

**Guidance for Municipal Plan Conformance with the Highlands Regional Master Plan
Land Preservation and Stewardship Plan Component
New Jersey Highlands Council**

COMPONENT	STATUS ¹	STANDARDS	COMMENTARY
Environmental Resource Inventory		BASIC PLAN CONFORMANCE STANDARDS: 1. General: Incorporate by reference the Highlands Council maps of Highlands Open Space, Conservation Resource Areas, Conservation Priority Areas, Agricultural Resource Areas, Agricultural Priority Areas, Special Environmental Zone, and LUCM series. 2. LUC Zones: RMP provisions apply equally to all Zones. 3. Preservation Area Special Provisions n/a	
		PLAN CONFORMANCE STANDARDS: 1. Mapping: Identify open space using the most accurate available information. Open space should include but not be limited to, preserved lands and farmland, parks, natural areas, existing and proposed greenways, camps, farms, historic sites, undeveloped properties, golf courses, and existing and proposed trails. See <i>Land Preservation and Stewardship Technical Report</i> for more detailed definition of Open Space. 2. Narrative: An ERI is an unbiased report of integrated data that provides baseline documentation for measuring and evaluating resource protection issues. Indexing open space is an important element of this process.	
Municipal Master Plan and Conservation Plan Element - Land Preservation and Stewardship Subplan		BASIC PLAN CONFORMANCE STANDARDS: 1. General (Background Statement): Adopt by reference the Highlands Council maps of Highlands Open Space, Conservation Resource Areas, Conservation Priority Areas, Agricultural Resource Areas, Agricultural Priority Areas, Special Environmental Zone, and LUCM series 2. Policy Statement: Adopt by reference RMP Policies 1I1, 1I2, 1I3, and 1I4 into the policies, goals, objectives section of the Master Plan. Relate the policies to MLUL purposes as appropriate. 3. LUC Zones: RMP provisions apply equally to all Zones. 4. Preservation Area Special Provisions: n/a	
		PLAN CONFORMANCE STANDARDS: 1. Master Plan Requirements: Establish the protection, preservation, enhancement, restoration, stewardship, and monitoring of open space as a policy of the municipality, enumerating the purposes and benefits as cited in the	<i>Long-term mandatory provisions for incorporation into the master plan and the specific plan element</i>

¹ This column is for the municipal self-assessment. C = fully complete. P = partially complete, with a need for improvement. IP = in progress. NS = not started. NA = not applicable (e.g., for a municipality for which this component is not relevant).

NJ Highlands Council: Land Preservation and Stewardship Standards for Municipal Plan Conformance

		<p>Conservation Plan Element Land Preservation and Stewardship Subplan.</p> <p>2. Conservation Plan Element Land Preservation and Stewardship Subplan Requirements: Establish importance of protecting, preserving, enhancing, restoring, stewarding, and monitoring open space. Use the Environmental Resource Inventory and the RMP as the basis where appropriate, and then discuss the value of open space and preserved lands. Use these statements as the basis for Master Plan policy in keeping with the RMP. Establish the map of open space and preserved lands as the initial basis for creating or updating an Open Space and Recreation Plan and Stewardship Plan for inclusion in the municipal master plan, to be supplemented and amended as needed, by on-site identification through the local development review process. Additionally use this data to create or update municipal Recreation and Open Space Inventories where required by the NJDEP Green Acres Program. <u>State that a Highlands Council Conservation and Land Stewardship Easement, enforceable by the Highlands Council and at least one of the following: the municipality, CADB, SADC, NJDEP Green Acres Program or a nonprofit land trust, will be utilized by the municipality in the Planning Area for Exemptions where Highlands Council deems it appropriate or as a condition of development approval for lands within parcels proposed for development that are identified for preservation on a proposed site plan or subdivision. Establish a stewardship and monitoring program for preserved lands owned by the municipality by fee acquisition or easement acquisition which can be administered by the municipality, the county, or a nonprofit land trust.</u></p> <p>3. Utilize NJDEP Green Acres Program Open Space and Recreation Plan Guidelines as a guideline for creating an open space plan. See References.</p> <p>4. Utilize <i>Caring for Conservation Easements from Preservation to Stewardship: Land Stewardship for Municipalities</i> as a guideline for creating a municipal land stewardship program. See References.</p>	
<p>Institutional Capability</p>		<p>1. Planning: The Council will provide assistance should planning board and zoning board of adjustment members and staff require assistance with this issue to ensure that the development review ordinances are properly implemented, that conformance with the RMP is maintained, and that exceptions and waivers to local development ordinances, such as clustering and other conservation/open space design requirements, are limited to those situations allowed by the RMP, are the minimum necessary and do not damage municipal values for open space</p>	<p><i>Special qualifications necessary to ensure municipal ability to address the RMP component, through in-house staff, consultants, special consultants or other municipal officials.</i></p>
		<p>2. Project Review: Municipality, by itself or a consultant, must have capacity to create and interpret digital and surveyed open space data and apply the ordinance requirements to the property identified.</p>	<p><i>Same as for planning</i></p>
		<p>3. Site Visit Authority: Municipal staff and development review boards must have ability to conduct site visits to visually verify resources <u>to establish baseline conditions, develop baseline documentation, and to monitor municipal</u></p>	<p>Ensure that the appropriate review body and staff have the ability to visit the site in support of project review, planning and other activities</p>

