

Guidance for Municipal Plan Conformance with the Highlands Regional Master Plan Land Use Capability Map Series Conformance Standards

New Jersey Highlands Council

COMPONENT	STATUS ¹	STANDARDS	COMMENTARY
Environmental Resource Inventory		<p>BASIC PLAN CONFORMANCE STANDARDS:</p> <ol style="list-style-type: none"> General (Background Statement): Incorporate the RMP Land Use Capability Map Series as the basis for the seven overlay zones of the Highlands Region. The Land Use Capability Map Series includes the following five maps as part of the series: Land Use Capability Zone Map; Land Use Capability Water Availability Map; Land Use Capability Public Community Water Systems Map; Land Use Capability Domestic Sewerage Facilities Map; and Land Use Capability Septic System Yield Map. Incorporate the overlay zones as applicable: Protection Zone, Conservation Zone, Existing Community Zone, Existing Community – Environmentally Constrained Sub-Zone, Conservation – Environmentally Constrained Sub-Zone, Lake Community Sub-Zone, and Wildlife Management Zone Sub-Zone. LUC Zones: N/A 	The Land Use Capability map series and supporting documentation will be provided by the Highlands Council. The Land Use Capability Map Series may be subject to change due to the RMP Updates and Map Adjustment Programs in support of Plan Conformance and upon approval of the Highlands Council. A municipality is required to develop an independent ERI for full Plan Conformance, but not for Basic Conformance.
		<p>PLAN CONFORMANCE STANDARDS:</p> <ol style="list-style-type: none"> Mapping: Incorporate LUC Zones reflecting RMP Updates, and Land Use Capability Analysis Program planning and analysis findings. Narrative: Update the ERI to recognize the LUCM Series for utility service areas, water availability conditions and LUC Zones, as required, and discuss the relationship of these areas to areas of existing development and to natural resources of the municipality. 	See the Land Use Capability Analysis Program of Chapter 5 of the RMP. Incorporate as required in support of Plan Conformance any Highlands Council approved RMP Updates, Highlands Municipal Build out analysis and Land Use Capability Analysis.
Utility Services Plan Element		<p>BASIC PLAN CONFORMANCE STANDARDS:</p> <ol style="list-style-type: none"> General (Background Statement): Adopt the Highlands Council Land Use Capability Map Series (to the limits of municipal boundary lines) as the basis for the seven overlay zones of the Highlands Region. The Land Use Capability Map Series includes the following five maps as part of the series: Land Use Capability Zone Map; Land Use Capability Water Availability Map; Land Use Capability Public Community Water Systems Map; Land Use Capability Domestic Sewerage Facilities Map; and Land Use Capability Septic System Yield Map. Policy Statement: Adopt by reference RMP Policy 6A1, the RMP Policies and Objectives listed in the Water and Wastewater Utilities Program of Chapter 5 of 	The Land Use Capability map series and supporting documentation will be provided by the Highlands Council. The Land Use Capability Map Series may be subject to change due to the RMP Updates and Map Adjustment Programs in support of Plan Conformance and upon approval of the Highlands Council. A municipality is required to develop an independent Utility Service Plan Element for full Plan Conformance, but not

