

**Guidance for Municipal Plan Conformance with the Highlands Regional Master Plan**  
**Lake Management Area Conformance Standards**  
**New Jersey Highlands Council**

COMPONENT	STATUS <sup>1</sup>	STANDARDS	COMMENTARY
Environmental Resource Inventory		<p><b>BASIC PLAN CONFORMANCE STANDARDS:</b></p> <ol style="list-style-type: none"> <li><b>General:</b> Incorporate by reference the Highlands Council maps of Land Use Capability Zones, the Preservation and Planning Area, Highlands Open Waters, and Lake Community Sub-Zone (specify the date of the version used) and incorporate by reference the definitions of Lake Management Area, Lake Community Sub-Zone, and the four Lake Management Tiers addressed in RMP Policies 1L1 through 1L3.</li> <li><b>LUC Zones:</b> The Lake Community Sub-Zone consists of patterns of community development that are within the Existing Community Zone and within 1,000 feet of lakes. This sub-zone has unique <u>policies</u> to prevent degradation of water quality and watershed pollution, harm to lake ecosystems, and promote natural aesthetic values within the Existing Community Zone. RMP provisions apply equally to all other zones.</li> <li><b>Preservation Area Special Provisions:</b> Not applicable</li> </ol>	<p>The Highlands Council will provide mapped information in digital form through its Municipal Mapping Tool, which could be used by a municipality to meet the mapping requirements.</p>
		<p><b>PLAN CONFORMANCE STANDARDS:</b></p> <ol style="list-style-type: none"> <li><b>Mapping:</b> Map the Lake Management Area around all lakes in the municipality that are greater than 10 acres in size. Identify Lake Management Tiers, as defined in Objective 1L2a, within the Lake Management Area. Delineate the Lake Community Sub-Zone using mapping provided by the Highlands Council.</li> <li><b>Narrative:</b> Include an explanation of the types of lakes (e.g., developed, undeveloped, public, privately held) within the municipalities and the relevance to environmental protection issues (e.g., eutrophic, adopted TMDL). Can include issues regarding water quality, wetland vegetation, storm water, septic systems, scenic resources, community character, in-lake management, dam management, hardscapes, etc</li> </ol>	<p>Most municipal data will be sufficient to map the Shoreland and Water Quality Management Tiers of the Lake Management Area but will not be sufficient to map the Lake Watershed Tier. That information will be provided by the Highlands Council. Municipalities will need to develop mapping of the Scenic Resources Tier based on the features of each lake.</p> <p>This material is the scientific foundation of the regulation and is critical to the establishment of a legal defense. A municipality is required to develop an independent ERI for full Plan Conformance, but not for Basic Conformance.</p>
Municipal Master Plan and Conservation Plan		<p><b>BASIC PLAN CONFORMANCE STANDARDS:</b></p> <ol style="list-style-type: none"> <li><b>General (Background Statement):</b> Adopt by reference the Highlands Council maps of Land Use Capability Zones, Preservation and Planning Areas,</li> </ol>	

<sup>1</sup> 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: Lake Management Area Standards for Municipal Plan Conformance

