

Highlands TDR Program Deeds of Easement

Under the Highlands TDR Program, a sending zone property owner must record a deed of easement on his or her property before the property owner receives marketable Highlands Development Credits. This requirement is consistent with the State TDR Act which mandates that, when development potential is being separated from a parcel, the encumbrance on the parcel and the remaining uses that are permitted must be attached to and recorded with the parcel's deed (N.J.S.A. 40:55D-147). This instrument must also state that any activity inconsistent with its conditions and restrictions is expressly prohibited and that all conditions and restrictions run with the land and are binding upon the landowner and any successor in interest.

Under the Highlands TDR Program there are four model deeds of easement currently under review by the state Attorney General's Office. A brief description of the easements is provided below:

1. **Ag With Exemption:** Properties currently involved in agricultural production where the owner is retaining an applicable single family dwelling exemption under the Highlands Act
2. **Ag With Bonus:** Properties currently involved in agricultural production where the owner is foregoing an applicable single family dwelling exemption under the Highlands Act
3. **Non-Ag With Exemption:** Properties not currently involved in agricultural production where the owner is retaining an applicable single family dwelling exemption under the Highlands Act
4. **Non-Ag With Bonus:** Properties not currently involved in agricultural production where the owner is foregoing an applicable single family dwelling exemption under the Highlands Act