



*DRAFT*

**PLAN CONFORMANCE GUIDELINES  
JANUARY 2007**

**PREPARED BY  
STATE OF NEW JERSEY  
HIGHLANDS WATER PROTECTION  
AND PLANNING COUNCIL  
IN SUPPORT OF THE  
HIGHLANDS DRAFT REGIONAL MASTER PLAN**



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



DANTE DI PIRRO  
Executive Director

# Highlands Draft Regional Master Plan

Jon S. Corzine, *Governor, State of New Jersey*

## Highlands Water Protection and Planning Council

John R. Weingart, *Chairman*  
Jack Schrier, *Vice Chairman*  
Deborah Pasquarelli, *Treasurer*

Kurt Alstede Elizabeth Calabrese Tracy C. Carluccio  
Timothy Dillingham Janice Kovach Mimi Letts  
Erik Peterson Mikael Salovaara Glen Vetrano  
Tahesha Way Scott Whitenack

## Highlands Water Protection and Planning Council

### Executive Staff

Dante Di Pirro, *Executive Director*  
Thomas A. Borden, *Deputy Executive Director and Chief Counsel*  
Steven Balzano, *Director of Science and Planning*

### Staff

Anthony Cortese, *Regional Planner*  
Matthew J. Curtis, *Management Information Systems Coordinator*  
Christine Danis, *Principal Planner*  
Carl Figueiredo, *Resource Management Specialist*  
Denise Guidotti, *Executive Assistant*  
Maryjude Haddock-Weiler, *Regional Planner*  
James Hutzelmann, *Water Resource Engineer*  
Kim Ball Kaiser, *Staff Attorney*  
Aaron M. Kardon, *Geographic Information Systems Assistant*  
Roger Keren, *Director of Geographic Information Systems*  
Megan Lang, *Regional Planner*  
Jeffrey P. LeJava, *Staff Attorney*  
Erin Lynam, *Resource Management Specialist*  
Ross MacDonald, *Director of Economic Development*  
Sabina Martine, *Administrative Assistant*  
Ranji Persaud, *Office & Human Resource Manager*  
Christine Ross, *Senior Resource Management Specialist*  
Susan Schmidt, *Receptionist & Clerk*  
Patricia Sly, *Director of Government Affairs and Operations*  
Lisa K. Voyce, *Principal Scientist*

# CONTENTS

EXECUTIVE SUMMARY .....	
INTRODUCTION.....	
I. PLAN CONFORMANCE OVERVIEW.....	1
PURPOSE AND SCOPE OF THE PLAN CONFORMANCE PROCESS .....	1
CONSTRUCTION OF PLAN CONFORMANCE GUIDELINES.....	1
PLAN CONFORMANCE MEETINGS AND PUBLIC INPUT .....	2
PLAN CONFORMANCE SCHEDULE.....	2
BENEFITS OF PLAN CONFORMANCE.....	3
II. PLAN CONFORMANCE FOR HIGHLANDS MUNICIPALITIES AND COUNTIES.....	5
REQUIRED CONFORMANCE IN THE PRESERVATION AREA.....	5
VOLUNTARY CONFORMANCE IN THE PLANNING AREA .....	5
NOTICE OF INTEREST TO SEEK PLAN CONFORMANCE .....	5
HIGHLANDS OVERVIEW MEETING .....	6
MUNICIPAL ASSESSMENT.....	6
PRE-PETITION MEETING .....	7
DOCUMENTS REQUIRED FOR PETITION COMPLETENESS .....	7
INITIAL REVISIONS .....	9
REGIONAL MASTER PLAN CONFORMANCE GUIDANCE MANUALS.....	11
NOTICE OF A PETITION AND REVIEW OF PETITIONS .....	11
PUBLIC HEARING ON A PETITION .....	12
EFFECT OF FAILURE OF A LOCAL GOVERNMENT TO OBTAIN PLAN CONFORMANCE	
APPROVAL WHERE REQUIRED BY THE HIGHLANDS ACT .....	13
PERIOD OF PLAN CONFORMANCE AMENDMENTS TO CONFORMING PLANS AND	
REGULATIONS.....	13
REVOCATION OF PLAN CONFORMANCE APPROVALS .....	14
III. SUPPORTING INFORMATION .....	15
ACKNOWLEDGEMENTS.....	156
GLOSSARY.....	18

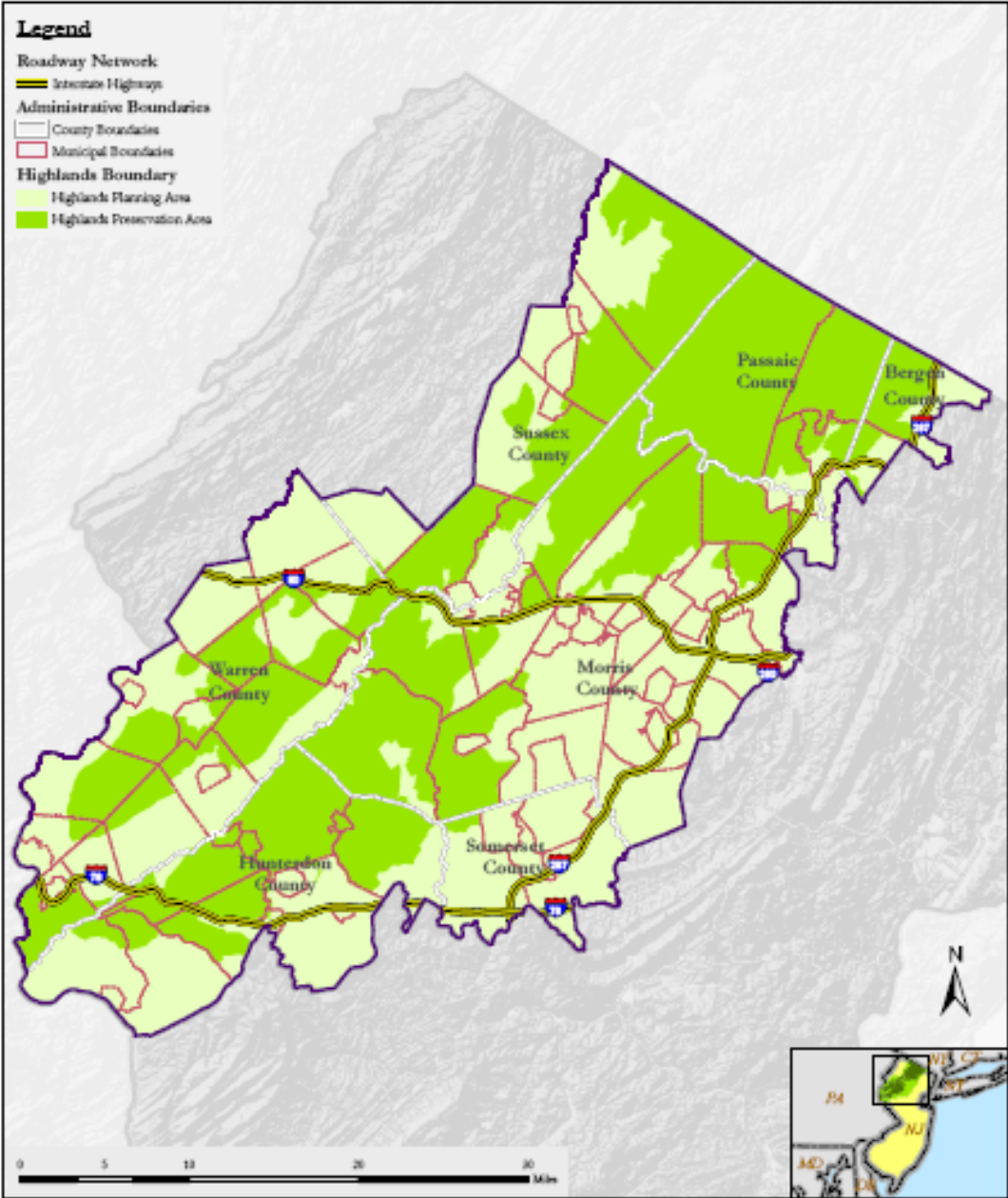
## **EXECUTIVE SUMMARY**

The Highlands Act recognizes the need for all levels of government to coordinate in order to achieve the greatest degree of environmental protection and quality economic development for the overall Highlands Region. To realize this objective, the Highlands Council was assigned the task of creating a Regional Master Plan establishing goals, standards, and policies by which the local counties and municipalities of the Highlands Region may implement the intent of the Act. The Plan Conformance Guidelines sets forth a blueprint for constituent counties and municipalities to realize this task with clear direction and adequate assistance from Highlands Council staff. It provides the required submission documents and details the prioritization of Petitions for Plan Conformance.