<p><b>Element</b></p>		<p>Highlands Open Waters, and Lake Community Sub-Zone; and the background statement of the RMP, Part 1. Natural Resources. Subpart g. Lake Management on p.122</p> <ol style="list-style-type: none"> <li>2. <b>Policy Statement:</b> Adopt by reference RMP Policies 1L1 to 1N2 into the policies, goals, objectives section of the Master Plan. Relate the policies to MLUL purposes as appropriate.</li> <li>3. <b>LUC Zones:</b> RMP provisions vary between Lake Management Areas in the Existing Community Zone and in the Protection and Conservation Zones.</li> <li>4. <b>Preservation Area Special Provisions:</b> Preservation Area provisions in N.J.A.C. 7:38 regarding Highlands Open Water buffers will apply to the Water Quality Management Tier.</li> </ol>	
		<p><b>PLAN CONFORMANCE STANDARDS:</b></p> <ol style="list-style-type: none"> <li>1. <b>Master Plan Requirements:</b> Establish the protection of Lake Management Areas as a policy of the municipality, enumerating the purposes and benefits as cited in the Land Use Element.</li> <li>2. <b>Conservation Element Requirements:</b> Establish importance of Lake Management Areas. Use the Environmental Resource Inventory as the basis where appropriate, and then discuss the values served by protecting lakes and lake watersheds. Use these statements as the basis for Master Plan policy in keeping with the RMP. Establish the map of Lake Management Areas as the initial identification of Lake Management Tiers in the municipality, to be supplemented and amended as needed, by on-site identification through the local development review process.</li> <li>3. <b>Analytical Requirements:</b> <ol style="list-style-type: none"> <li>a. Septic systems and cesspools on small lots in proximity to lakes in the Lake Community Sub-Zone, shall be replaced with upgraded individual treatment systems, communal septic systems, or community-based wastewater systems wherever feasible and cost-effective, with the selection of replacement technology to ensure minimal secondary environmental impacts, maximum environmental benefit, and financial viability.</li> <li>b. Require that where the existing density of septic systems within a Lake Community Sub-Zone is known or strongly suspected to be a significant contributor of lake pollutants, community wastewater treatments shall service parcels of lands within the Lake Community Sub-Zone where feasible in order to eliminate pollution of lakes by discharges from septic systems. Community-based systems should not provide for additional land development capacity except for exempt lots within that existing lake community that are not environmentally constrained, or for areas that are otherwise permitted to have waster service. The systems must be designed to minimize secondary environmental impacts, including potential reductions in net water availability.</li> </ol> </li> <li>4. Develop and adopt lake restoration plans, with sufficient input from lake</li> </ol>	<p>Note that the maps of Lake Management Areas may not provide detailed delineations of Scenic Resources Tier; applicant will be required to provide site-specific information.</p>

NJ Highlands Council: Lake Management Area Standards for Municipal Plan Conformance

		community residents and landowners, for each of the municipality’s developed lakes that has been identified as water quality impaired, to include watershed delineation, description of point and nonpoint sources of pollution in the watershed, lake monitoring schedules , existing and proposed in-lake management techniques, and recommended watershed best management practices. TMDLs adopted by NJDEP to address known pollutant problems may be used as lake restoration plans. For lakes that are privately- held and managed by a single homeowners or lake association, the municipality may require that the association share in or assume the costs of developing such plans.	
<b>Land Use Plan Element</b>		Adopt the Lake Community Sub-Zone into the Land Use Plan Element.	
<b>Institutional Capability</b>		1. <b>Planning:</b> 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 ordinance is properly implemented, that conformance with the RMP is maintained, and that exceptions and waivers to the Lake Management Area ordinance are limited to those situations allowed by the RMP, are the minimum necessary and do not damage municipal values for lake protection.	Lake management policies will require knowledge of pollutant sources and their management, scenic resource management, etc. To assist board members and staff regarding this topic and the implementing ordinance the Council will provide educational and training opportunities as requested. Council will work with the municipality’s professionals if requested.
		2. <b>Project Review:</b> Municipality must have capacity to interpret digital and surveyed data on Lake Management Areas, and apply the ordinance requirements to the appropriate Lake Management Tier(s) identified on a property.	Same as for planning
		3. <b>Site Visit Authority:</b> Municipality staff and development review boards must have ability to conduct site visits to visually verify Lake Management Areas and Tiers and related resources.	Ensure that the appropriate review body and staff have the ability to visit the site in support of project review, planning and other activities
		4. <b>Independent Projects:</b> The municipality must periodically and in a timely manner inform the Highlands Council of special or independent projects (e.g., water quality studies) developed and implemented regarding Lake Management Area protection and regulation, as related to Plan Conformance or RMP implementation.	
<b>Development Review Checklists</b>		<b>PLAN CONFORMANCE STANDARDS:</b> 1. <b>General:</b> As a minimum condition of completeness, require for all applications addressed by “Lake Management Area Regulations, #4 Applicability” (see below): a. Highlands Council consistency determination. b. Information identifying the Lake Management Area and Tier(s) on site using RMP Policy 1L1 and Objective 1L2a. c. Narrative and mapped description of the extent to which the application	