		conservation easements.	
		4. Independent Projects: The municipality must periodically and in a timely manner inform the Highlands Council of special or independent projects developed and implemented regarding open space protection and regulation, as related to Plan Conformance or RMP implementation.	
Development Review Checklists		<p>PLAN CONFORMANCE STANDARDS:</p> <p>1. General: As a minimum condition of completeness, require for all applications:</p> <ol style="list-style-type: none"> a. Highlands Council consistency determination. b. Information identifying all open space and preserved lands on site using RMP Policies 1I1 through 1I4. c. Narrative and mapped description of the extent to which the application exhibits compliance with RMP Policies 1I1 through 1I4. d. Where the applicant claims a Highlands Act exemption, require submittal of information necessary for municipal decision, or of a determination by NJDEP or the Highlands Council, as a condition for completeness. (See “Development Review Ordinance, #5 Exemptions” below.) e. Plans showing all open space, including all existing and proposed trails or greenways, based on the RMP Policies 1I1 and 1I2. Plans showing the proposed area of disturbance for all aspects of the development, including roads, utilities, building sites, driveways, landscaped areas, and all appurtenant structures. f. Plans showing the proposed grading, soil conservation plan, and sediment and soil erosion control plan. g. Plans showing conservation easements to be imposed through the development approval process for which no disturbance will be allowed (with clear and permanent on-site monuments, such as concrete posts, that minimize the need for land clearing or obstruction of wildlife movement). The easement must be depicted on the plan of record and described in the deed with metes and bounds, including GPS coordinates using the State Plane coordinate system, naming a third party such as the municipality with easement enforcement rights. h. Plans and photographs documenting baseline conditions in all areas designated for conservation easements, deed restrictions or other means of resource preservation. i. Architectural elevation renderings, if structures are proposed (preliminary for subdivision applications). j. A list of any encumbrances affecting the property (i.e., easements, deed restrictions, covenants). k. Copies of any related surveys, site plans, professional and/or environmental site assessments. 	<p><i>Special checklist items, supplementing the existing municipal checklists for development reviews.</i></p> <p><i>Major Disturbance, #2, should include a threshold for what constitutes a major disturbance of the particular resource or site, to ensure that the provision of the EIS and technical reports is not required for excessively small applications.</i></p>

NJ Highlands Council: Land Preservation and Stewardship Standards for Municipal Plan Conformance

		<p>2. Major Disturbances: Any application proposing to disturb open space shall also provide:</p> <ul style="list-style-type: none"> a. Environmental Impact Statement or Review submitted to the Highlands Council in support of its consistency determination. b. Hydrology, drainage and flooding analysis report or reports prepared in support of conformance with the municipal stormwater management plan and regulations adopted pursuant to N.J.A.C. 7:8, or a Flood Hazard Area Control Act application pursuant to N.J.A.C. 7:13. <p>3. LUC Zones: RMP provisions apply equally to all Zones.</p>	
Land Use Ordinance		1.	
			<i>Enter the specific focus of regulation</i>
		1.	<i>Cross-reference to specific RMP Goals, Policies and Objectives, along with any other RMP components, to be included by reference. For Highlands Preservation Area municipalities, include purpose of complying with NJDEP Highlands Rules if applicable</i>
		2.	<i>Ordinance purpose, linked to RMP, to justify municipal authority</i>
		3.	<i>As needed, such as specific local, NJDEP or Council methods of identifying the regulated resources</i>
		a.	<i>Classes of development, land uses, land modifications, etc., to which the ordinance is applicable</i>
		i.	The Highlands Rules exempt or have special provisions for many single-family dwellings and agriculture/horticulture activities. Municipality may want to consider including some of these actions within the municipal regulations. The RMP does not and cannot require that municipalities be more stringent than the RMP or the Highlands Act, including exemption provisions. Because eligibility for the “legal shield” under the Highlands Act is linked to conformance with the Regional Master Plan, and the RMP cannot address exempt projects, municipalities that include exempt development in their ordinance will not benefit from the legal shield for that portion of the ordinance. However, a municipal ordinance may, under the Highlands Act at N.J.S.A. 13:20-15a(5), be more

