



## **2009 Plan Conformance Grant Program**

### **Module 5. Municipal Master Plan Highlands Element**

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Prepared by State of New Jersey Highlands Water Protection and Planning Council  
in Support of the Highlands Regional Master Plan

**May 2009**

**PLAN CONFORMANCE GRANT PROGRAM**  
**MODULE 5: MUNICIPAL MASTER PLAN HIGHLANDS ELEMENT**

**5.0 Introduction**

The Highlands Act requires that municipalities seeking Plan Conformance adopt (among other things) revisions to municipal master plans that will bring them into alignment with the Highlands Regional Master Plan (RMP). Such proposed revisions must be submitted *in draft form* to the Highlands Council along with any petition for Plan Conformance.

Module 5 addresses this requirement for Basic Plan Conformance. It relies upon the Model Municipal Master Plan “Highlands Element” provided by the Highlands Council, to assist municipalities in addressing the mandatory master plan requirements necessary to achieve Basic Plan Conformance. The Highlands Element provides the rationale and the framework for land use planning and regulation in accordance with the RMP. It is intended to be used as a supplement to existing municipal master plans for application to land use and development in that portion of the municipality for which Plan Conformance is sought.

Municipalities may modify the document as necessary to ensure applicability to specific municipal circumstances and/or for simple re-arrangement or reformatting to achieve consistency with other municipal planning documents. For example, any Planning Board interested in developing a Green Buildings and Environmental Sustainability Plan Element may do so, and may wish to incorporate various components of the text provided in the model Highlands Element, into it (e.g., Low Impact Development practices). It will be important to maintain the meaning of any applicable language provided in the model Highlands Element however, insofar as it specifically relates to the various provisions and requirements of the RMP.

As an alternative to preparing a master plan supplement such as the model Highlands Element, municipalities may address the Basic Plan Conformance requirements of Module 5 by incorporating appropriate language into the applicable sections of the existing municipal master plan (creating additional sections/elements, if required components do not exist). In view of the probable need to maintain existing master plan language for application to existing development in the municipality and (unless the municipality chooses otherwise) to activities exempt from the Highlands Act (see N.J.S.A. 13:20-28), this approach may require significantly greater time and effort that may not be feasible to complete by December 8, 2009. The Highlands Council encourages municipalities to address Basic Plan Conformance requirements in the most expeditious, cost-effective manner and unless unavoidable therefore, to defer more complex planning activities such as this option until the immediate concerns of Basic Plan Conformance have been addressed. These considerations will be a priority in evaluating any applications for funding that exceed base grant allocations.

Under either alternative, it is important to note that the master plan modifications involved in completing Module 5 will vary significantly, depending upon whether or not a municipality chooses to conform for lands located within the Planning Area. Where the

municipality remains uncertain of its direction in this regard, municipal professionals should put off any major investment of time and effort in actual preparation of the master plan document(s) until clear direction has been received from the municipality.

The 2009 Plan Conformance Grant provides a base grant allocation of up to \$2,500 for preparation of draft revisions to municipal master plans that address Basic Plan Conformance requirements. This funding may be augmented, preferably through reallocation of funds within the initial \$50,000 grant, but where necessary by request to the Highlands Council for additional grant funds up to the \$100,000 maximum for Modules 1 through 7 of Basic Plan Conformance.

## 5.1 Detailed Scope of Work

**Task 1:** Review and gain an understanding of the model Master Plan Highlands Element as a supplement to the existing municipal master plan, intended for application primarily to future non-exempt development in the portion of the municipality for which Plan Conformance is sought. In certain instances, the Highlands Element will apply more broadly (e.g., to maintenance of septic systems serving *existing* development, or to inclusion of properties eligible for Highlands Act exemptions in land preservation or transfer of development considerations) and may overlap and/or be in conflict with existing municipal master plan language. The Highlands Element should be considered to apply in conjunction with existing provisions to the maximum extent feasible, and only in the event of conflicts, to supersede. Where the underlying municipal master plan language calls for more restrictive land use management or regulation than does the Highlands Element, however, it may be retained as the applicable authority.