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

		<p>the RMP, and Policy 2L2 with all relevant Objectives into the policies, goals, objectives section of the Utility Services Plan Element. Relate the policies to MLUL purposes as appropriate.</p> <p>3. LUC Zones: Incorporate the LUC overlay zones and utility and septic system density standards as appropriate. Incorporate LUC Zone information as determined from the Utility Service Plan requirements for service areas and development densities.</p> <p>4. Preservation Area Special Provisions: Specifically cite the applicability of NJDEP Preservation Area rules at N.J.A.C. 7:38 for regulation of water and wastewater utilities in the Preservation Area.</p>	<p>for Basic Conformance.</p>
		<p>PLAN CONFORMANCE STANDARDS:</p> <p>1. Mapping: Incorporate the Land Use Capability Map Series into the Utility Services Plan Element.</p> <p>2. Narrative: Establish the Land Use Capability Map Series and the technical basis for its development as a policy of the municipality. Discuss existing areas served, available capacity, commitments for remaining capacity and limitations for water supply and wastewater utility service in the municipality. Describe the relationship of the Element to the adopted Wastewater Management Plan(s) for the municipality, and modifications necessary to the adopted WMP to ensure Plan Conformance. Relate the Element to the Land Use Plan Element regarding needs for utility service to support infill development, redevelopment, cluster development and expansion of utility service areas in conformance with the RMP.</p>	<p>See Highlands Council guidance for Utility Services Plan Element Conformance Standards. See the Land Use Capability Analysis Program, The Efficient Use of Water Program and Water and Wastewater Utilities Program of Chapter 5 of the RMP. 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 a Water Use and Conservation Management Plan and Utility Services Plan Element for full Plan Conformance, but not for Basic Conformance.</p>
<p>Municipal Master Plan and Land Use Plan Element</p>		<p>BASIC PLAN CONFORMANCE STANDARDS:</p> <p>1. General (Background Statement): Adopt the Highlands Council Land Use Capability Map Series to the limits of the municipal boundary lines as the basis for the seven overlay zones of the Highlands Region. The Land Use Capability Map Series includes the following five maps as part of the series: Land Use Capability Zone Map; Land Use Capability Water Availability Map; Land Use Capability Public Community Water Systems Map; Land Use Capability Domestic Sewerage Facilities Map; and Land Use Capability Septic System Yield Map.</p> <p>2. Policy Statement: Adopt by reference RMP Policy 6A1, the RMP Policies and Objectives listed in the Water and Wastewater Utilities Program of Chapter 5 of the RMP, and Policy 2L2 with all relevant Objectives into the policies, goals, objectives section of the Land Use Plan Element. Relate the policies to MLUL purposes as appropriate.</p> <p>3. LUC Zones: Incorporate the LUC overlay zones and utility and septic density standards as appropriate. The RMP requirements for service areas and development densities and septic system densities shall be evaluated in accordance with the respective LUC Zone standards including but not limited to</p>	<p>See Policy 6A1 regarding the use of the Land Use Capability Map Series (LUCM Series) as a geographic framework for land use planning and management. Objective 6A1a indicates that the LUCM Series shall be based on the most current, relevant and available data. See Policy 6A2 regarding the RMP Updates Program that provides for the RMP to be based upon the receipt of new, corrected or updated factual information and verification by the Highlands Council. See Objectives 6A2a, b and c regarding the RMP Updates process for factual information, verification and management of RMP information. Municipalities are required to perform the analyses set forth under the Land Use Capability Analysis Program, including a septic system yield and local build out analysis in</p>