NJ Highlands Council: Lake Management Area Standards for Municipal Plan Conformance

		<p>exhibits compliance with RMP Policies 1L1 to 1N2.</p> <ul style="list-style-type: none"> <li>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.)</li> <li>e. Plans showing all Lake Management Areas, with clear delineation of the Lake Management Tiers based on the RMP Policy 1L2.</li> <li>f. 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.</li> <li>g. Plans showing the proposed grading, soil conservation plan, and sediment and soil erosion control plan.</li> <li>h. Plans showing conservation easements to be imposed through the development approval within Lake Management Areas 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, and complying with Highlands Council easement requirements regarding enforcement rights.</li> <li>i. Plans documenting baseline conditions in all areas designated for conservation easements, deed restrictions or other means of resource preservation.</li> <li>j. Architectural elevation renderings, if structures are proposed (preliminary for subdivision applications).</li> <li>k. A list of any encumbrances affecting the property (i.e., easements, deed restrictions, covenants).</li> <li>l. Copies of any related surveys, site plans, professional and/or environmental site assessments.</li> </ul>	
<b>Land Use Ordinance</b>		<ol style="list-style-type: none"> <li>1. <b>Statement of Purpose:</b> Specify at a minimum that the purpose of the ordinance is to implement RMP Policies 1L1 to 1N2. Make a direct link between the ordinance and municipal policy as stated in the Master Plan.</li> </ol>	
		<ol style="list-style-type: none"> <li>2. <b>Special Definitions:</b> Include definitions of Lake Management Areas, Shoreland Protection Tier, Water Quality Management Tier, Scenic Resource Tier, Lake Watershed Tier, Lake Community Sub-Zone, Highlands Open Water Buffer (as set forth in RMP Policies 1L1 to 1N2 and at N.J.A.C. 7:38), best management practices, site disturbance, and TMDL based on the RMP. Provide references to the NJDEP Preservation Area rules at N.J.A.C. 7:38, Stormwater Regulations at N.J.A.C. 7:8, and the NJ Erosion Control Standards at N.J.A.C. 2:90-1.</li> </ol>	<p>Ordinance purpose, linked to RMP, to justify municipal authority</p>

		<p>3. <b>Special Standards:</b> As determined to address municipal needs.</p>	
		<p>4. <b>Applicability:</b> The ordinance must apply to any project for which a permit from, or determination by, the municipality is required (including any application for development as defined under the MLUL (N.J.S.40:55D-3)) and which involves the ultimate disturbance of a Lake Management Area, other than exemptions as specified below.</p> <p><b>a. Highlands Applicability Determinations:</b></p> <ul style="list-style-type: none"> <li>i. Major Highlands Developments – In the Preservation Area, require compliance with the NJDEP Preservation Area rules at N.J.A.C. 7:38 and with RMP Policies 1L1 to 1N2.</li> <li>ii. Other Developments – Require compliance with the RMP Policies 1L1 to 1N2.</li> </ul> <p><b>b. Municipal Requirements:</b> Require compliance with the NJ Erosion Control Standards at N.J.A.C. 2:90-1. Additional requirements as determined by the municipality.</p>	
		<p>5. <b>Exemptions:</b> Incorporate the Highlands Act exemptions as listed at N.J.A.C. 7:38-2.3.</p> <p><b>a. Highlands Act Exemptions Addressed by N.J.A.C. 7:38-2.4(b)</b></p> <ul style="list-style-type: none"> <li>i. Local Action: Where a municipality can conclude that a proposed project qualifies for an exemption under the NJDEP Preservation Area rules at N.J.A.C. 7:38-2.4(b) (which relate to Highlands Act (N.J.S.A. 13:20-28) Exemptions 5, 7, 9, 10 and 15), the municipality may process the application without formal determination by the NJDEP or the Highlands Council. A decision to process an application under this provision does not constitute, and the applicant may not rely upon, municipal action under this provision as constituting a municipal decision regarding Highlands Applicability Determination.</li> <li>ii. NJDEP or Highlands Council Determination: A determination by NJDEP or the Highlands Council regarding applicability of these exemptions in the Preservation or Planning Area, respectively, may be relied upon regarding applicability of these exemptions.</li> </ul> <p><b>b. Highlands Act Exemptions Not Addressed by N.J.A.C. 7:38-2.4(b)</b></p> <ul style="list-style-type: none"> <li>i. Local Action: The municipality shall not consider an application complete for review that proposes the use of any other Highlands Act exemptions, unless a NJDEP or Highlands Council Applicability Determination is provided with the application in the Preservation or Planning Area, respectively.</li> <li>ii. NJDEP or Highlands Council Applicability Determination: A determination by NJDEP or the Highlands Council regarding applicability of these exemptions in the Preservation or Planning Areas, respectively, must be provided prior to municipal consideration of the proposed activity.</li> </ul>	<p>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 stringent than the RMP standards for non-exempt development, and still will be eligible for the legal shield.</p>