With regard to specific components of the Highlands Element, please note:

1. The Housing Plan is not included in the model Highlands Element. A section is reserved for its insertion upon completion of Module 3.
2. All plan elements of the Highlands Element should be considered as supplements to existing municipal master plan elements. Where the existing municipal master plan does not contain certain plan elements, Highlands plan elements are intended to serve as such elements, or as placeholders, indicating intent to fully develop such elements during Full Plan Conformance.
3. Retention of the section entitled “Development Transfer Plan” is optional and, if retained, serves only as a placeholder, providing information and signaling intent to investigate and consider municipal opportunities to participate in the Highlands Transfer of Development Rights (TDR) Program. Any municipal programs developed pursuant to the Highlands TDR Program will be developed and incorporated with appropriate details during the course of Full Plan Conformance.

**Task 2:** Prepare a mark-up of the Highlands Element to tailor it to the municipality in terms of name/identification, applicable circumstances and characteristics, inclusion or exclusion of optional items, and interconnections with (and if desired, cross-references to) the existing municipal master plan. *All* proposed modifications to the model Highlands Element must be indicated in submissions to the Highlands Council, preferably by use of

Microsoft Word (or other compatible) word processing software and the document editing features provided therein (e.g., Microsoft Word's "Track Changes").

Specific instructions:

1. For all highlighted text, provide insertions where blanks appear (or instructions indicate), determine portions to be retained or deleted as applicable, and mark up/edit accordingly. (Title/Signature page may be modified to suit municipal format/protocols provided that the public notice statement with date(s) of public meeting(s) is retained. The document need not be signed or sealed for purposes of submission to the Highlands Council.)
2. If municipal conformance relates only to the Preservation Area, search for and mark all references and provisions applicable to the "Planning Area" for deletion.
3. Determine whether any Highlands plan elements or portions of Highlands plan elements are not applicable to the municipality. Prior to marking for deletion, scan applicable sections for introduction of terms, acronyms, maps, etc., that may be referenced or otherwise necessary to support other portions of the Highlands Element. Cut and paste as needed to incorporate such items appropriately elsewhere in the document; mark the pertinent Highlands plan elements or portions thereof for deletion; update text numbering, exhibit numbering (throughout document and in Exhibits listing), and Acronyms listing, as needed. (Note that in Microsoft Word most numbering updates are automated. Document headings and numbering have been formatted to enable this feature.)
4. In instances where existing municipal master plan language is more restrictive than that of the model Highlands Element, and is intended to remain as the applicable authority, provide modified language as necessary to make the Highlands Element consistent, marking inappropriate text for deletion. Such updates may be made by summary if necessary, with cross-reference(s) to the applicable section(s) of the existing municipal master plan. In these instances, copies of the full text of the applicable sections of existing municipal master plans must be provided as an attachment to Module 5 submissions to the Highlands Council.
5. Update Table of Contents as to both page numbers and headings. (In Microsoft Word: right click anywhere in the middle of the Table of Contents field, choose "Update Field," then choose "Update entire table" in pop-up menu.)
6. Scan document and ensure that all instructional text is marked for deletion and all highlighted text to remain is marked to eliminate highlighting.

**Task 3:** Prepare and insert exhibits for all applicable sections. Note that most have been provided within the materials that support development of the Environmental Resource Inventory (Module 4). A number of others may be "clipped" from GIS mappings provided within the Highlands RMP. (See CD's containing the RMP and Highlands Council technical documents, previously provided by the Highlands Council.) In certain instances, the municipality may need to create maps (e.g., Exhibit JJ, SDRP Planning Areas & Center Designations (suggested source: State Planning Commission/Office of Smart Growth)), or update maps provided by the Highlands Council (e.g., Exhibit AA, Preserved Lands; Exhibit

DD, Preserved Farms, SADC Easements, All Agricultural Uses). In most cases, such documentation of current municipal conditions will (or already did) occur during the course of completing Modules 1 and 2. As to Exhibit B, the Land Use Inventory, only the most recent map available is required – a full update if needed may occur after receipt of Basic Plan Conformance. Note that the Land Use Capability Zone Map may not be modified absent formal approval by the Highlands Council. Any other Highlands Council maps that are modified by the municipality (based on factual discrepancies in content) should be supported by the municipality in formal requests to the Highlands Council for “RMP Updates.” (These may be submitted through the Highlands Council’s web-based tool, or accompany petitions for Plan Conformance, pursuant to Module 7.)

