



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



JOHN R. WEINGART  
*Chairman*

EILEEN SWAN  
*Executive Director*

### PLAN CONFORMANCE FOR MUNICIPALITIES KEY REQUIREMENTS

Under Plan Conformance, the municipal planning program will reflect all elements of the Highlands Regional Master Plan (RMP) as well as the results of specific environmental and planning analyses at the local level. The applicable components of the municipal Master Plan and Land Development Ordinances/Regulations, along with a number of supplemental resource management programs, will regulate all non-exempt development in the municipality whether in the Preservation or Planning Area. Plan Conformance also addresses issues beyond development regulation that will protect, enhance and restore Highlands resources and community character. This document provides a summary of what must be accomplished to achieve Plan Conformance with the RMP.

#### GRANT FUNDING AVAILABLE

The Highlands Council will provide grants covering the reasonable expenses of Plan Conformance for any municipality, from a dedicated fund established by the Highlands Act. Funding is available to assist municipalities in completing any of the mandatory Plan Conformance components listed herein.

#### ENVIRONMENTAL/INFRASTRUCTURE CAPACITY ANALYSES

1. **Environmental Resource Inventory.** Complete and adopt (or update, as needed) a comprehensive Environmental Resource Inventory (ERI) that incorporates Highlands data, maps, and resource information, indicating where new or supplemental municipal data may be more recent, accurate or reliable than Highlands information.
2. **RMP Update Analysis.** Conduct full analysis of RMP maps and data applicable to the municipality to determine need for RMP Updates. If applicable, submit request to the Highlands Council listing proposed RMP Updates, along with the rationale for each. A web-based program will be made available by the Highlands Council for submission and processing of RMP Updates.
3. **Land Use Capability Analysis.** Using RMP maps, data, and technical information including the Highlands Council Local Build-Out Model, determine the capacity for future development and redevelopment within the community. This determination will derive from detailed analyses of the municipality's existing land-based capacity, resource-based capacity, and utility-based capacity. Areas of study will include but not be limited to: developed lands, vacant lands, agricultural lands, environmentally constrained lands, contaminated sites, potential redevelopment/infill opportunities, HUC14 water availability, septic system yield, and water and sewer infrastructure.
4. **"Limiting Factor" Analysis.** The preceding analyses will clearly indicate the most significant capacity constraints and their general locations within the community. The municipality may

examine various alternatives to create additional capacity where it is found insufficient to support intended development/redevelopment areas (such as extension of public sewerage infrastructure). Such expansions may only occur within the constraints of the RMP and NJDEP regulations. The municipality may also coordinate its efforts with adjoining communities sharing the same HUC14 subwatershed, to reallocate capacity in accordance with a mutually agreeable formula. In any case, the resultant capacity determinations will represent the maximum development and redevelopment potential for the municipality.

5. **Build-Out Analysis.** Based on maximum potential, and using the Highlands Council Local Build-Out Model, consider potential scenarios for future development and/or redevelopment within the community.

## PLANNING ANALYSES

Evaluate the municipal planning program, in consideration of the environmental/infrastructure analyses, capacity limitations, and municipal goals and objectives regarding future growth, development and redevelopment. Identify areas of the community in which capacity constraints and maximum yields will not support future development under current land use regulations. Consider whether capacity can or should be expanded to accommodate it. Identify areas in which available capacity would be underutilized under current planning regulations. Consider whether such areas are suitable for an alternate type of development, a higher density/intensity allowance, or should be reserved in consideration of unanticipated future needs.

Determine the type and degree of change needed to appropriately allocate and manage growth, development and redevelopment in accordance with the full range of relevant planning considerations, including but not limited to: a) capacity constraints; b) natural resource protection; c) open space and farmland preservation; d) optimizing use of public infrastructure; e) transportation constraints and opportunities; f) fiscal impacts and economic sustainability; g) community needs and desires; and h) principles of equity, overall sustainability, and smart growth.