NJ Highlands Council: Lake Management Area Standards for Municipal Plan Conformance

		<p>6. <b>Lake Management Application:</b> Provide for a Lake Management application process applicable to all covered projects. Require submission of the materials required under the Development Review Checklist for review by the municipal engineer or other qualified professional. If the application is consistent with all requirements pertinent to the Highlands RMP, the ordinance may authorize the reviewing professional to grant an approval if the application does not otherwise require approval by the Planning Board or Zoning Board of Adjustment as an “application for development” under the Municipal Land Use Law. If the application is inconsistent with RMP policies, the reviewing professional must clearly identify the deviations. The ordinance must require that approval of such deviations be authorized only by grant of waivers or exceptions from the Planning Board or Zoning Board of Adjustment through the procedures at #13, Waivers and Exceptions, below.</p>	<p>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.</p>
		<p>7. <b>Completeness:</b> Stipulate that no application for development (as defined by the MLUL at N.J.S. 40:55D-3) may be scheduled for local Board review until after it has been deemed complete by the applicable Board or completeness designee.</p>	<p>The MLUL at N.J.S. 40:55D-10.3 allows a municipality to delegate completeness review to a committee or designee.</p>
		<p>8. <b>Notification to Highlands Council:</b> Require that for any application for development (as defined by the MLUL at N.J.S. 40:55D-3) the applicant shall provide notice to the Highlands Council at least 10 days prior to the date on which the application is scheduled for consideration by the local Board. Require that a copy of the complete application accompany such notice regarding any application for development involving the potential disturbance of two (2) acres, or more, or a cumulative increase in impervious coverage of one (1) acre, or more. Require that the applicant provide copies of any subsequent revisions to such applications to Highlands Council at the same time these are provided to the reviewing Board.</p>	<p>This is a general provision of Plan Conformance for all applicable local project reviews, under N.J.S.A. 13:20-17.c.</p>
		<p>9. <b>Requirements for Deed Restrictions:</b> Require that any proposed activity requiring municipal approval under this ordinance commit to and perfect a conservation easement and deed restriction on the undisturbed Lake Management Area of the property. The conservation easement and deed restriction must meet applicable requirements of the Highlands Council.</p>	
		<p>10. <b>Disturbance Limitations:</b> The ordinance must include the following minimum requirements regarding proposed development activities within a Lake Management Area:</p> <ol style="list-style-type: none"> <li>a. Implement and adopt, for all lakes, the standards applicable to the Shoreland Protection and Water Quality Management Tiers; the standards applicable to the scenic resource tier shall be adopted for all public lakes (i.e. with shorelines that are not entirely privately-held and managed through a lake association), and for privately- held and managed lakes, to the extent feasible under law, recognizing the existence of previously approved lake community development plans.</li> </ol>	<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</p>