**Alternative Tasks 2 & 3:** Incorporate the content of the model Highlands Element (as modified in accordance with Tasks 2 and 3, above), section by section, into a proposed revised draft of the existing municipal master plan, inclusive of all pertinent plan elements, exhibits, and language indicating applicability and authoritative hierarchy (in relation to existing provisions), as appropriate. Should this alternative be selected, the submission to the Highlands Council must be provided in an electronic format, using Microsoft Word (or other compatible) word processing software. All modifications to the existing municipal master plan should be indicated as document edits, highlighted by use of available software editing features. As noted above, the Highlands Council advises against this approach due to the limited time available for submission of petitions for Plan Conformance.

**Task 4:** Provide minimum 10-day notice for and hold at least one public meeting of the Planning Board (or combined Planning/Zoning Board, as applicable), to present, discuss, and accept public comment on the *draft* municipal Highlands Element (or fully revised draft municipal master plan). The document should be made available for public review at least 10 days prior to the meeting and written comments should be invited along with verbal comments and discussion during the public meeting. Unless Alternative Tasks 2-3 are selected, “clean” copies of the proposed document may be created for use in completing these requirements. (In Microsoft Word 2007, under the Review tool bar choose “Final” in “Final Showing Markup” drop down menu to view/print/copy modified, edit-free version.) Copies of public notices, meeting agendas, and minutes from the meeting(s) held to discuss and accept public comment on the municipal Highlands Element (or fully revised municipal master plan) must be submitted to the Highlands Council as deliverables pursuant to this Task.

It should be noted that this public meeting requirement is not intended to constitute the formal public hearing process required for adoption of an amended municipal master plan. That process will not begin until after the municipality has received approval of its petition for Plan Conformance from the Highlands Council, which will include approval of the proposed Highlands Element master plan amendment.

The Highlands Council encourages a notification and public participation effort that significantly exceeds these minimum requirements, but leaves selection of the actual process to the discretion of the municipal governing bodies, land use boards, and officials involved in both securing Highlands Council grant funding and in exercising municipal land use planning authority. A municipal decision to provide participation opportunities beyond these minimum requirements is considered justification for expenditures under Module 5 exceeding the \$2,500 allocation.

It is important to note that the *draft* municipal Highlands Element (or fully revised draft municipal master plan) is intended for submission with the petition for Plan Conformance. The full petition (inclusive of the Highlands Element) will require governing body endorsement. The Highlands Council thus recommends early involvement by governing body members in the Planning Board review process to help ensure timely completion and submission of petitions for Basic Plan Conformance. Upon gaining Highlands Council approval of conformance petitions, municipalities (and the applicable boards, commissions, and officers authorized there under) will be expected to quickly enter into the process required for adoption of the municipal Highlands Element (or revised municipal master plan) and associated land use ordinances and regulations that follow. The greater the public participation in these activities (from the outset and throughout all aspects), the better the chances of an expeditious adoption process in the post-approval period.

**Task 5:** Based on the comments, discussion, and final consensus reached by the Planning Board through Task 4, above, review the draft municipal Highlands Element and provide revisions as appropriate. *Please be advised that revisions that change the intent or meaning of the model Highlands Element will only be accepted by the Highlands Council if they are found consistent with and/or deemed to otherwise further the intents and purposes of the Highlands Act and the Highlands RMP.* Planning professionals should ensure that Planning Board members and municipal officials are made aware of this requirement and that it is clearly stated during the public meeting(s) held to discuss and consider the draft municipal Highlands Element. After completion of any document edits made pursuant to this Task, adjust numbering, Table of Contents, Acronyms list, and Exhibits list, as necessary for final submission.

## **5.2 Schedule for Completion**

Municipalities will be expected to complete Plan Conformance Module 5 Tasks by **September 1, 2009**. Please note that completion of Module 5 will support the planning efforts involved in completion of Module 3 (Housing Element/Fair Share Plan). While work may begin on each of these modules at the same time, Module 3 will have a later submission deadline. As noted in other module instructions, the Plan Conformance Grant program includes stringent timelines to facilitate completion of municipal planning required to meet submission deadlines established by both the Highlands Act and the Memorandum of Understanding between the Highlands Council and the Council on Affordable Housing. *By making application to the Highlands Council for Plan Conformance Grant funding, all applicants will be considered to understand and be committed to the time schedule for completion and submission of grant deliverables.*

## **5.3 Deliverables**

**Tasks 1-3 and 5 Deliverables** will include a **draft** proposed municipal master plan Highlands Element intended to supplement the existing municipal master plan as described under Tasks 2 and 3, above, or a **draft** proposed fully revised municipal master plan incorporating model Highlands Element content throughout each existing section, as described under Alternative Tasks 2 and 3. Grantees may submit any additional attachments as needed to describe or discuss important issues, supplement information, or provide any form of explanation. These deliverables shall be prepared using Microsoft Word

or other compatible word processing software. Maps and other exhibits should also be provided in electronic format, wherever feasible, using Microsoft Office (e.g., Excel), Adobe (pdf's), and for GIS data, in GIS shapefiles.