NJ Highlands Council: Land Preservation and Stewardship Standards for Municipal Plan Conformance

			stringent than the RMP standards for non-exempt development, and still will be eligible for the legal shield.
		5.	Review by the municipal engineer may entail professional fees. The municipality should consider its fee and escrow ordinances. Review procedures may provide for completeness determination, timeframes for review and decision-making, and options for conditional approvals.
		6.	
		7.	This is a general provision of Plan Conformance for all applicable local project reviews, under N.J.S.A. 13:20-17.c.
		8.	
		a.	<p>These are the key standards for site development regarding the resources affected by the ordinance. The provisions of the NJDEP rules should be included in the municipal ordinance either by reference or in whole. However, the municipality will make the findings under 10.b and 10.c, not the NJDEP.</p> <p>The ordinance may include provisions in addition to and/or that are more restrictive than those required pertinent to the RMP. While RMP policies must be regulated as zoning requirements (requiring variance relief for any deviation), any additional provisions may, at the option of the municipality, be treated as design standards with allowances for waivers.</p>
		9.	
		a.	The purpose of this provision is to ensure that applicants do not assume approval prior to the legal fact of final approval, and that site disturbance based on preliminary findings does not harm resources that might be protected through a Highlands Project Review, Highlands Council “call up,” or HPAA permit

			<p>process.</p> <p>The Highlands Council has “call up” rights under N.J.S.A. 13:20-17.c, allowing for a determination, “within 15 days after any final local government unit approval, rejection, or approval with conditions thereof,” on whether to review “any application for development in the preservation area.” Once a municipality comes into conformance in the Planning Area, the same approach applies. Because disturbance of regulated resources based on <u>preliminary</u> municipal approval would contradict the clear intent of the Act to allow Council review upon <u>final</u> approval, conditions on local preliminary and final approval are necessary. In addition to Council review authority for specific projects, the Council may determine that a municipal decision does not conform to the RMP as agreed to under Plan Conformance, and may act to determine that the municipality is no longer in conformance. Doing so would trigger provisions of the Act regarding loss of the legal shield, funding priorities and return of any prior funding provided by the Council.</p>
		<p>a. b.</p>	<p>NJDEP Highlands Rules may provide for certain waivers – the municipality may wish to more clearly define the limits of exceptions to the ordinance provisions where they won’t conflict with the NJDEP rules or the RMP, which incorporates the same waivers with regard to the Planning Area.</p> <p>Exceptions are applicable where site-specific conditions prevent complete application of a standard. Exceptions are not available for factors other than site conditions, such as any scheduling or financial constraints of the applicant. The mandatory statement of justification for an exception shall be used by the Highlands Council as the basis for its</p>

NJ Highlands Council: Land Preservation and Stewardship Standards for Municipal Plan Conformance

			review of a municipal approval under the call-up provisions.
Enforcement		1. Site Inspections: Provide a responsibility to specific municipal officials to periodically inspect the site throughout construction for compliance with the development approval, including provisions for: <ol style="list-style-type: none"> a. Verification of baseline conditions in all areas designated for conservation easements, deed restrictions or other means of resource preservation. b. Sequencing of compliance inspections to ensure the protection of on-site and off-site resources, achievement of site construction and environmental impact requirements, placement of conservation easement monuments, etc. c. Verification of “as built” conditions including compliance with conservation easements, deed restrictions or other means of resource preservation. d. Monitoring conservation easements/deed restrictions for compliance with easement requirements and conditions. e. 	Specific provision for site inspections is critical to the protection of the features protected by this ordinance and all other sensitive environmental features.
		2.	Standard MLUL authorities for administrative compliance will apply to enforcement of this ordinance.
		3.	In most cases, standard penalty provisions under the MLUL will be sufficient.
Required Easement Language		1. Highlands Council Conservation and Land Stewardship Easement (to be drafted by Council)	Model and draft ordinances are listed for informational purposes only. Specific language from each ordinance must be reviewed by competent legal and planning experts to determine what is most appropriate for use in complying with the Highlands Council standards for Plan Conformance.
		2.	
		3.	
		4.	
		5.	
References		www.nj.gov/deo/greenacres/trust.htm http://www.anjec.org/html/conservationeasements.htm	