		<p>b. Disturbance of an undisturbed area within the Shoreland Protection Tier: Implement and adopt standards regarding lake ecosystem and water quality in the Shoreland Protection Tier to control direct and proximate impacts upon the lake, including but not limited to:</p> <ul style="list-style-type: none"> <li>i. Alteration of the shorelines shall be limited to the minimum disturbance necessary to provide for water dependent recreational uses such as beaches, docks, and boat houses, generally limited to 10% or 25 feet of the shoreline of any parcel proposed for development, but subject to modification in the Lake Community Sub-Zone, to limitations more appropriate to specific lakes.</li> <li>ii. Where shorelines have already been hardscaped with bulkheads, rip-rap, or walls in the Lake Community Sub-Zone, encourage the creation of a vegetated filter strip along the shoreline to attenuate stormwater flow and minimize the potential for shoreline erosion</li> <li>iii. Where there is little or no wave action, reeds and other wetland species that are below the high water mark shall be preserved or restored.</li> <li>iv. In the Lake Community Sub-Zone, permit and encourage the control and where necessary removal of algae and non-native invasive aquatic weeds that cause nuisance conditions for lake users.</li> <li>v. Existing shoreline vegetation within 50 feet of the shoreline shall be protected and preserved except for a minimum area permitted, established through municipal development regulations, for water dependent recreational facilities. Limitations should be more stringent for the first 25 feet. Restoration of native vegetation shall be required where development is proposed on property with existing disturbed areas within 25 feet of the shoreline.</li> <li>vi. Prohibit construction of new structures, other than water dependent recreational facilities, within fifty (50) feet of the shoreline.</li> <li>vii. In all zones, the width and length of piers and docks shall be controlled in municipal development regulations to achieve the minimum disturbance of shoreline, shoreline vegetation and wetland vegetation possible with due consideration with safety, including provisions for piers and docks held in common to reduce the total number of new docks and piers</li> <li>viii. Boat lifts, where used in any Highlands LUC Zone, shall be encouraged as a means of providing more light to the waters below and shall elevate boats a minimum of one foot above high water.</li> <li>ix. Development adjacent to Highlands Lakes, which are Highlands Open Waters, shall include a protection buffer of 300 feet from the edge of the Highlands Open Water feature, or a lesser buffer if allowed based on RMP policies (see Policies and Objectives under</li> </ul>	<p>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>
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		<p>GOAL 1D), and all development shall comply with buffer standards which provide for the protection of Highlands Open Waters.</p> <p>c. Development activities within the Water Quality Management Tier: Implement and adopt standards regarding land use compatibility and water quality in the Water Quality Management Tier, to prevent or minimize continuous pollutant sources that can contribute pollutants overland or through ground water to the lake from greater distances than the Shoreland Protection Tier. Such standards shall include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>i. All parcels of land proposed for development shall be improved with landscape or garden elements which retain storm water</li> <li>ii. All new development shall direct runoff from roofs, driveways, and patios into landscape or garden elements which retain and filter storm water, or to infiltration practices. (Also encourage similar practices for existing development in the Lake Community Sub-Zone.)</li> <li>iii. Encourage green roofs in all zones to clean and slow the release of storm water</li> <li>iv. Impervious surfaces in all zones shall drain away from the shoreline to the maximum extent feasible</li> <li>v. Storm water shall be directed to a storm water management train that cleans and reduces the rate of runoff to the maximum extent possible</li> <li>vi. The storm water management train shall maximize the use of swales with natural vegetation or constructed wetlands and discharge through a constructed wetland or other channel that maximizes aeration and cleaning of water to the maximum extent feasible</li> <li>vii. Storm water improvements shall be designed in accordance with NJDEP regulations at N.J.A.C. 7:8 or the municipal stormwater management ordinance or regional stormwater management plan adopted as part of an Areawide Water Quality Management Plan where more stringent</li> <li>viii. Where sufficient land is available, natural swales, constructed wetlands, and other stormwater facilities shall be used</li> <li>ix. Landscape or garden elements which retain stormwater shall be used and designed so that during larger storms, the water is released primarily through overland sheet flow across a vegetated, naturally landscaped area to the maximum extent feasible</li> <li>x. The discharge of storm water shall be through sheet flow, where feasible, which may require the construction of an outlet that disperses the water over a substantial distance at a constant</li> </ul>	
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NJ Highlands Council: Lake Management Area Standards for Municipal Plan Conformance