**Task 4 Deliverables** will include copies of all public notices, meeting agendas, meeting minutes, and any written comments submitted to the Planning Board that relate to the public meeting(s) held to discuss and consider the **draft** Highlands Element.

All deliverables may be submitted by e-mail or on electronic media to the Highlands Council Grants Administrator.

**ADDENDUM**  
**Plan Conformance Grant Program Module 5**  
**Model Highlands Element for Municipal Master Plans**

1. ***Plan Conformance Petition Deadline.*** The Highlands Act (N.J.S.A. 13:20) sets a statutory deadline of 15 months after the effective date of the Highlands Regional Master Plan for submission of Preservation Area petitions for Plan Conformance. Municipalities with Planning Area lands which have gained an extension for submission of Fair Share Plans from COAH and choose to use Highlands Growth Share projections for development of affordable housing plans also face that deadline (12/08/09). The Highlands Council is aware of the depth and breadth of the work necessary to achieve Plan Conformance, and has taken a number of steps to ease the process for all Highlands municipalities.
2. ***Basic vs. Full Plan Conformance.*** The Highlands Council has provided a process for Basic Plan Conformance, wherein only the most immediate requirements of Plan Conformance are addressed at the outset (timed to meet the 12/08/09 deadline), with the more complex tasks required for Full Plan Conformance (i.e., development of various resource management plans) to occur under approved implementation plans, during the period to follow.
3. ***2009 Plan Conformance Grant Program.*** The Highlands Council developed the 7-Module Plan Conformance Grant Program to provide both grant funding and a variety of tools, models and technical assistance to ensure that timely submission of Basic Plan Conformance petitions is not only feasible, but may be achieved as expeditiously as possible to meet the above referenced deadline. The Grant Program provides a base amount of \$50,000 based on an allocation of costs among Modules, but recognizes that the needs of municipalities will vary for each Module. The Module costs are not fixed, but flexible, and the Highlands Council has authorized the Executive Director to increase the total grant to amount up to \$100,000 upon a justification of need (see #8, below). Any requests beyond \$100,000 must be formally approved by the Highlands Council.
4. ***Model Highlands Element Addresses Basic Plan Conformance.*** The Model Highlands Element, Module 5 of the Plan Conformance Grant Program, is intended only to address the requirements of Basic Plan Conformance.
5. ***Achieving Full Plan Conformance.*** The Model Highlands Element refers to development of a variety of different plans, ordinances, regulations, and resource management programs. In nearly all instances, these are not required for submission with petitions for Basic Plan Conformance. The work entailed in their completion will occur under the follow-up implementation phase, during which municipalities will ultimately achieve Full Plan Conformance. Throughout that time the Highlands Council will continue to provide the grant funding, guidance materials, models, tools and technical assistance that will be needed to achieve Full Plan Conformance. This pertains to full development of municipal Master Plan Elements, Zoning and Land Use Ordinances, Board of Health Regulations, Resource Management Plans, Conservation Plans, Restoration Plans, and all other requirements and activities pertaining to Full Plan Conformance. It also includes voluntary activities such as pursuing the creation of a TDR Program. Many of the Full Plan Conformance guidance materials are already under development by the Highlands Council staff. In certain instances, the Highlands Council has

contracted with experts to assist in developing guidance for specialty areas such as water use and conservation management planning and critical habitat management planning.