**INTRODUCTION**

The New Jersey Highlands Region (Highlands Region) includes 859,358 acres comprised of two areas, the Preservation Area and the Planning Area (See figure Highlands Region). It is located in the northwest part of the State encompassing eighty-eight municipalities in seven counties. A region noted for its scenic beauty and environmental significance, it stretches from Phillipsburg, Warren County in the southwest to Mahwah, Bergen County in the northeast. It is the source of drinking water for nearly 5 million people.

Highlands Region



The Highlands Water Protection and Planning Act (Highlands Act) was enacted on August 10, 2004. In adopting the Highlands Act, the Legislature “found and proclaimed that the New Jersey Highlands is an essential source of drinking water . . . for one-half of the State’s population, . . . that . . . [it] contains other exceptional natural resources such as clean air, contiguous forest lands, wetlands, pristine watersheds, and habitat for fauna and flora, [and that it] includes many sites of historic significance, and provides abundant recreational opportunities for the citizens of the State.” (Highlands Water Protection and Planning Act, Section 2).

The Legislature also recognized that the resources of the Highlands Region are a vital part of the public trust. It declared that the measures of the Highlands Act “should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations . . . .” The statutory mechanism imposed by the Highlands Act to protect the Region’s public trust resources includes the State’s commitment to provide state funds for land preservation along with a reorganization of land use powers to emphasize regional planning.

Through passage of the Highlands Act, the New Jersey Highlands Water Protection and Planning Council (Highlands Council) was charged with the important task of developing a Regional Master Plan to protect the critical natural resources and other significant values of the Highlands Region. The Act specifically emphasizes the protection of water resources for both potable supply and ecosystem viability but also includes goals relating to the protection of agricultural viability, ecosystems, species and communities, as well as scenic and historic resources.

The Highlands Act is premised on the need for coordinated land use planning and regulation to protect the important resources of the Highlands Region. The Act recognizes that protection of the Highlands Region as a whole requires a combination of state and local oversight that is implemented through regional planning and local land use control. A fundamental aspect of the Highlands Regional Master Plan is the process by which local governments will change their land use requirements and restrictions to support the goals and requirements of the Plan. During the legislative process that led to passage of the Highlands Act and continuing through the meetings held by the Council during the development of the Regional Master Plan, many local government representatives stressed the importance of creating a straight-forward conformance process. The Act directed the Council to develop a set of requirements to protect the Highlands which include mandatory restrictions over land uses and development practices within the Preservation Area and provide that local governments could voluntarily conform their land uses and development practices to the Plan in the Planning Area.

In accordance with the Highlands Act, the Council is authorized to “approve, reject, or approve with conditions the revised plan and development regulations” and the Council may also “identify changes” necessary for Plan Conformance approval as part of a rejection or conditional approval of a local petition for Plan Conformance (Section 14 and 15 of the Act). The Council is empowered to examine the master plan and development regulations submitted by a municipality in a conformance petition and may either approve a conforming submission, issue conditional approvals, reject or approve with specifically identified changes, or completely reject the submission.

Of the 88 municipalities in the Highlands Region, 5 are entirely in the Preservation Area, 36 are entirely in the Planning Area, and the remaining 47 municipalities have lands in both areas. The assessment of the Highlands natural systems and resources conducted by the Council during the preparation of the Regional Master Plan revealed that important ecosystems and natural resources lie not only within the Preservation

Area, but also within the Planning Area. The Council recognized that while the mandatory resource preservation and protection requirements of the Act and the New Jersey Department of Environmental Protection (NJDEP) regulations will combine to largely protect these natural systems and resources in the Preservation Area, the overall protection of these features in the Highlands Area will depend upon the voluntary adoption of the Plan by those communities that lie within the Planning Area.

### **PLAN CONFORMANCE PROCESS**

Plan Conformance Guidelines have been developed by the Council as part of the Regional Master Plan. The guidelines address the specific requirements of the Highlands Act and goals of the Regional Master Plan and provide a framework for the review and approval of municipal and county Petitions for Plan Conformance. In the development of these guidelines, the Council has sought to learn from the conformance processes of other regional planning entities and the State Planning Commission's State Plan Endorsement Process.

Public input is a vital aspect of the conformance process. Numerous opportunities for public input will be provided so that local officials, Council members, and all interested parties may engage in a public discourse that will help shape the actions of the local government seeking to conform to the Regional Master Plan and the Council's consideration of any petition for conformance. Accordingly, the Plan Conformance Guidelines are designed to provide numerous opportunities for public hearings at the local, county, and or regional level, as appropriate, to help ensure that decisions about the development and implementation of conforming master plans and development requirements are subject to scrutiny by the public.

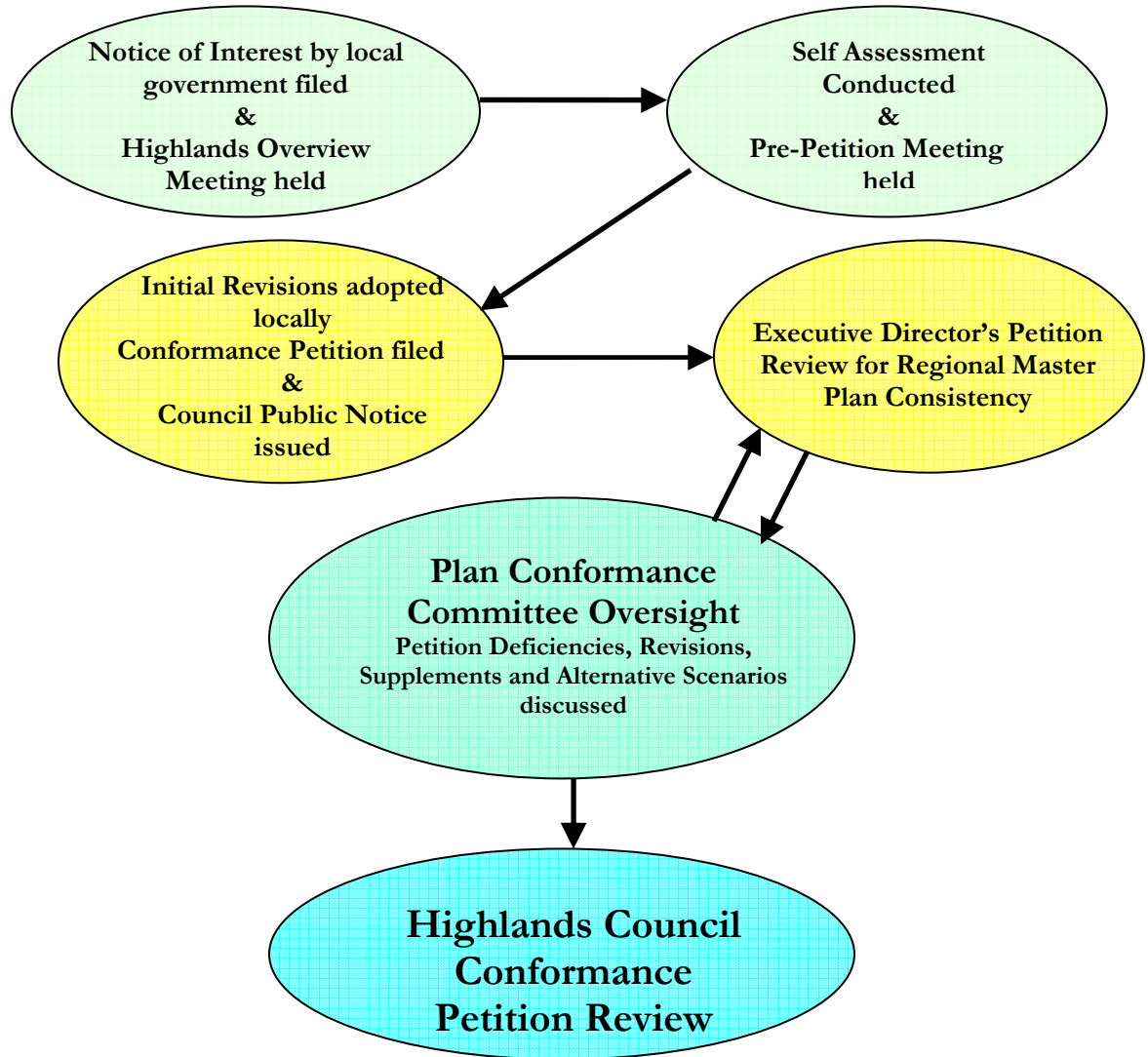
To structure the process and ensure that the time-sensitive requirements of the Act are met, the Highlands Council will issue a Plan Conformance Schedule. The schedule will be based upon a consideration of the extent to which municipalities and counties lie in the Preservation Area, the physical nature of those lands in the Preservation Area, the existing master plan and development regulations of the local government, the expressed willingness of the local government to conform in a timely manner, and the need to properly use the Council's allocated funding and resources. The Council will update this schedule as necessary to manage the process to ensure timely consideration and action on the petitions for conformance. The Plan Conformance Schedule will be updated to include municipalities and counties as necessary to address voluntary Plan Conformance petitions for Planning Area lands. The Council may modify the schedule to provide for priority review of a petition, particularly in order to ensure protection of critical Highlands resources.

