance of HDCs shall include the name(s) of the grantee(s), the name(s) of the grantor(s), the number of HDCs to be sold, transferred or conveyed, the date of the proposed closing of the transaction, written documentation of the interest sold, transferred or conveyed and the consideration for the sale, transfer or conveyance.</li> <li>3. Prior to the encumbrance of HDCs as collateral or other security, the holder of the HDC Certificate shall notify the Executive Director of the Highlands Development Credit Bank of the name and address of the lender and the date, amount and term of the loan or obligation.</li> <li>4. In the event a government agency or non-profit or for-profit organization proposes to acquire conservation or agricultural easements which restrict the future use of land in the Protection Zone or the Conservation Zone in</li> </ol>

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	<p>the Preservation Area and the agency requests a HDC Certificate from the Highlands Development Credit Bank, the Executive Director shall procure an HDC Allocation Letter from the Highlands Council and issue a HDC Certificate to the agency or organization when the easement(s) are recorded.</p> <ol style="list-style-type: none"> <li>5. When HDCs are used in conjunction with a development project, the holder of the HDC Certificate shall, within ten (10) days of municipal development approval, notify the Highlands Development Credit Bank of the use of the HDCs and apply for a Certificate of Redemption.</li> <li>6. An application for redemption of a HDC shall include the name of the holder of the HDC Certificate, the name of the developer who used the HDCs, the municipality where the development using HDCs is located, the legal description of the parcel of land on which the HDCs were used and the date of the municipal approval of the development.</li> <li>7. In the event that only a portion of the HDCs which are authorized in a HDC Certificate are redeemed, the Highlands Development Credit Bank shall issue a new HDC Certificate for the HDCs which were not used.</li> </ol>
<p><b>Designation of Receiving Zones</b></p>	<ol style="list-style-type: none"> <li>1. Parcels of lands in the Planned Community Zone which are appropriate for infill development or redevelopment may be designated as Receiving Zones through municipal plan conformance.</li> <li>2. Parcels of lands in the Conservation Zone may also be designated as a Receiving Zone upon approval of the Highlands Council, provided that such a receiving zone is consistent with the Highlands RMP, the development is compatible with agriculture, and low impact development techniques will be utilized, including clustering.</li> <li>3. Municipalities may, through the municipal Plan Conformance process, establish Receiving Zones in the Planned Community Zone which are restricted to transfer and use of HDCs which are allocated to parcels of land located within the municipality and/or county where the Receiving Zone is located through municipal plan conformance.</li> <li>4. Municipalities may establish brownfields as Receiving Zones through municipal Plan Conformance, provided that the Highlands Council determines that such brownfields can be developed without adversely affecting the Highlands Ecosystem.</li> <li>5. Municipalities within the Planning Area, which do not petition the Highlands Council for a determination of conformance, may establish Receiving Zones for the use of HDCs for areas which are in the Planned Community Zone or Conservation Zone upon approval of the Highlands Council.</li> <li>6. Lands which are located within Highlands Counties, but not within the boundaries of the Highlands Region, may be designated as Receiving Zones for the use of Highlands Development Credits upon approval of the Highlands Council.</li> </ol>