		<p>the following:</p> <ul style="list-style-type: none"> a. <u>Protection Zone</u> – establish septic system densities and minimize the creation or expansion of public wastewater and water supply systems in accordance with Policies 2B4, 2B6, 2B8, 2I1, 2I2, 2J2, 2J4, 2J5, 2J7, 2K2, 2K3, 2K4, 2L2, 3C1, 6C2, 6I1 and 6J3 and associated objectives as appropriate. b. <u>Conservation Zone</u> - establish septic system densities and minimize the creation or expansion of public wastewater and water supply systems in accordance with Policies 2B4, 2B6, 2B8, 2I1, 2I2, 2J2, 2J4, 2J5, 2J7, 2K2, 2K3, 2K4, 2L2, 3C1, 6D3, 6I1 and 6J3 and associated objectives as appropriate. c. <u>Existing Community Zone</u> – establish septic system densities and minimize the creation or expansion of public wastewater and water supply systems in accordance with Policies 2B4, 2B6, 2B8, 2I1, 2I2, 2J2, 2J4, 2J5, 2J7, 2K2, 2K3, 2K4, 2L2, 3C1, 6E2, 6F4 and 6I1, 6J2 and associated objectives as appropriate. d. <u>Existing Community – Environmentally Constrained Sub-Zone</u> - establish septic system densities and minimize the creation or expansion of public wastewater and water supply systems in accordance with Policies 2B4, 2B6, 2B8, 2I1, 2I2, 2J2, 2J4, 2J5, 2J7, 2K2, 2K3, 2K4, 2L2, 3C1, 6E2 and 6I1 and associated objectives as appropriate. e. <u>Conservation – Environmentally Constrained Sub-Zone</u> - establish septic system densities and minimize the creation or expansion of public wastewater and water supply systems in accordance with Policies 2B4, 2B6, 2B8, 2I1, 2I2, 2J2, 2J4, 2J5, 2J7, 2K2, 2K3, 2K4, 2L2, 3C1, 6D3, 6E2, 6I1 and 6J3 and associated objectives as appropriate. f. <u>Lake Community Sub-Zone</u> - establish septic system densities and minimize the creation or expansion of public wastewater and water supply systems in accordance with Policies 1L6, 2B4, 2B6, 2B8, 2I1, 2I2, 2J2, 2J4, 2J5, 2J7, 2K2, 2K3, 2K4, 2L2, 3C1, 6E2 and 6I1 and associated objectives as appropriate. g. <u>Wildlife Management Zone Sub-Zone</u> – NA <p>3. Preservation Area Special Provisions: Specifically cite the applicability of NJDEP Preservation Area rules at N.J.A.C. 7:38 for regulation of water and wastewater utilities and septic system densities in the Preservation Area.</p>	<p>support of full Plan Conformance, not for Basic Conformance.</p>
		<p>PLAN CONFORMANCE STANDARDS:</p> <ul style="list-style-type: none"> 1. Master Plan Requirements: Establish the Land Use Capability Map Series as a policy of the municipality. 2. Land Use Plan Element Requirements: Establish the importance of the Land Use Capability Map Series as the framework for land use planning and management. Municipalities shall complete the following, in support of the Land Use Capability Map Series and the development of a Plan Conformance 	<p>See the Land Use Capability Analysis Program, The Efficient Use of Water Program, Highlands Restoration and Water Deficits Program and Water and Wastewater Utilities Program of Chapter 5 of the RMP. This material along with the Highlands Regional Build out Technical Report, Utility Capacity</p>

		<p>Land Use Plan:</p> <ol style="list-style-type: none"> a. Review Highlands Land Use Capability Map (LUCM) series, charts and technical data to identify any need for RMP Updates. The RMP Updates Program is designed to facilitate and coordinate the exchange and verification of updated, relevant factual information. As a result, the RMP and LUCM series will reflect the most current data and information for use during Plan Conformance. RMP Updates must be completed prior to the Land Use Capability Analysis. b. Determine local land use capability, through the Land Use Capability Analysis and “Limiting Factor” Analysis, combining land-based capability by reviewing MOD IV parcel data, resource-based capability addressing water availability and by performing a septic system yield analysis (including consideration of septic system yield based on the Land Use Capability Septic System Yield Map and the potential for septic systems based on the Highlands Act exemptions #1 and #2), and utility-based capacity for public water and wastewater consistent with the provisions of the RMP (pursuant to the Land Use Capability Analysis Program). c. Utilize the Highlands Build Out Model and methodology to develop a local build-out analysis that incorporates RMP policies and objectives to evaluate land use capability and capacity planning. The local build-out analysis will incorporate the local land use capability and assist municipalities in determining household and employment projections that are consistent with RMP conformance. d. Based on the findings from the Land Use Capability Analysis, “Limiting Factor” Analysis, and Highlands Build out Model, municipality shall modify (for mandatory components of the RMP) or consider modifications (for other RMP components) to the Land Use Plan to more fully or efficiently utilize available resource or utility capacities where appropriate, protect natural resources, and permit development and redevelopment to meet the current and future needs of the municipality consistent with RMP policies. 	<p>Technical Report, Water Resources Volume 1 – Watersheds and Water Quality and Water Resources Volume II – Water Use and Availability Technical Reports are the scientific foundation of the regulation and are critical to the establishment of a legal defense. A municipality is required to develop a Water Use and Conservation Management Plan and Utility Services Plan Element for full Plan Conformance, but not for Basic Conformance. Municipalities are required to perform the analyses set forth under the Land Use Capability Analysis Program, including a septic system yield and local build out analysis in support of full Plan Conformance, not for Basic Conformance.</p>
<p>Institutional Capability</p>		<ol style="list-style-type: none"> 1. Planning: The Council will provide technical and planning assistance should planning board staff and members require assistance in support of the Land Use Capability Analysis. 	<p>To assist board members and staff regarding the Land Use Capability Analysis and the implementing ordinance, the Council will provide all data layers and protocols that are required in support of the Land Use Capability Analysis as well as, educational and technical assistance. Council will work with the municipality’s professionals if requested.</p>
		<ol style="list-style-type: none"> 2. Project Review: Municipality must have completed the Land Use Capability Analysis in order to evaluate potential modifications of the Land Use Plan and the Zoning and Land Use Ordinance updates that may be required in support of Plan Conformance. 	
<p>Land Use Ordinance</p>		<p>PLAN CONFORMANCE STANDARDS:</p> <ol style="list-style-type: none"> 1. General (Background Statement): Adopt the Highlands Council Land Use 	