After final adoption of the Regional Master Plan by the Highlands Council and the establishment of the Plan Conformance Schedule, the Plan Conformance Process can start for a local government. The first step in the process begins when a municipality or county governing body adopts and submits a Notice of Interest to the Council. The notice demonstrates the local government's interest in finding out about how the Conformance Process will proceed and what will be expected from them to realign their master plan and development regulations to conform to the Regional Master Plan. Upon notice to the Council, the Executive Director will arrange for a Highlands Overview Meeting with the local government. The purpose of this meeting is to provide an overview of the Regional Master Plan and the process for Plan Conformance. The overview will be primarily educational in nature and is intended to cover the tasks and products that the local government unit will need to complete during Plan Conformance. During the meeting, Council staff will provide an explanation of the goals, requirements, and provisions of the Regional Master Plan, a description of the range of changes anticipated to be needed to the local master plan and development requirements to gain conformance, the provisions to obtain grant funding and technical assistance from the Council to make the changes, and a Preliminary Conformance Analysis. This land use planning analysis will include a summary of

planning and technical information developed in the Regional Master Plan that relates specifically to the municipality or county, an analysis of how the local planning and zoning may conflict with or already be consistent with the Regional Master Plan, and an individualized Implementation Schedule setting forth a preliminary schedule for Plan Conformance.

At the Highlands Overview Meeting, Council staff will strongly encourage local governments seeking to conform to also take the opportunity to conduct a Municipal Assessment and allow community input prior to filing a petition. A Municipal Assessment will provide an initial opportunity for citizens and local officials to openly exchange ideas about matters of local importance that need to be addressed during conformance. Understanding the concerns of the community, prior to beginning the revisions and changes to the local government's planning and zoning documents, is fundamental to developing a conforming petition that has local support, which is vital to successful implementation of the Regional Master Plan.

## Conformance Process



After the Highlands Overview Meeting and a Municipal Assessment, when a local government unit decides to seek conformance with the Regional Master Plan, it will need to request a Pre-Petition Meeting with the Executive Director and Council staff. The purpose of the meeting is to review the major local conformance issues discovered through the Municipal Assessment and discuss the specific tasks, plan revisions, and other activities that the Council anticipates must be undertaken by the local government unit to present a complete petition to the Council for conformance review in accordance with the requirements of the Act.

During the Conformance Process, Council staff will assist local governments to develop petitions which meet the requirements of the Plan and that recognize the unique conditions of each local jurisdiction. Some communities seeking to conform will need to make fundamental changes to their master plan and develop new master plan elements to demonstrate conformance with the Regional Master Plan, while others may find that revisions and updates to their existing master plan and elements are all that is necessary to demonstrate conformance with the Regional Master Plan. In all jurisdictions seeking to conform to the Regional Master Plan, however, changes will need to be made to the procedures and standards that the local government uses

to oversee and regulate land uses and development. The changes and new regulatory processes that any jurisdiction seeking to conform must make and implement will be tailored by the Council to reflect the local conditions and the nature of the lands and waters within their jurisdiction. The Council's Plan Conformance Guidelines establish a listing of Petition filing requirements for local governments seeking to demonstrate conformance with the Regional Master Plan. The Executive Director shall have the ability to recommend that the Council waive specific petition requirements where local circumstances warrant and the required item is not necessary to demonstrate conformance with the Plan.

To start the process, the Council will provide the petitioning local government unit with specific information developed for the Regional Master Plan that relates to their jurisdiction and will need to check this information against their own records and supplement it where needed to make sure that it is accurate. Information that the Council will provide to a local government for review and incorporation into their petition includes a Highlands Resource Inventory, a build-out of the local jurisdiction based upon the Highlands Regional Master Plan, and a preliminary Infrastructure Capacity Analysis. The Council expects that each jurisdiction seeking to conform will use these sources of information to help develop a new or revised master plan, supporting information, and development review procedures that conform to the Regional Master Plan. In addition to master plan elements dealing with Land Use, Conservation, and Housing, other plans that may be needed for a municipality to complete a petition for Council conformance review include:

- a Circulation Plan that presents a local strategy for all forms of transportation;
- a Utility Service Plan that shows how existing and proposed development will be provided with adequate infrastructure;
- a Recreation and Open Space plan that details a local government's plans for ensuring adequate recreational opportunities for all its residents and a strategy for acquisition and management of public open spaces;
- a Farmland Preservation Plan that identifies strategies to ensure that farming remains a viable and sustainable industry and directs focus on key areas within a local jurisdiction where the protection of farmland through acquisition or easements is to be pursued; and
- a Historic and Cultural Preservation Plan that identifies significant historic and cultural sites and strategies for their preservation, protection and adaptive re-use.

A petition may also provide information about any adjustments and revisions of the Regional Master Plan that are sought by a municipality. Adjustments and revisions may be made by the Council during the conformance process where new information is presented by the petitioner that changes the underlying assumptions about conditions present in the municipality that were considered by the Council during the development of the Plan and Map. In other words, a municipality seeking to conform may present new information about areas or sites in their jurisdiction that have particular circumstances that suggest that the Highlands Council reconsider the Land Use Capability designation on the Map or issues in the Regional Master Plan. A good example, given the fact that the Land Use Capability Map was developed using photographic mapping from 2002, might be where a large development was built in an environmentally sensitive area after 2002. In this instance, the new information would reveal that in spite of the fact the site had sensitive features, it no longer is accurate to designate the area as a Protection Zone or Conservation Zone. Adjustments and revisions made during the conformance process will help ensure that the Regional Master Plan considers the most up to date information and that the Land Use Capability Map recognizes the current conditions within a conforming municipality.