While the municipality may find that this evaluation affects numerous aspects of its planning program, it must be emphasized that the Highlands Act, the NJDEP Rules, and the RMP do not apply to specific developments and/or activities that are deemed exempt from the Highlands Act pursuant to N.J.S.A. 13:20-28 and N.J.A.C. 7:38-2.3. The Highlands Act does authorize a municipality to alter its planning program to be more stringent (within the constraints of applicable law and regulatory requirements), than the changes (i.e., to zoning, development, and/or resource regulations) required for Plan Conformance, however.

Based on the foregoing considerations, the municipality must develop a preliminary Land Use Plan (as an update or overlay to the existing) that includes, at minimum: 1) a land use plan map depicting the proposed allocation of municipal land use classifications; and 2) a description of the land use classifications, including permitted types of uses, densities, and intensities of development. Once finalized by the municipality (and following the required public participation process, which may include community visioning) the Land Use Plan will be adopted as a component of the municipal Master Plan as discussed in the section that follows.

## MASTER PLAN & DEVELOPMENT REGULATIONS

The municipality may choose to merge the “Highlands” sections of its Master Plan and Zoning/Development Regulations with the base portion of each, or retain them as separate sections (as described in Basic Plan Conformance) in order to delineate Highlands applicability. In either case, the conforming municipal Master Plan and Zoning/Development Regulations must include and/or accomplish each of the items listed in the respective sections below.

*Note: **Boldface** type in the sections that follow brings attention to items that differ from Basic Plan Conformance.*

### MASTER PLAN

1. ***Policies, Goals, Objectives.*** Adopt all broad-based, municipally-relevant Goals, Policies, and Objectives (GPOs) of the Highlands Regional Master Plan (RMP), modified to apply at the local level. In all cases where GPOs are modified to apply to the local level, the resulting policies and objectives must be no less stringent than those of the RMP. Where GPOs are discretionary, the municipality may choose which to incorporate, if any.
2. ***Land Use Plan.*** Adopt applicable Highlands Land Use categories, including Areas, Zones, and Sub-Zones. Adopt Land Use Capability Map (LUCM) series, upon verification of accuracy of factual information, to limits of municipal boundary lines. Adopt Highlands water and wastewater utility provisions as basis for maximum density/intensity of development. Provide basis for cluster development and, where required (i.e., Conservation Zone), lot-size averaging. Adopt an up-to-date developed land inventory map (unless an existing map remains current).

**Adopt an updated or overlay land use plan map that allocates municipal land use classifications (themselves updated, as needed to provide for appropriate uses, densities, intensities) over areas suited in size and location to ensure that future development and redevelopment will achieve municipal intent while fulfilling RMP GPOs and staying within the maximum build-out capacity. Provide a discussion on the relationship of the Land Use Plan to the policies, goals, and objectives of the Municipal Master Plan.**

3. ***Housing Plan.*** Adopt a **Housing Element and Fair Share Plan that: a) addresses the municipality’s constitutional obligation to provide for affordable housing; b) does so in accordance with revised Land Use Plan (above) and applicable RMP GPOs; and c) employs affordable housing options that minimize land disturbance and environmental impacts.**
4. ***Conservation Plan.*** Adopt the **Environmental Resource Inventory (ERI) as the underlying basis for the Conservation Plan Element.** Adopt Highlands Resource Area Maps, as applicable, to limits of municipal boundary lines. Adopt Highlands Resource categories as defined in RMP, along with specific applicable GPOs, as modified to apply at the local level. Recognize and provide cross-reference to any other applicable municipal resource maps, data, studies, environmental inventories, etc., that supplement, enhance, or refine Highlands resource information. **Provide detailed discussion of each of the resource areas to be protected by regulations and the rationale for their protection.** Incorporate basis for requiring Low Impact Development and use of Best Management Practices throughout resource areas.
5. ***Utilities Plan.*** Adopt applicable RMP GPOs, modified to apply to local level. Recognize adherence to adopted Highlands water and wastewater technical guidance documents.