		<p>Capability Map Series to the limits of the municipal boundary lines inclusive of the applicable overlay zones of the Highlands Region. The Land Use Capability Map Series includes the following five maps as part of the series: Land Use Capability Zone Map; Land Use Capability Water Availability Map; Land Use Capability Public Community Water Systems Map; Land Use Capability Domestic Sewerage Facilities Map; and Land Use Capability Septic System Yield Map.</p> <p>2. Policy Statement: Indicate that adoption of the Land Use Capability Map Series and applicable overlay zones is in accordance with the policies established in the Land Use Plan, Utilities Services Plan, and Conservation Plan Elements of the Master Plan.</p> <p>4. LUC Zones: Incorporate the LUC overlay zones and utility and septic density standards as appropriate. The RMP requirements for service areas and development densities and septic system densities shall be evaluated in accordance with the respective LUC Zone standards including but not limited to the following:</p> <ul style="list-style-type: none"> a. <u>Protection Zone</u> – establish septic system densities and minimize the creation or expansion of public wastewater and water supply systems in accordance with Policies 2B4, 2B6, 2B8, 2I1, 2I2, 2J2, 2J4, 2J5, 2J7, 2K2, 2K3, 2K4, 2L2, 3C1, 6C2, 6I1 and 6J3 and associated objectives as appropriate. b. <u>Conservation Zone</u> - establish septic system densities and minimize the creation or expansion of public wastewater and water supply systems in accordance with Policies 2B4, 2B6, 2B8, 2I1, 2I2, 2J2, 2J4, 2J5, 2J7, 2K2, 2K3, 2K4, 2L2, 3C1, 6D3, 6I1 and 6J3 and associated objectives as appropriate. c. <u>Existing Community Zone</u> – establish septic system densities and minimize the creation or expansion of public wastewater and water supply systems in accordance with Policies 2B4, 2B6, 2B8, 2I1, 2I2, 2J2, 2J4, 2J5, 2J7, 2K2, 2K3, 2K4, 2L2, 3C1, 6E2, 6F4 and 6I1, 6J2 and associated objectives as appropriate. d. <u>Existing Community – Environmentally Constrained Sub-Zone</u> - establish septic system densities and minimize the creation or expansion of public wastewater and water supply systems in accordance with Policies 2B4, 2B6, 2B8, 2I1, 2I2, 2J2, 2J4, 2J5, 2J7, 2K2, 2K3, 2K4, 2L2, 3C1, 6E2 and 6I1 and associated objectives as appropriate. e. <u>Conservation – Environmentally Constrained Sub-Zone</u> - establish septic system densities and minimize the creation or expansion of public wastewater and water supply systems in accordance with Policies 2B4, 2B6, 2B8, 2I1, 2I2, 2J2, 2J4, 2J5, 2J7, 2K2, 2K3, 2K4, 2L2, 3C1, 6D3, 6E2, 6I1 and 6J3 and associated objectives as appropriate. f. <u>Lake Community Sub- Zone</u> - establish septic system densities and 	
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		<p>minimize the creation or expansion of public wastewater and water supply systems in accordance with Policies 1L6, 2B4, 2B6, 2B8, 2I1, 2I2, 2J2, 2J4, 2J5, 2J7, 2K2, 2K3, 2K4, 2L2, 3C1, 6E2 and 6I1 and associated objectives as appropriate.</p> <p>g. <u>Wildlife Management Zone Sub-Zone</u> – NA</p> <p>3. Preservation Area Special Provisions: Specifically cite the applicability of NJDEP Preservation Area rules at N.J.A.C. 7:38 for regulation of water and wastewater utilities and septic system development densities in the Preservation Area.</p>	
		<p>ZONING REGULATIONS:</p> <p>1. Statement of Purpose: Include among the purposes of the Zoning ordinance language regarding implementation of the Land Use Capability Analysis Program planning and capacity analysis in accordance with RMP Policy 6A1 , established municipal Master Plan policy, and (if Preservation Area is present in the municipality) the NJDEP Preservation Area rules at N.J.A.C 7:38 in support of Plan Conformance. The Land Use Capability Map Zones build upon municipal zoning by establishing additional RMP standards and criteria that the municipal zoning may not recognize. The underlying municipal zoning for the most part regulates permitted land uses, while the RMP overlay zones provide more detail and site specific requirements.</p>	<p>See the Land Use Capability Analysis Program, The Efficient Use of Water Program, Highlands Restoration and Water Deficits Program and Water and Wastewater Utilities Program of Chapter 5 of the RMP. This material along with the Highlands Regional Build out Technical Report, Utility Capacity Technical Report, Water Resources Volume 1 – Watersheds and Water Quality and Water Resources Volume II – Water Use and Availability Technical Reports are the scientific foundation of the regulation and are critical to the establishment of a legal defense. A municipality is required to develop a Water Use and Conservation Management Plan and Utility Services Plan Element for full Plan Conformance, but not for Basic Conformance. Municipalities are required to perform the Land Use Capability Analysis Program, including a septic system yield and local build out analysis in support of full Plan Conformance.</p>
		<p>2. Zoning Provisions: Incorporate into the Zoning Ordinance the RMP LUC Zones as overlay features to existing municipal zoning. The LUC Zones establish additional standards and criteria for each zoning district in support of the Land Use Plan Element and land development regulations. Municipal zoning districts shall be further regulated in accordance with the Land Use Capability Map Series. The Land Use Capability Septic System Yield Map shall be incorporated into the features/zones of the municipal Zoning Map so that the septic system yield for each combination of HUC14 subwatershed and Land Use Capability Zone is in conformance with the Yield Map, and is distributed within that area in conformance with the Land Use Plan Element.</p>	<p>The Land Use Capability Map Zones in accordance with Policy 6A1 build upon municipal zoning powers as provided by MLUL N.J.S. 40:55D and N.J.S.A. 13:20 by establishing additional RMP standards and criteria that the municipal zoning may not recognize.</p>
		<p>3. Applicability: The Zoning ordinance must apply to any project for which a</p>	<p>Zoning Ordinance and Bulk Standards are</p>