6. ***Detailed Requirements/Provisions to Follow.*** The Model Highlands Element will be followed (in Module 6) by a Model Municipal Land Use Ordinance intended for use in effectuating the immediate requirements of Basic Plan Conformance. While the Highlands Element conveys the general intents and purposes of land use planning for the Highlands Area, the Land Use Ordinance will set forth specific, applicable requirements pertinent to same (as required for Basic Plan Conformance), at a far greater level of detail. The Land Use Ordinance will include at minimum: specific definitions, Highlands Zone and Sub-Zone requirements, Resource Area requirements, Special Protection Area provisions, use restrictions, density and intensity restrictions, cluster development regulations, application procedures, application review criteria, and information concerning applicability and exemptions, variances, waivers, and exceptions, and the need for local versus Highlands Council review and approval of applications. Likewise, a model Health Ordinance will be provided that addresses issues regarding the regulation of potential contaminant sources in Wellhead Protection Areas and Prime Ground Water Recharge Areas, and maintenance of septic systems.
  
7. ***Module 5 Submission Deadline Extended to September 1, 2009.*** The Module 5 submission deadline was initially set for June 30, 2009 in recognition of the pressing need for municipalities to next develop Housing Elements and Fair Share Plans and then (or simultaneously), prepare a draft Land Use Ordinance, along with a Board of Health Ordinance. The aggressive Plan Conformance Grant schedule is intended to ensure that Plan Conformance petitions may be submitted by 12/08/09. That said, the Council recognizes that many municipalities may need more time, in order to complete Modules 1 & 2, to gain a full understand of the implications of Module 2 results, and in many cases, to make a final determination concerning conformance for Planning Area lands. The bulk of the effort involved in actual modification of the Model Highlands Element should occur after the municipality has determined whether or not Planning Area lands will be included in its petition for Plan Conformance.
  - a. *Accordingly, the submission deadline for Module 5 has been extended to September 1, 2009. The Highlands Council continues to encourage the earliest submission possible, however, and urges municipalities to be mindful of all that must be accomplished in order to meet the 12/08/09 deadline for submission of Plan Conformance petitions. This deadline applies to all municipalities having Preservation Area lands and to any municipality relying upon Highlands Council Growth Share Projections for Planning Area lands in a petition for Substantive Certification (also due by 12/08/09) to the NJ Council on Affordable Housing.*
  
  - b. *In addition, the Module Instructions now indicate that the major work on actual modifications to the Highlands Element should occur after a determination has been made regarding conformance for any lands located within the Planning Area.*
  
8. ***Grant Allocation Amount.*** As noted above, should a municipality find that the base grant allocation is insufficient to complete any Module in the 2009 Plan Conformance Grant Program, it may request supplemental funding. Such requests must be submitted in writing in advance of such expenditures and should be accompanied by appropriate information and/or documentation to support a

demonstrated need. The Highlands Council is committed to paying for the reasonable costs of the Plan Conformance process. However, the Highlands Council cannot guarantee funding for requests that follow the expenditure of funds in excess of the \$50,000 base grant amount.

9. **Maps/Exhibits.** Nearly every required Highlands Element exhibit will be provided to the municipalities by the Highlands Council. A number of these will in fact be updated during the course of completing Module 1 of the Plan Conformance Grant Program.
  - a. *As to inclusion of an up-to-date Land Use Inventory, the Model Element and Module 5 Instructions have been modified to require only the **most current Land Use Inventory available**. Complete updates will be required under Full Plan Conformance.*
  
10. **Pre-Adoption of Highlands Element NOT Required and NOT Recommended.** As stated in Module 5 Instructions, the Highlands Element should not be adopted by the Planning Board prior to its submission to the Highlands Council for either, completion of Grant Module 5, or for a petition for Plan Conformance. In fact, the only Module of the seven that should be adopted is the Housing Element which must be adopted for submission to COAH or the Superior Court.
  
11. **Public Hearing(s) Not Required.** Module Instructions Task 4 calls only for a noticed public meeting of the Planning Board to discuss and gather public input on the draft Highlands Element. As stated in the text, the formal process of adoption should not occur until after the municipality has received Highlands Council approval of its petition for Basic Plan Conformance. If the municipality proposes a more extensive public participation program than one simple meeting, or finds that it cannot accomplish the meeting task within the grant funding allocation provided, it may request a grant supplement.
  