When filing a petition for conformance, a local government will need to take actions that collectively prevent new development that does not reflect the Regional Master Plan requirements from gaining local land use approvals during the time that the conformance petition is under review by the Executive Director (in the case of plan conformance guidance and review, references to the Executive Director shall include any member of the Highlands Council Staff appointed by the Executive Director to carry out a related task) or the Council. The Council refers to these actions as Initial Revisions because they represent the first actions that a local government takes to move toward conformance with the Regional Master Plan. These actions include:

- the adoption by the Planning Board of the Regional Master Plan as a supplement to the local master plan and a recognition that the requirements of the Regional Master Plan override the Land Use, Conservation, and Utility Service elements of the local master plan during review of the conformance petition by the Executive Director and Council;
- the adoption by ordinance of a Development Review checklist that stipulates what information is required to be submitted before a local land use board may find an application complete for review and action;
- the adoption by ordinance of a Development Review checklist requirement for a Highlands Consistency Statement issued by the Council for any development proposal subject to the jurisdiction of the Regional Master Plan; and
- the adoption of an ordinance which provides that unless a development is exempt from the requirements of the Act, no application for development in the Preservation and the Planning Area, if a local government so chooses, may gain approval if the Council finds it to not be consistent with the Regional Master Plan.

In addition to the plans, maps and documents needed to be filed with the Council as part of a conformance petition, a local government unit shall demonstrate that the Initial Revisions have been implemented before the Executive Director starts review of the petition.

A petition for conformance will initially undergo a review by the Council's Executive Director to determine if the submission adequately reflects the requirements of the Regional Master Plan and contains enough information for the Council to conduct its conformance review in accordance with requirements of the Act. During the Executive Director's review, Council staff will work closely with local officials and their professional staff to develop a new, revised, or updated master plan and supporting plan elements, a new Zoning Map, and local procedures and requirements for development review that conform to the Regional Master Plan. The Council has sought to develop a conformance process that is structured to allow enough time for local visioning and discussions about important issues or conflict resolution to occur while local governments work to complete their petition. The Council's Plan Conformance Committee will monitor the Executive Director's petition review process, provide policy guidance, and decide when a local government's petition is ready for Highlands Council conformance review. The Council intends that the local development of a conforming master plan and the review of the petition will provide several venues for public review, input, and comments on the specific components of a petition before any final review by the Highlands Council.

When the Executive Director completes review of the local government's conformance petition, a report will be prepared with conclusions about the petition and recommendations to the Plan Conformance Committee concerning whether or not a petition conforms to the Regional Master Plan and is complete for Highlands Council review. The Plan Conformance Committee will consider the Executive Director's findings and

recommendations concerning a petition and will decide by consensus whether to accept, modify, or take other action as appropriate. In the end, the Council will ultimately take action upon every conformance petition before it and decide whether it meets the requirements of the Regional Master Plan and intent of the Act.

## **HIGHLANDS REGIONAL MASTER PLAN PLAN CONFORMANCE GUIDELINES**

### **I. PLAN CONFORMANCE OVERVIEW**

#### **PURPOSE AND SCOPE OF THE PLAN CONFORMANCE PROCESS**

- (a) The purpose of the Plan Conformance process is to provide a framework that supports the efforts of municipalities and counties in the Highlands Region to bring master plans and development regulations into conformance with the Regional Master Plan.
- (b) All activities undertaken by the Highlands Council or Highlands municipalities and counties to bring master plans and development regulations into conformance with the Regional Master Plan are considered to be within the scope of Plan Conformance.
- (c) Plan Conformance shall be guided by a principle to provide for the maximum feasible local government and public input into the process of Plan Conformance.
- (d) The Highlands Council intends to ensure that Plan Conformance will address local circumstances which the Highlands Council could not anticipate during the development of the Regional Master Plan. The Highlands Council recognizes that the Regional Master Plan was created at a regional scale and that new or additional information available at the county, municipal, or public level may be utilized during Plan Conformance and may be utilized to periodically revise these Plan Conformance Guidelines and issue Plan Conformance Guidance Manuals after an opportunity for public hearing and public comment.

#### **CONSTRUCTION OF PLAN CONFORMANCE GUIDELINES**

- (a) Nothing in these Plan Conformance Guidelines shall be construed to limit the authority of a municipality or county to adopt revisions to its master plan, development regulations, or other regulations for the purposes of Plan Conformance that are stricter, as determined by the Highlands Council, than the minimum necessary to obtain approval of conformance with the Regional Master Plan.
- (b) These Plan Conformance Guidelines should be liberally construed to conform with the State's obligation to stringently safeguard the State's public trust resources and "should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the region and the entire State." (N.J.S.A. 13:20-2.)
- (c) These Plan Conformance Guidelines shall not be construed to limit, alter or eliminate the requirements of any other applicable Federal, State, or local laws, rules, regulations, codes or ordinances.
- (d) If any section, part, phrase, or provision of these Plan Conformance Guidelines or the application thereof to any person is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase, provision, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the validity of the remainder of these Plan Conformance Guidelines or the application thereof to other persons.

## **PLAN CONFORMANCE MEETINGS AND PUBLIC INPUT**

- (a) In order for Plan Conformance to be timely and successful, it is essential that there are numerous opportunities for an open public dialogue between the Highlands Council, Council committees, local government officials and their professionals, stakeholders, and interested citizens.
- (b) To ensure that there will be adequate time for public discourse concerning the Plan Conformance process and any Petition for Plan Conformance, the Highlands Council may hold meetings of the Plan Conformance Committee, to be formed by the Council, as necessary to provide advice and recommendations to the petitioners and to Council staff concerning pending Petitions for Plan Conformance. At Plan Conformance Committee meetings, Highlands Council staff and representatives of Highlands municipalities and counties will present Plan Conformance issues and draft planning documents for consideration. Plan Conformance Committee meetings are deliberative forums that will be open to the public.
- (c) During Plan Conformance, Highlands municipalities and counties may also hold deliberative meetings and legislative sessions, which shall be open to the public under the requirements of the Open Public Meetings Act. The Highlands Council intends to support many opportunities for public input about any needed changes in local planning, zoning, and development review procedures developed by Highlands municipalities and counties.
- (d) Any statements or recommendations made by any representative of the Highlands Council in the context of Plan Conformance shall be considered non-binding and shall confer no legal rights and only the Highlands Council may take final action on a Petition for Plan Conformance.
- (e) Notice of Plan Conformance issues before the Highlands Council including the submission of Petition for Plan Conformance, Council Committee meetings, and public hearings on Petitions shall be provided to those interested persons and organizations having registered with the Highlands Council on the Council's website.

## **PLAN CONFORMANCE SCHEDULE**

- (a) After the adoption of the Regional Master Plan, the Council shall issue a Plan Conformance Schedule that lists the municipalities and counties with lands within the Preservation Area and sets a date by which such local governments must submit a Petition for Plan Conformance. A copy of the Plan Conformance Schedule shall be provided to each county and municipal clerk in the Highlands Region, and made available to the public by the Highlands Council.
- (b) The Plan Conformance Schedule shall ensure that within nine (9) to fifteen (15) months after the date of adoption of the Regional Master Plan or any revision thereof, each municipality and county located wholly or partially in the Preservation Area shall submit to the Highlands Council a Petition for Plan Conformance.
- (c) The Highlands Council shall develop the Plan Conformance Schedule in consideration of the relationship of that local government to lands in the Preservation Area, the extent to which the local government's existing or proposed master plan and development regulations appear to conform with the Regional Master Plan, the expressed willingness to conform to the Regional Master Plan in a timely manner, and the efficient, orderly, and effective use of available funding and resources.
- (d) The Highlands Council may periodically alter and update the Plan Conformance Schedule or provide specific notice to municipalities and counties to:

1. Alter the time provided to a local government in the Preservation Area to submit a Petition for Plan Conformance;
2. Update the schedule to address voluntary Plan Conformance for Planning Area lands;
3. Provide for the priority review of any Petition as determined by the Highlands Council; and
4. Establish the time provided to a local government to submit a Petition for Amended Plan Conformance.