		<p>elevation so that water sheet flows over the top</p> <ul style="list-style-type: none"> <li>xi. Septic systems for new development within the Lake Management Area must comply with the RMP septic system density requirements for the particular Land Use Capability Zone, with septic systems no closer to the lake than the Highlands Open Water Buffer or 150 feet, whichever is greater; clustering shall be permitted where it results in a greater buffer between the lake and the septic systems than would be feasible without clustering</li> <li>d. Development activities within the Scenic Resource Tier: Adopt and implement standards regarding the protection of visual and scenic resources in the Scenic Resource Tier from development or redevelopment that include, but not limited to: <ul style="list-style-type: none"> <li>i. Building heights shall be limited so that the top of a building does not exceed thirty-five (35) feet except in Designated Centers where a greater height is in keeping with existing community design</li> <li>ii. All buildings shall be screened from view from lake by trees and other natural plant material</li> <li>iii. The exteriors of all new or redeveloped buildings shall be finished with materials which are compatible with natural or historical character of the Highlands Region and minimize visual intrusion on the lake community character</li> <li>iv. The clearing of trees shall be limited to the minimum extent needed for the development footprint of the building</li> <li>v. Outdoor lighting shall be provided using fixtures with cut-off fixtures and be directed away from the shoreline</li> </ul> </li> <li>e. <b>Prohibitions</b> and limitations otherwise that are in direct keeping with the municipal values to be protected, as stated in the Master Plan and ordinance purpose, including prohibitions and limitations on site disturbance, forest clearance, infrastructure development, and site development (including but not limited to hardscapes along the shoreline).</li> </ul>	
		<p><b>11. Reporting Requirements:</b> Require that prior to issuance of a final Certificate of Occupancy or Approval and/or to release of any performance bonding held in relation to the project, that the applicant provide an “as-built” survey depicting the final site conditions.</p>	
		<p><b>12. Municipal Approvals Conditioned On State Approvals:</b></p> <ul style="list-style-type: none"> <li>a. <b>General:</b> Require that the approved development demonstrate compliance where applicable with the NJ Erosion Control Standards at N.J.A.C. 2:90-1.</li> <li>b. <b>Applicable to Preliminary Approvals:</b> Preliminary approval shall be conditioned such that land modification affecting Lake Management Areas shall not occur until such time as the Highlands Council has either not called up the approval for review, or has reviewed the approval pursuant to N.J.S.A. 13:20-17(a)1 and either finds that the approval meets RMP</li> </ul>	<p>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 process.</p>

		<p>requirements or finds that the approval must be modified and the municipality has so modified the approval. Preliminary approval shall also be conditioned upon review and approval by the municipal or board attorney of the language to be included in a deed restriction pertinent to any conservation easement that is a part of the approval.</p> <p>c. <b>Applicable to Final Approvals:</b> Final approval shall be conditioned such that land modification affecting Lake management Areas shall not occur unless the Highlands Council has either not called up the approval for review, or has reviewed the approval pursuant to N.J.S.A. 13:20-17(a)1 and either finds that the approval meets RMP requirements or finds that the approval must be modified and the municipality has so modified the approval. Final approval shall also be conditioned upon the filing of a deed restriction, as approved by the municipal or board attorney pertinent to any conservation easement that is part of the approval.</p> <p>d. <b>Applicability of Highlands Council Review.</b> The ordinance must require that in the case of any development application involving the potential disturbance of two (2) acres, or more, or a cumulative increase in impervious coverage of one (1) acre, or more, the reviewing board shall provide a certified copy of the fully-executed resolution memorializing its final decision in the matter to the Highlands Council within ten (10) days of its adoption. The reviewing board must require the applicant to provide a copy of the final site plan and subdivision plats to the Highlands Council in digital format that meets the Highlands Council standards for digital submissions, where such plans and plats have been prepared in digital form. All resolutions memorializing a final decision shall include conditions requiring these submittals, and that no local decision shall be deemed final until the Highlands Council has received the information required in this paragraph.</p> <p>e. <b>Applicable to Building Permits:</b> The ordinance must require that no building permit shall be issued and no other land modification affecting Lake Management Areas shall commence until the municipal development approval is final. If the building permit is the only applicable municipal approval, the building permit shall not be approved unless the applicant has proved that the project is in compliance with the standards of this ordinance, that the project is eligible for a Highlands Act exemption, that the Highlands Council has determined that the building permit will not result in the disturbance of a Lake Management Area, or that the project has received an HPAA or HPAA with waiver from the NJDEP.</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>13. <b>Waivers and Exceptions:</b> The ordinance must provide clear guidance to the reviewing Board, specifying that any waivers may be granted only in cases where the following review standards are met:</p> <p>a. <b>Highlands Act Waiver Provisions:</b> For applications other than major</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</p>