12. **Professional Planner Seal & Signature Not Required for Submission.** Because the Highlands Element is being submitted as a draft, the Cover Page need not be signed or sealed by a Professional Planner. This pertains to submission to the Highlands Council under either Grant Module 5, or as a component of the petition for Basic Plan Conformance. The document remains a DRAFT until such time as the municipal Planning Board adopts it – an action not required until after Highlands Council approval of the petition for Basic Plan Conformance. Professional signatures and seals are required only in accordance with the requirements of N.J.S.A. 45:14A-12.
  - a. *The Cover Page has been modified to indicate that the base Model Highlands Element was prepared and provided to Highlands municipalities by the Highlands Council. The signature line remains pertinent only to changes made to the document to tailor it to local circumstances.*
  
13. **Highlands Element Applicability.** The Highlands Element is intended as a *supplement* to municipal Master Plans; not as a replacement. To the maximum extent possible, the goals, objectives and various provisions of the underlying municipal Master Plan are intended to remain in effect. The Highlands Element supersedes the underlying municipal Master Plan only in the event of conflicts. The Highlands Element has been written for applicability primarily to non-exempt land use and development activities occurring only in that portion of a municipality for which it intends to conform

to the Regional Master Plan (RMP). It will apply neither to development activities which are exempt from the Highlands Act, nor to those occurring within Planning Areas for which a municipality has not chosen to seek Plan Conformance. Such activities will be governed by the provisions of the existing municipal Master Plan (and existing Zoning/Land Use Ordinances).

14. ***Not Applicable to Variance Applications for Exempt Developments.*** Just as in the case of any other portion of a municipal master plan that is inapplicable to a proposed development application, the inapplicable portions of the Highlands Element would have no bearing on a variance application pertaining to a Highlands Act exemption. Note that Module 5 instructions (p.1, paragraph 4) speak to the importance of retaining the existing municipal master plan language for precisely this reason. Accordingly, neither the Highlands Element nor the associated Land Use Ordinances that effectuate it will make extensive areas of existing municipal development non-conforming.

- a. *Clarifying language has been added to the Highlands Element to ensure that lawfully existing development is not subject to and thus is not made non-conforming by the modified use or density/intensity restrictions. These restrictions will apply only if modifications or improvements to existing development exceed the limits of a permitted Highlands Act exemption and increase the demand for water availability or septic system capacity.*

15. ***Highlands Act and the MLUL.*** As a result of the passage of the Highlands Act, the future of land use planning has significantly changed for both municipalities and counties in the Highlands Region. The New Jersey Supreme Court, in recently upholding the constitutionality of the Highlands Act in OFF, LLC v. State, 197 N.J. 418 (2008), affirmed the Appellate Division's decision, which emphasized the broad scope of the Highlands Act to protect the natural and agricultural resources of the Highlands through a coordinated system of regional land use controls. The Highlands Act creates a system in which a regional plan is designed to be implemented primarily through local government units. The net effect is that the statutory authority of local government units in the Highlands Region, inclusive of that provided under the Municipal Land Use Law (MLUL), is not preempted by the Highlands Act, but rather is supplemented through the passage of the Highlands Act and the adoption of the Highlands Regional Master Plan. To the extent that criteria for approval of variances, waivers, exceptions and/or any other relevant aspect are altered or supplemented by provisions indicated in the Highlands Element, authority for such modifications derives from passage of the Highlands Act.

- a. *The Highlands Element has been modified to clarify those instances in which municipal approval of certain variance applications must be authorized by the Highlands Council.*

16. ***Avoidance of Internal Inconsistencies.*** The Highlands Element distinguishes between the Preservation and Planning Areas, establishing each as a land area having different characteristics, different goals and objectives, and intended to be considered and treated differently in terms of land use and development. The Preservation and Planning Areas are established as overlays to the existing Land Use Plan, as are Highlands Zones and Sub-Zones. By taking this approach, the Highlands Element avoids the potential for conflicts and internal inconsistencies in the final municipal master plan (i.e., the existing Master Plan supplemented by the Highlands Element), whether the municipality conforms for the Preservation Area alone, or for both Preservation and Planning Areas.