#### **BENEFITS OF PLAN CONFORMANCE**

- (a) In order to achieve a regional approach to land use planning and a coordinated method for the protection and enhancement of the significant values of the resources in the Highlands Region, the Highlands Act provides benefits which are available to counties and municipalities that come into conformance with the Regional Master Plan.
- (b) Of the 88 municipalities in the Highlands Region, 5 are entirely in the Preservation Area, 36 are entirely in the Planning Area, and the remaining 47 municipalities have lands in both areas. Preservation Area municipalities and counties that are required to come into conformance and Planning Area municipalities which may voluntarily come into conformance with the Regional Master Plan are eligible for certain benefits under the Highlands Act as specified below.
- (c) **Planning Grants and Technical Assistance.** The Highlands Council shall make grant funds and other financial and technical assistance available to Highlands municipalities and counties for any revision of their master plans, development regulations, or other regulations which is designed to bring those plans or regulations into conformance with the Regional Master Plan or for the implementation of a transfer of development rights program pursuant to the Highlands Act. Plan Conformance grants shall be awarded to municipalities and counties through the approval of a Resolution by the Highlands Council.
- (d) **State Aid for Smart Growth shall include the following:**
  1. Highlands municipalities and counties whose master plan and associated regulations have been approved by the Highlands Council as being in conformance with the Regional Master Plan shall qualify for all State aid, planning assistance, technical assistance, and other benefits and incentives that may be awarded or provided by the State to municipalities and counties which have received Plan Endorsement by the State Planning Commission or which otherwise practice or implement smart growth strategies and principles. Any such municipality or county shall also qualify for any State aid that may be provided for smart growth projects.
  2. During the Plan Conformance process, any municipality or county that commits to conformance with the Regional Master Plan may include in its Petition for Plan Conformance a listing of priority projects or other matters that are fundamental to the provision, improvement, enhancement, or restoration of infrastructure, public facilities, or other matter that may require the funding, implementation, or active participation of a State agency. The Highlands Council shall act to coordinate such matters with the appropriate State agency, where such action is consistent with the Regional Master Plan, to gain agreements with the appropriate State agency to facilitate, approve, fund, or take other actions necessary to implement the matter of local priority.
- (e) **Transfer of Development Rights - Impact Fees and Enhanced Planning Grants.** Any municipality whose municipal master plan and development regulations have been approved by the Highlands Council

as being in conformance with the Regional Master Plan and that amends its development regulations to accommodate voluntary receiving zones within its boundaries and provide for a minimum residential density of five dwelling units per acre, will be eligible for the following in accordance with the specific provisions of Section 13 of the Highlands Act:

1. An enhanced planning grant of up to \$250,000;
  2. A grant to reimburse the reasonable costs of amending the municipal development regulations;
  3. The authority to impose impact fees;
  4. The entitlement to legal representation;
  5. Accorded priority status in the Highlands Region for any State capital or infrastructure programs; and
  6. Eligible for any other appropriate assistance, incentives, or benefits provided pursuant to Section 18 of the Highlands Act.
- (f) **Tax Stabilization Funds.** Every qualified municipality shall be eligible for a distribution from the Highlands Municipal Property Tax Stabilization Fund pursuant to the Highlands Act. After the adoption of the Regional Master Plan, a qualified municipality shall mean only a municipality that has conformed its municipal master plan and development regulations to the Regional Master Plan. Distributions from the Highlands Municipal Property Tax Stabilization Fund shall be made by the Highlands Municipal Property Tax Stabilization Board.
- (g) **Legal Representation.** The Highlands Council shall provide legal representation to any requesting local government unit located in the Highlands Region in any cause of action filed against the local government unit and contesting an act or decision of the local government unit taken or made under authority granted pursuant to the Municipal Land Use Law, the State Uniform Construction Code Act, or the Highlands Act, provided that:
1. The municipal or county master plan and associated regulations have been approved by the Highlands Council to be in conformance with the Regional Master Plan;
  2. The Highlands Council determines that the act or decision of the local government unit which is the subject of the cause of action is consistent with the Regional Master Plan; and
  3. The act or decision of the local government unit that is the subject of the cause of action involves an application for development that provides for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more.
- (h) **Strong Presumption of Validity, Extraordinary Deference, and Burden of Proof.** The master plan and development regulations of any municipality and the county master plan and associated regulations of any county which have been approved by the Highlands Council to be in conformance with the Regional Master Plan shall be entitled to a strong presumption of validity. In any cause of action filed against such a local government unit and contesting an act or decision of the local government unit taken or made under authority granted pursuant to the Municipal Land Use Law, the State Uniform Construction Code Act, or the Highlands Act, the court shall give extraordinary deference to the local government unit, provided that the municipal or county master plan and associated regulations have been approved by the Highlands Council to be in conformance with the Regional Master Plan. The plaintiff

shall have the burden of proof to demonstrate by clear and convincing evidence that the act or decision of any such local government unit was arbitrary, capricious, or unreasonable or in patent abuse of discretion.

- (i) **Plan Conformance deemed equivalent to State Plan Endorsement.** Any municipality or county or portion thereof located in the Preservation Area shall be exempt from the plan endorsement process established in the rules and regulations adopted by the State Planning Commission. Upon the State Planning Commission endorsing the Regional Master Plan adopted by the Highlands Council, any municipal master plan and development regulations or county master plan and associated regulations that are approved by the Highlands Council shall be deemed the equivalent of having those plans endorsed by the State Planning Commission.

## **II. PLAN CONFORMANCE FOR HIGHLANDS MUNICIPALITIES AND COUNTIES**

### **REQUIRED CONFORMANCE IN THE PRESERVATION AREA**

- (a) As specified in the Plan Conformance Schedule, each county and each municipality located wholly or partially in the Preservation Area shall submit to the Highlands Council a Petition for Plan Conformance.
- (b) A Petition for Plan Conformance shall include proposed revisions of the county or municipal master plan and development regulations, as applicable to the development and use of land in the Preservation Area, as may be necessary in order to conform them with the goals, requirements, and provisions of the Regional Master Plan.

### **VOLUNTARY CONFORMANCE IN THE PLANNING AREA**

- (a) At any time after the completion of a Highlands Overview Meeting, a county or municipality may submit to the Highlands Council a Petition for Plan Conformance for that portion of a county or a municipality lying within the Planning Area.
- (b) A Petition for Plan Conformance shall include proposed revisions of the county or municipal master plan and development regulations, as applicable to the development and use of land in the Planning Area, as may be necessary in order to conform them to the goals, requirements, and provisions of the Regional Master Plan.
- (c) The Highlands Council may give priority review of:
  - 1. Any Petition of a county or the 47 municipalities with lands in both the Preservation Area and Planning Area where the Petition seeks complete county or municipal Plan Conformance; or
  - 2. Any voluntary Petition where the Highlands Council determines there is good cause for priority review based upon the demonstrated need to protect and enhance Highlands Resources consistent with the goals of the Regional Master Plan.

### **NOTICE OF INTEREST TO SEEK PLAN CONFORMANCE**

- (a) Prior to submitting a Petition for Plan Conformance, a county or a municipality shall provide a Notice of Interest to the Highlands Council expressing the interest of the governing body to submit a Petition for Plan Conformance.
- (b) In order for the Highlands Council to properly allocate its planning and technical resources, each county

and each municipality located wholly or partially in the Preservation Area is strongly encouraged to submit a Notice of Interest to the Highlands Council as soon as possible after the adoption of the Regional Master Plan but in any case no later than 60 days prior the deadline for the submission of a Petition for Plan Conformance as established for that county or municipality in the Plan Conformance Schedule.

- (c) A Notice of Interest shall be in the form of a resolution passed by the governing body which expressly states the interest of the county or municipal government body to submit a Petition for Plan Conformance.
- (d) For lands in the Planning Area, a Notice of Interest shall not obligate a county or a municipality to undertake the Plan Conformance process but simply indicate the willingness of the county or municipality to consider the filing a Petition for Plan Conformance and the desire to hold a Highlands Overview Meeting.