NJ Highlands Council: Lake Management Area Standards for Municipal Plan Conformance

		<p>Highlands developments in the Preservation Area, and for any applicable approval in the Planning Area, no development involving a waiver may be approved by the development review board for disturbance of a Lake Management Area unless the applicant has received approval by the Highlands Council of a Highlands Act Waiver under the provisions of the RMP.</p> <p>b. <b>Exception Provisions:</b> For applications other than major Highlands developments in the Preservation Area, exceptions may be approved by the development review board for disturbance of a Lake Management Area only where the applicant can demonstrate that: (a) the deviation is unavoidable and represents the minimum feasible under the particular circumstances surrounding the project proposal, and the grant of relief is reasonable, necessary, and supports the general purpose and intent of the applicable development regulations; or (b) the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question. The approval of an exception must be accompanied by a detailed justification, and is subject to review by the Highlands Council. The justification must include at a minimum an explanation of how and to what extent the following conditions are addressed:</p> <ul style="list-style-type: none"> <li>i. no alternative exists that will allow for at least a minimum practical use of the property;</li> <li>ii. the exception is for road or utility access to another part of the site where the actual development would occur (if applicable);</li> <li>iii. the exception provides relief only to the minimum extent necessary;</li> <li>iv. other environmental features are not damaged in the process of protecting lakes.</li> </ul> <p>c. <b>Additional Provisions:</b> No exception may be approved that violates the NJ Erosion Control Standards at N.J.A.C. 2:90-1. All exceptions granted by the review board must be reported to the Highlands Council upon local approval.</p>	<p>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 review of a municipal approval under the call-up provisions.</p>
<p><b>Enforcement</b></p>		<p>1. <b>Site Inspections:</b> Provide a responsibility to specific municipal officials to periodically inspect the site throughout construction for compliance with the development approval, including provisions for:</p> <ul style="list-style-type: none"> <li>a. Verification of baseline conditions in all areas designated for conservation easements, deed restrictions or other means of resource preservation.</li> <li>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.</li> <li>c. Verification of “as built” conditions including compliance with conservation easements, deed restrictions or other means of resource preservation.</li> </ul>	<p>Specific provision for site inspections is critical to the protection of the features protected by this ordinance and all other sensitive environmental features.</p>

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		2. <b>Administrative Compliance:</b> Provide for issuance of a stop-work order, revocation of building permits, refusal to approve further work, or denial of certificates of occupancy, plus mandatory remedial and corrective measures including full restoration of any resources that are improperly disturbed.	Standard MLUL authorities for administrative compliance will apply to enforcement of this ordinance.
		3. <b>Penalties:</b> Provide for civil and criminal penalties for violations.	In most cases, standard penalty provisions under the MLUL will be sufficient.
<b>Recommended Model or Example Ordinances</b> (up to five, with model ordinances listed first)		1. Greenwood Lake- Lake Characterization and TMDL	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.