17. **Resource Area Inconsistencies.** The Model Highlands Element incorporates Highlands Resource Areas with provisions applicable only to the limits of the “Borough/Township/Town Highlands Area,” which is that portion of the municipality for which it conforms to the RMP. (The model Land Use Ordinance will adopt the Resource Areas to the physical limits of the Borough/Township/Town Highlands Area.) While the Highlands Council encourages the extension of resource protections to areas outside of Borough/Township/Town Highlands Areas, conformance for Planning Area lands is voluntary. The Highlands Council acknowledges that this may result in inconsistent treatment of Highlands Resource Areas, between Preservation and (RMP non-conforming) Planning Areas. The distinctions between the Preservation and Planning Areas, both as provided in the language of the Highlands Element and as statutorily framed and required by the Highlands Act, however, allow for the potentially different treatment of the otherwise similarly situated properties that lie within the same Resource Areas on either side of the Preservation/Planning Area boundary line.
18. **Density of Development.** The Highlands Council acknowledges that the Density and Intensity of Development section of the Model Highlands Element provides a set of provisions that differs substantially from the standard descriptions and density ranges of a typical municipal master plan. The section sets forth the provisions pertaining to and/or necessary to derive or calculate the permitted density in any given instance. This is because the RMP does not establish density ranges in accordance with land use categories, as in a standard municipal master plan, but sets forth a capacity-based framework for density, which conforming municipalities must adjust their planning (and ultimately their zoning ordinances) to meet. Where wastewater utility services are currently provided (i.e., the “existing area served”), the existing density allowances of the municipal ordinance remain in effect (assuming sufficient water resource availability). Where wastewater utility services are proposed to be extended, a net density approach is used of 2 dwelling units per acre for residential development based only on the developed area of the project site, not the total project site area. Where new development will rely upon septic systems, the permitted density (in dwelling units per acre) must be adjusted so as not to exceed the allowable septic system density (in acres per septic system). This is an average density; lot size averaging and clustering are allowed and in some cases required. For the period of Basic Plan Conformance, this will require case-by-case analysis to determine plan consistency. It is anticipated that during Full Plan Conformance, municipalities will have opportunity to examine and determine how best to allocate available septic system yield by HUC14 subwatershed and Highlands Zone and Sub-Zone, and will amend the Land Use Plan and applicable Zoning Ordinances, accordingly.
- a. *Further detail on the application of the net density standard has been incorporated into the Highlands Element.*
19. **Intensity of Development.** The primary intensity of development criterion utilized in the Highlands Element is the Floor Area Ratio (FAR), which is applied only in the case of non-residential development. has been provided in the Model Highlands Element. To the To the extent that other standards and bulk requirements relating to intensity of development *affect water and/or septic system demand*, these will also be regulated by certain provisions of the implementing Land Use Ordinances, such as for instance, those relating to criteria for approval of variances.

- a. *Further detail on the application of the FAR standard has been incorporated into the Highlands Element.*
20. ***TDR Element Optional.*** As indicated in both Module 5 instructions and in the Model Highlands Element, retention of the TDR component is optional.
21. ***Other Optional Statements.*** The Highlands Element provides optional inclusion of various other statements in recognition of the fact that the municipalities likely have different goals and issues to consider in land use planning. Some may seek opportunities to maximize growth, for example, while others may prefer little to no growth. In the instance of all non-mandatory RMP provisions, the Highlands Element leaves such choices to the municipality.
22. ***Historic/Scenic Resources.*** The Highland Historic, Cultural, and Archaeological Inventory and the Highlands Baseline Scenic Resources listing are incorporated into the Highlands Element by reference only. Until and unless a municipality has appropriate Historic Preservation/Scenic Resource Protection ordinances in place, has set forth the criteria for both designation and application review, and has designated a site or sites, district or districts, *by ordinance* for preservation or special protection, it will not be asked to regulate such sites, districts, or properties in regard to historic/scenic preservation. For purposes of Basic Plan Conformance, review and approvals concerning any listed properties will remain under the jurisdiction of the Highlands Council.
23. ***Relationship to Other Plans.*** As stated in the Highlands Element, relationships between municipal master plans and those of adjoining municipalities and other entities will depend in large part on a number of unknowns, including but not limited to such items as: the extent of Planning Area Plan Conformance; municipal decisions concerning use or reservation of potential growth capacity; allocations of available growth capacity for which municipalities do choose to zone; potential growth capacity trade-offs within HUC14 subwatersheds whether within or between jurisdictions; the results of application of RMP resource protections; TDR feasibility, buy-in, and potential results; and so forth. A municipality cannot realistically assess the full extent of the relationships between its master plan and those of adjoining or related entities when all of said plans are in a state of flux. Many unknowns will remain until well into the Full Plan Conformance period.
  - a. *Where clear information is available, however, the Highlands Council agrees that the discussion can and should go further. A prompt has been added to the section to encourage further explanation to the extent it may be feasible.*