### **HIGHLANDS OVERVIEW MEETING**

- (a) After the receipt of a Notice of Interest, the Highlands Council shall schedule a public meeting in cooperation with the county or municipality at a time and a location chosen to maximize the attendance at the meeting by the county or municipality's elected officials, appointed officials from county or municipal land use boards and commissions, professional staff, professional consultants, utilities entities, as well as all interested citizens.
- (b) The purpose of the Highlands Overview Meeting is to provide an overview of the Regional Master Plan and the process for Plan Conformance. The overview will be primarily educational and is intended to cover the tasks and products that will generally need to be completed by a county or a municipal government during Plan Conformance, and an explanation of the goals, requirements and provisions of the Regional Master Plan.
- (c) Public notice of the Highlands Overview Meeting shall be published by a county or a municipality in accordance with the Open Public Meetings Act. Public notice may also be posted through electronic media, local access channels and local radio. The county or municipality shall prepare minutes of the Highlands Overview Meeting and will make them available to the public.
- (d) The Highlands Council shall provide the county or the municipality with a Preliminary Conformance Analysis. This analysis shall include a summary of planning and technical information, including scientific, GIS, and planning information prepared by the Highlands Council, developed in the Regional Master Plan relating to the county or the municipality, a review of grants funds and technical assistance available to assist Plan Conformance, and a proposed individualized Implementation Schedule setting forth a preliminary schedule for Plan Conformance.

### **MUNICIPAL ASSESSMENT**

- (a) A municipality seeking to enter the Plan Conformance process may conduct a municipal assessment to solicit public input on the planning vision of the community. This assessment will allow the municipality to reflect upon the information gained through the Highlands Overview Meeting and the Pre-Petition Meeting.
- (b) A municipality seeking to enter the Plan Conformance process may complete a municipal self assessment as follows:

1. Hold a public hearing to solicit public input on the planning vision of the community at a time and a location chosen to maximize the attendance at the meeting by the municipality's elected officials, appointed officials from municipalities lands use boards and commissions, professional staff, professional consultants, utilities entities, as well as all interested citizens.

2. Public notice of the public hearing shall be published by the municipality in accordance with the Open Public Meetings Act. Public notice may also be posted through electronic media, local access channels and local radio. The municipality shall prepare minutes of the public hearing and attach copies of a written comments received and submit these documents to the Highlands Council.

### **PRE-PETITION MEETING**

- (a) The Plan Conformance process will vary based on the existing state of municipal and county plans and development regulations and the necessary revisions to these plans and regulations required to ensure conformance with the Regional Master Plan. A Pre-Petition Meeting with the Highlands Council staff will provide a mechanism to address the varying extent of revisions required for Plan Conformance.
- (b) At any time after the completion of the Highlands Overview Meeting and after the completion of a Municipal Assessment, if conducted, a municipality or county seeking to enter the Plan Conformance process may request that the Highlands Council schedule a Pre-Petition Meeting with the Highlands Council staff.
- (c) A municipality or county seeking a Pre-Petition Meeting shall prepare a preliminary municipal or county assessment report to identify the major planning items for the meeting.

### **DOCUMENTS REQUIRED FOR PETITION COMPLETENESS**

- (a) A Petition for Plan Conformance shall include a comprehensive package of planning and implementation documents. The Petition shall include two hard copies of all documents and an electronic version of all documents. These documents shall address all issues specifically identified in the Regional Master Plan as a required element of Plan Conformance. In addition, the documents may address all issues specifically identified in the Regional Master Plan as a discretionary element of Plan Conformance. These documents shall be internally consistent and shall demonstrate conformance with the Regional Master Plan.
- (b) A Petition for Plan Conformance shall include a certified resolution of the governing body seeking Plan Conformance and a completed Plan Conformance Application form, as prepared by the Highlands Council, which is signed by the duly authorized representative identified in the resolution.
- (c) For each of documents listed in (e) below a petition shall include a copy of the existing adopted version. Where there is an existing adopted version of the document, the Petition shall include a narrative summary of the necessary revisions in order to conform the documents with the goals, requirements, and provisions of the Regional Master Plan.
- (d) For each document listed in (e) below, where there is not an existing adopted version, the Petition shall include a detailed narrative summary of the specific steps that shall be taken to create a document to conform with the goals, requirements, and provisions of the Regional Master Plan.

(e) The following documents must be developed, updated, or revised as needed to reflect the requirements of the Highlands Regional Master Plan prior to the review of a petition by the Highlands Council for Plan Conformance:

1. A statement from the local government regarding the areas of coincidence and conflict with Highlands Build-out Analysis prepared by the Highlands Council based upon the Regional Master Plan and Land Use Capability Map and any adjustments or revisions to the Plan or Land Use Capability Map sought by the petitioning local government ;

2. A Highlands Infrastructure Capacity Analysis based upon information developed by the Highlands Council and a petitioning local government that provides an overview of the current status of infrastructure and that identifies any projected infrastructure necessary to implement the conforming land use scenario presented in the petition;

3. A Highlands Resource Inventory prepared by the Highlands Council and supplemented by information from the petitioning local government;

4. For petitioning counties, a county master plan, including the following elements

- i. Statement of objectives, principles, assumptions, policies and standards
- ii. Plans for Areas of Growth and Conservation
- iii. County Infrastructure Capital Plan
- iv. County Circulation Plan Element and Official Map
- v. County Facilities Plan Element
- vi. Recreation and Open Space Plan Element
- vii. Historic and Cultural Sites Preservation Plan Element
- viii. Recycling Plan Element
- ix. Farmland Preservation Plan Element

5. Development Review and Site Plan and Subdivision Regulations;

6. County Stormwater Management Plan;

7. County Road Access Plan, standards or guidelines;

8. For petitioning municipalities, a municipal master plan, including the following elements and associated management plans:

- i. Statement of objectives, principles, assumptions, policies and standards
- ii. Land Use Plan Element
- iii. Conservation Plan Element
- iv. Housing Plan Element
- v. Circulation Plan Element
- vi. Utility Service Plan Element
- vii. Recreation and Open Space Plan Element
- viii. Historic and Cultural Preservation Plan Element
- ix. Farmland Preservation Plan Element
- x. Community Facility Plan Element
- xi. Economic Plan Element

9. An Official Map;

10. Zoning Schedule and Zoning Map;

11. Development Review and Site Plan and Subdivision Regulations; and
  12. Specific Policy Statements.
- (f) The following documents are discretionary elements for Plan Conformance that may be submitted by a petitioning county or municipality:
1. Recycling Plan Element;
  2. Development Transfer Plan Element;
  3. Capital Improvement Program;
  4. Long-term capital programs of the local and/or regional school districts; and
  5. A listing of priority projects or other matters that are fundamental to the provision, improvement, enhancement, or restoration of infrastructure, public facilities, or other matter that may require the funding, implementation or active participation of a State Agency.
- (g) The application shall include draft revisions of the existing master plan and development regulations addressing the Initial Revisions, as set forth below, required for Plan Conformance. Initial Revisions are those revisions of the existing master plan and development regulations which are deemed necessary by the Highlands Council for prompt enactment by a petitioning local government in order to ensure the protection and enhancement of the resources of the Highlands Region during the time that a petition is undergoing Conformance Review. In addition to the required Initial Revisions set forth below, a county or a municipality may include additional draft revisions as Initial Revisions for review by the Highlands Council. Unless specifically identified by the Highlands Council, the approval of Initial Revisions shall not constitute approval for the purposes of Section 17.c. of the Highlands Act.
- (h) A Petition for Plan Conformance may include a listing of any proposed adjustments and revisions to the Regional Master Plan supported by a local government and shall include an analysis of the specific information relied upon to support such adjustments and revisions. If a petitioning county or municipality is not seeking any adjustments and revisions to the Regional Master Plan, it shall note this fact in the Petition submission.
- (i) A Petition for Plan Conformance shall include a draft Implementation Schedule which includes a detailed schedule of the tasks identified in the Petition to bring the comprehensive package of planning and implementation documents into conformance with the Regional Master Plan.
- (j) The Highlands Council may waive the submission of an item required for petition completeness upon the recommendation of the Executive Director. The Executive Director may recommend that the Council waive an item required for petition completeness only where a petitioning local government demonstrates that the particular circumstances or conditions of the jurisdiction do not warrant the development of a new or revised item that is otherwise required for petition completeness in order to demonstrate conformance with the Highlands Regional Master Plan.