		<p>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) other than exemptions as specified below.</p> <p>a. Highlands Applicability Determinations:</p> <ul style="list-style-type: none"> 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 the Zoning Ordinance. ii. Other Developments – Require compliance with the Zoning Ordinance. <p>b. Municipal Requirements: Additional requirements as determined by the municipality.</p>	<p>applicable to all Land Use development activities.</p>
		<p>4. Exemptions: Incorporate the Highlands Act exemptions as listed at N.J.A.C. 7:38-2.3.</p> <p>a. Highlands Act Exemptions Addressed by N.J.A.C. 7:38-2.4(b)</p> <ul style="list-style-type: none"> 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. 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. <p>b. Highlands Act Exemptions Not Addressed by N.J.A.C. 7:38-2.4(b)</p> <ul style="list-style-type: none"> 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. 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. 	<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>
		<p>5. Completeness: 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>6. Notification to Highlands Council: 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>7. Waivers and Exceptions: The Zoning 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> <ul style="list-style-type: none"> a. Highlands Act Waiver Provisions: For applications other than major 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 unless the applicant has received approval by the Highlands Council of a Highlands Act Waiver under the provisions of the RMP. b. Additional Provisions: 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>NJDEP Highlands Rules may provide for certain waivers – the municipality may wish to more clearly define the limits of exceptions to the ordinance provisions where they won't conflict with the NJDEP rules or the RMP, which incorporates the same waivers with regard to the Planning Area.</p>