Emphasize that existing water and sewer service utilities will not be extended: 1) in the Preservation Area unless approved through a Highlands Preservation Area Approval (HPAA) pursuant to N.J.A.C. 7:38 or deemed exempt from the Highlands Act, or 2) in the Protection and Conservation Zones unless it complies with RMP wastewater utility provisions.

- a) **Adopt water deficit management plan (if applicable);**
  - b) **Adopt ground water recharge protection and mitigation plan;**
  - c) **Adopt wellhead protection plan;**
  - d) **Adopt septic system management/maintenance plan (if applicable); and**
  - e) **Adopt stormwater management plan.**
6. ***Circulation Plan.*** Adopt applicable RMP GPOs, modified to apply to local level. **Fully develop Circulation Plan to reflect RMP GPOs and principles of smart growth. Provide mandatory study criteria for consideration in relation to any growth-inducing municipal project.**
  7. ***Open Space Plan.*** Adopt applicable RMP GPOs, modified to apply to local level. **Create or update Open Space & Recreation Plan in keeping with municipal and RMP GPOs and revised municipal Land Use Plan. Incorporate parameters to ensure use of proper land stewardship techniques.** Adopt an up-to-date, mapped Recreation and Open Space Inventory (unless an existing inventory remains current).
  8. ***Agriculture Retention/Farmland Preservation Plan (if applicable).*** Adopt applicable RMP GPOs, modified to apply to local level. **Fully develop Agriculture Retention/Farmland Preservation Plan in keeping with municipal and RMP GPOs and revised municipal Land Use Plan.** Incorporate commitment to Right to Farm Act and if applicable and desired, promotion and protection of farm labor housing. Adopt an up-to-date, mapped inventory of preserved farmland (unless an existing inventory map remains current).
  9. ***Community Facilities Plan.*** Adopt applicable RMP GPOs, modified to apply to local level. **Fully develop Community Facilities Plan to reflect RMP GPOs and principles of smart growth.**
  10. ***Sustainable Economic Development Plan.*** Adopt applicable RMP GPOs, modified to apply to local level. **Fully develop Economic Development Plan to reflect RMP GPOs and to promote economic sustainability.**
  11. ***Historic Preservation Plan (if applicable).*** Adopt applicable RMP GPOs, modified to apply to local level. **Fully develop Historic Preservation Plan to reflect RMP GPOs and protect municipal interests.**
  12. ***Development Transfer Plan (if applicable).*** Adopt applicable RMP GPOs, modified to apply to local level. **Provide public purposes for Transfer of Development, intended locations of sending and receiving zones (if any), and technical details of the Development Transfer program consistent with the RMP.**

13. ***Relationship of Master Plan to other Plans including RMP.*** In required policy statement, indicate that the proposed development and/or redevelopment of the municipality as set forth in the municipal Master Plan, is consistent with the Highlands RMP.

## LAND USE ORDINANCES/DEVELOPMENT REGULATIONS

Adopt a “Highlands Regulations” section as supplement to the municipal Zoning/Land Development Ordinances.

1. ***Definitions.*** Adopt definitions of “Highlands Council,” Highlands RMP “areas,” “zones,” and “sub-zones,” and other terms specific to the Highlands RMP, as required.
2. ***Zone Districts and District Regulations.*** Adopt a caveat applicable to existing municipal zone districts and district regulations **proposed to remain**, indicating that NJDEP Preservation Area Rules and Highlands RMP provisions will apply with respect to non-exempt development. Water and/or wastewater treatment availability and limitations on utility extensions may affect lot size and lot coverage requirements. **Adopt any revisions to zone districts and/or regulations necessary to effectuate the revised Land Use Plan Element (whether as updates or overlay zoning). Adopt cluster development regulations and, where required (i.e., Conservation Zone), lot-averaging provisions. Adopt provisions regarding open space design. Optional: Provide for farm labor housing as permitted accessory use to agricultural uses (if applicable), and for home-based business as a permitted accessory use to specific residential uses.**
3. ***Application Submission Checklists.*** Amend application submission checklists to require for any Application for Development (as defined by the MLUL at N.J.S.A. 40:55D-3), inclusion of the following:
  - a. For Preservation Area applicants claiming an exemption from the Highlands Act, a Highlands Applicability Determination from the NJDEP pursuant to N.J.A.C. 7:38-2.3 for specific exemptions;
  - b. For Planning Area applicants claiming an exemption from the Highlands Act, a Highlands Planning Area Exemption Determination from the Highlands Council, pursuant to N.J.S.A. 13:20-28 for specific exemptions;
  - c. For non-exempt development applications in the Preservation Area, a Highlands Preservation Area Approval (HPAA) or HPAA with waiver from the NJDEP pursuant to N.J.A.C. 7:38 et seq.;
  - d. For all non-exempt development applications, a Highlands Consistency Determination from the Highlands Council indicating that the proposal is consistent with the RMP, or can be revised to achieve consistency via specific changes outlined therein; and
  - e. For non-exempt development applications having received a Consistency Determination indicating that specific revisions are required to achieve consistency, a certification from the applicant’s professional(s) affirming that the plans have been revised to specifically address the inconsistencies identified by the Highlands Council and that to the best of his/her professional knowledge, they have achieved consistency.