#### **INITIAL REVISIONS**

- (a) A Petition shall include draft revisions of the existing master plan and development regulations addressing the following Initial Revisions.

- (b) A municipality or county seeking to enter the Plan Conformance process shall adopt the Highlands Regional Master Plan as a supplement to the existing master plan for all lands within the Preservation Area and for all lands within the Planning Area, if included in the Petition. In this manner, the Regional Master Plan will supplement the municipal master plan until such time as the municipal or county master plan has been further revised or updated as needed to be in conformance with the Regional Master Plan.
- (c) A municipality seeking to enter the Plan Conformance process shall adopt the Land Use Capability Map and the relevant provisions Regional Master Plan as an overlay zoning district that supplements the existing zoning ordinance for all lands within the Preservation Area and for all lands within Planning Area, if included in the Petition. In this manner, the Land Use Capability Map will act as a supplemental overlay district to the existing Zoning Map until such time as the municipal Zoning Map has been further revised or updated as needed to be in conformance with the Regional Master Plan.
- (d) A municipality or county seeking to enter the Plan Conformance process shall revise the municipal or county development review ordinance to require the provision of notice by the applicant to the Highlands Council for all applications for development for all lands with in the Preservation Area and for all lands with in the Planning Area, if included in the Petition and the provision of notice to the Council by the local government of any formal action on the application. In addition, a petitioning local government must adopt a new or revise an existing development review completeness checklist ordinance to include provisions that shall specify what items are required to complete an application for review by any local board with jurisdiction and stipulate that any application for development shall not be considered complete for review until such time as at least the following documents, as appropriate, are submitted by the applicant:
  - 1. For projects that are exempt from the requirements of the Highlands Act, either:
    - a. In the Preservation Area, A Highlands Preservation Area Regulatory Requirement Applicability Determination issued pursuant to N.J.A.C. 7:38-2.3 by NJDEP, or
    - b. In the Planning Area, within a conforming jurisdiction, a Highlands Planning Area Exemption Determination issued pursuant to N.J.S.A. 13:30-28 by the Highlands Council, and
    - c. A Letter of Interpretation or Letter of Exemption issued by the New Jersey Department of Environmental Protection pursuant to the requirements of the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A indicating the absence of freshwater wetlands, indicating the presence and verifying the delineation of the boundaries of freshwater wetlands, or indicating that the project or proposed activities to be conducted are exempt from the Freshwater Wetlands Protection Act regulations.
  - 2. For projects in the Preservation and or Planning Area, where a project or proposed activity has not been determined to be exempt,
    - a. For applications for development in the Preservation Area, a Highlands Preservation Area Approval issued by NJDEP pursuant to the Highlands Water Protection and Planning Act rules at N.J.A.C. 7:38-~~et seq.~~, and
    - b. A Highlands Development Requirements Determination issued by the Highlands Council which shall enumerate the substantive issues relating to the project and site that must be addressed to demonstrate consistency with the Regional Master Plan and conforming local ordinances, and

- c. A Highlands Consistency Statement issued by the Highlands Council which shall provide an analysis of the proposed activity and a statement by the Executive Director of the Council as the consistency of the of the project with the Regional Master Plan, and
  - d. A Letter of Interpretation or Letter of Exemption issued by the New Jersey Department of Environmental Protection pursuant to the requirements of the Freshwater Wetlands Protection Act regulations at N.J.A.C. 7:7A indicating the absence of freshwater wetlands, indicating the presence and verifying the delineation of the boundaries of freshwater wetlands, or indicating that the project or proposed activities to be conducted are exempt from the Freshwater Wetlands Protection Act regulations.
- (e) A municipality or county seeking to enter the Plan Conformance process shall adopt an ordinance specifying that where a Highlands Consistency Statement finds that a project is not consistent with the Regional Master Plan, no application for development may be approved by a local board, commission or agency unless the applicant provides plans and other documentation as necessary which demonstrates to the satisfaction of the Highlands Council that all aspects of the project deemed to not be consistent with the Regional Master Plan have been revised to be consistent with the Plan. The ordinance shall include a provision that recognizes that if a dispute arise with regard to the pre-established local standards or implementation of local regulations and the minimum standards of Regional Master Plan, the minimum standards of the Regional Master Plan will govern where more stringent.

#### **REGIONAL MASTER PLAN CONFORMANCE GUIDANCE MANUALS**

- (a) The Highlands Council may issue Regional Master Plan Conformance Guidance Manuals, after an opportunity for public hearing and public comment, which may provide additional guidance on the required and discretionary elements of Plan Conformance.
- (b) The Regional Master Plan Conformance Guidance Manuals issued by the Highlands Council may address Plan Conformance elements, including but not limited to:
  1. Model analyses and guidance on the preparation of a Highlands Zoning Build-out Analysis and a Highlands Infrastructure Capacity Analysis;
  2. Model resources inventories and guidance on the preparation of a Highlands Resource Inventory;
  3. Model elements and guidance on the preparation of required and discretionary elements of a revised master plan; and
  4. Model land use ordinances and other development regulations and guidance on the preparation of these regulations.

#### **NOTICE OF A PETITION AND REVIEW OF PETITIONS**

- (a) Within ten (10) days of receipt of a Petition for Plan Conformance, the Executive Director shall provide public notice of receipt of the Petition on the Highlands Council's website and, as soon as feasible thereafter, regularly update the website to include appropriate Petition materials.
- (b) The Executive Director shall inform the petitioner in writing in the event that the Petition is deemed administratively incomplete, due to missing or not properly completed requirements, and the letter shall specify the deficiencies and the timeframe required to correct the deficiencies.

- (c) Where a Petition for Conformance is determined to be administratively complete, the Executive Director shall undertake a review of the petition to determine whether or not the submission adequately and comprehensively addresses the requirements of the Regional Master Plan. During the course of this review, the Executive Director shall periodically provide updates the Plan Conformance Committee as to the status of any petition under review. The Executive Director may seek guidance from the Plan Conformance Committee relative to any conformance issue raised by a petition at any time during this review.
- (d) After completing a review of a petition for conformance, the Executive Director shall prepare a report to the Plan Conformance Committee, or where appropriate directly to the Highlands Council, making recommendations regarding one or more of the following actions:
  - 1. The approval of the Petition as administratively complete subject to any conditions that additional information shall be submitted by the petitioner where necessary to clarify, complete or modify a Petition with the overall goal of developing a conforming Petition;
  - 2. The waiver of the submission of an item required for the administrative completeness of a Petition where a petitioning municipality or county demonstrates that the particular circumstances or conditions of the municipality or county do not warrant the development of a new or revised item otherwise required for administrative completeness;
  - 3. The approval, rejection, or approval with conditions any revisions to the master plan or development regulations that have been submitted in the Petition for Plan Conformance;
  - 4. Where the Executive Director conditionally recommends the approval of a Petition for Plan Conformance, such recommendation shall include a local implementation schedule that specifies a date certain by which any conditions must be satisfied; and/or
  - 5. Where the Executive Director conditionally recommends the approval of a Petition for Plan Conformance, the recommendation shall specify which benefits, including planning grants and technical assistance, may be made available to the petitioner and the conditions required to be fulfilled to receive such benefits.
- (e) While undertaking a review of a Petition involving lands in the Planning Area, the Executive Director of the Highlands Council shall consult with and solicit comments from the State Planning Commission relative to the petition for any lands in the Planning Area.
- (f) Where the Plan Conformance Committee reviews the Executive Director's report, the Executive Director shall make any necessary changes to the report required by the Plan Conformance Committee prior to submitting the final report to the Highlands Council.