4. **Notice Requirements.** Require that for any non-exempt Application for Development, 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 Planning or Zoning Board. Require that such applications be deemed complete prior to scheduling, and that a copy of the complete application be sent to the Highlands Council along with such notice. Require that the applicant provide copies of any subsequent revisions to such applications to the Highlands Council at the same time these are provided to the reviewing Board.
5. **Highlands Council Review.** Require that in the case of any non-exempt Application for Development, the reviewing board shall provide a certified copy of the fully-executed resolution memorializing its final decision in the matter to the Highlands Council within ten (10) days of its adoption.
6. **Resource Area and Supporting Regulations. Adopt fully-developed ordinances regulating water and wastewater, special resources, and all Highland Resource Areas located within the municipality.** To the extent that any applicable municipal ordinance already exists that is as, or more restrictive than the provisions of a model ordinance, it will satisfy this requirement provided that definitions and other details are, or can be made consistent. Resource regulations must require that development applications include maps and plans identifying and delineating Highlands resources. Application approvals must also be conditioned upon imposition of conservation easements to protect Highlands resources, to the extent that the reviewing board's final decision does not approve their disturbance. Resource area regulations must cover the following, wherever applicable (or potentially applicable) to the municipality:
  - a. Steep Slopes
  - b. Forest Areas
  - c. Open Water and Riparian Areas
  - d. Ground Water Recharge Management
  - e. Wellhead Protection
  - f. Stormwater Management
  - g. Right to Farm
  - h. Critical Habitat
  - i. Carbonate Rock Areas
  - j. Agricultural Resources
  - k. Lake Management
  - l. Low Impact Development
  - m. Scenic Resources
  - n. Historic/Cultural
7. **Application Procedures.** Adopt procedural requirements applicable to resource area applications and review thereof. Prepare municipal application forms (as needed) and fee/escrow ordinance amendments (as appropriate), and determine and assign responsibility for review of application packages pertinent to these areas by the qualified individual(s).

## **MUNICIPAL SELF-ASSESSMENT & IMPLEMENTATION SCHEDULE**

**Complete Municipal Self-Assessment (MSA) and prepare MSA Report.** The MSA Report should list and discuss all changes to the municipal planning program that remain necessary from the time of filing a petition to achieving Plan Conformance. The MSA Report must also include a proposed Implementation Schedule, indicating the timeframe for anticipated completion of the individual items and the overall program.

## **REDEVELOPMENT PLANS**

**Provide full information (maps, plans, details) regarding any proposed redevelopment plans and demonstrate their consistency with the RMP.** Such areas are not limited to plans under the Redevelopment and Housing Law, but should include the full range of private, public, and joint redevelopment activities addressing brownfields, grayfields, Highlands Contaminated Sites, and active sites.

## **PROPOSED MAP ADJUSTMENTS**

Provide narrative discussion on proposed Map Adjustments and/or major revisions to the RMP and/or RMP maps, tables, and/or data resources, if any, along with justification for each.