**PUBLIC HEARING ON A PETITION**

- (a) Upon the submission of the Executive Director's final report to the Highlands Council, the Executive Director shall give notice of and set the date, time and place for a public hearing for consideration of the Petition.
- (b) Upon receipt of the report of the Executive Director, the Highlands Council shall conduct such deliberations as needed and shall, within 60 days of the date of the receipt of the final report by the Council, approve, reject, or approve with conditions the revised master plan and development regulations and any other aspects of the Petition as it deems appropriate.

- (c) Upon rejecting or conditionally approving any such revised master plan or development regulations, the Highlands Council shall identify such changes therein that it deems necessary for Council approval thereof and establish a schedule for such changes to be completed by a petitioning county or municipality, and the county or municipality:
  - 1. Shall adopt and enforce the master plan or development regulations as so changed for lands in the Preservation Area; and
  - 2. May adopt and enforce the master plan or development regulations as so changed for lands in the Planning Area.
- (d) Within thirty (30) days of the formal determination of the Highlands Council, the Executive Director shall notify the petitioner and provide public notice of the determination.

**EFFECT OF FAILURE OF A LOCAL GOVERNMENT TO OBTAIN PLAN CONFORMANCE APPROVAL WHERE REQUIRED BY THE HIGHLANDS ACT**

- (a) In the event that any municipality or county fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the Highlands Council, as required by the Highlands Act and these Guidelines, the Highlands Council shall enforce such rules and regulations as may be necessary to implement the minimum standards contained in the Regional Master Plan as applicable to any county or municipality with lands or waters within the Preservation Area.
- (b) If any municipality or county fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the Highlands Council, as required pursuant to the Highlands Act and these Guidelines, the Council shall have all local enforcement authority provided pursuant to the Municipal Land Use Law, the Highlands Act, as well as the authority to issue stop construction orders, as may be necessary to implement the provisions of the Highlands Act, any rules and regulations adopted pursuant thereto, and the requirements and provisions of the Regional Master Plan.

**PERIOD OF PLAN CONFORMANCE AMENDMENTS TO CONFORMING PLANS AND REGULATIONS**

- (a) The period of an Approval of Plan Conformance shall be for a period of no more than six years for a county or until the completion of the reexamination by a municipality of its master plan and development regulations as required by the Municipal Land Use Law or until the Highlands Council adopts its six year reexamination of the Regional Master Plan, whichever time period is shorter.
- (b) Upon the commencement of each sexennial reexamination by the municipality of its master plan and development regulations as required by the Municipal Land Use Law and where these plans and regulations have been previously approved by the Highlands Council to be in conformance with the Regional Master Plan pursuant to the Highlands Act, the municipality shall so notify the Council and, thereafter, submit to the Council for review the draft revision of its master plan and development regulations, to determine conformance with the regional master plan.
- (c) If, after conducting the reexamination, the municipality does not resubmit to the Council its master plan and development regulations as they pertain to the Planning Area and obtain reapproval thereof from the Council in accordance with the Highlands Act and these Guidelines, or if the Council finds the reexamined master plan or development regulations not to be in conformance with the Regional Master Plan, the Council may require the municipality to reimburse the Council or the State, as appropriate, in

whole or in part for any financial or other assistance or incentives received by the municipality from the State as a benefit or result of obtaining Council approval.

- (d) No amendment to any conforming county or municipal master plan or development regulations shall be effective until the county or municipality shall have submitted such amendment to the Highlands Council and such amendment has been found by the Council to be in conformance with the Regional Master Plan, or the Executive Director has notified the county or municipality that such amendment does not affect the Highlands Council's prior finding of conformance of the master plan or development regulations with the Regional Master Plan.
- (e) Following the receipt of any amendment to a conforming master plan or development regulations, the Executive Director shall determine whether or not the amendment raises a substantial issue with respect to the conformance of the county or municipal master plan or development regulations with the Regional Master Plan. If the Executive Director determines no such substantial issue is raised, the Executive Director shall certify such fact to the clerk of the county and municipality and such amendment shall thereupon take effect in accordance with its terms and applicable law.
- (f) If the Executive Director determines that the amendment raises a substantial issue with respect to the conformance of the amended county or municipal master plan or development regulations to the Regional Master Plan, the amended county or municipal master plan or development regulations shall be reviewed in accordance with these guidelines and the Executive Director shall so inform the county and municipal clerk.

#### **REVOCATION OF PLAN CONFORMANCE APPROVALS**

- (a) The Highlands Council may revoke a conformance approval granted pursuant to the Highlands Act, after conducting a hearing, if the Council finds that the local government unit has taken action inconsistent with the Regional Master Plan.

### **III. SUPPORTING INFORMATION**

**Acknowledgements**

**Glossary**





## GLOSSARY

The following words and terms, when used above, shall have the following meanings unless the context clearly indicates otherwise:

“Adjustment or Revisions” means the iterative process and exchange of information between the Highlands Council and a local government unit that is intended to result in improvements to the Highlands Regional Master Plan based upon new information.

“Approval” means the approval by the Highlands Council, with or without conditions, of a Plan Conformance petition.

“Application for development” means the application form and all accompanying documents required for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permit pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. or 40:27-1 et seq., for any use, development, or construction.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the Municipal Land Use Law.

"Development regulation" means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to Municipal Land Use Law.

“Executive Director” means the Executive Director of the Highlands Council.

“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.

“Land Use Capability Map” means the map that depicts the intended conditions of lands and waters of the Highlands Region and reflects the policies of the Highlands Regional Master Plan...

"Local government unit" means a municipality, county, or other political subdivision of the State, or any agency, board, commission, utilities authority or other authority, or other entity thereof.

"Master plan" means, for a municipality, a composite of one or more written or graphic proposals for the development of the municipality as set forth in and adopted pursuant to section 19 of the Municipal Land Use Law (N.J.S.A. 40:55D-28), and for a county, means a composite of the master plan for the physical development of the county, with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the county planning board pursuant to N.J.S.A. 40:27-2.

“Notice of Interest” means a resolution passed by the governing body of a local government that expressly notes that the local government desire to investigate the scope and range of tasks needed to be undertaken by the local government to gain Plan Conformance approval.

"Official county map" means the map, with changes and additions thereto, adopted and established, from time to time, by resolution of the board of chosen freeholders of the county pursuant to N.J.S.A. 40:27-5.

"Official municipal map" means a map adopted by ordinance pursuant to article 5 of the Municipal Land Use Law (N.J.S.A. 40:55D-32-36).

"Petition for Plan Conformance" means the plans, supporting documents, maps, and other information assembled by a local government unit that is submitted to the Highlands Council to demonstrate conformance with the Regional Master Plan.

"Plan Conformance" means the process for the submission of petitions by municipalities and counties and the review by the Highlands Council of revised master plans and development regulations to conform with the goals, requirements, and provisions of the Regional Master Plan.

"Plan Conformance Committee" means a Committee of the Highlands Council established by and within the Council to provide advice and recommendations to the full Council, petitioning local government units and the staff of the Highlands Council relative to those tasks, policies, or other matters which arise during the Plan Conformance process.

"Plan Conformance Petition" means a petition submitted by a municipality or county with revised master plans and development regulations to conform with the goals, requirements, and provisions of the Regional Master Plan.

"Planning Area" means that portion of the Highlands Region not included within the Preservation Area.

"Preservation Area" means that portion of the Highlands Region so designated by N.J.S.A. 13:20-7.b.

"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.

"State Development and Redevelopment Plan" means the State Development and Redevelopment Plan adopted pursuant to N.J.S.A. 52:18A-196 et seq.