



RMP Addendum 2019-2 Plan Conformance Procedures

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

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HIGHLANDS COUNCIL PLAN CONFORMANCE PROCEDURES

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I. INTRODUCTION

The Highlands Water Protection and Planning Act (N.J.S.A. 13:20-1 et. seq.), “the Highlands Act,” was enacted on August 10, 2004. Through passage of the Highlands Act, the New Jersey Highlands Water Protection and Planning Council (Highlands Council) was created and charged with the important task of developing a Regional Master Plan (RMP) to protect the critical natural resources and other significant values of the Highlands Region.

The Highlands Act is premised on the need for coordinated land use planning and regulation to protect the important resources of the Highlands Region. A fundamental aspect of the Highlands RMP is the process by which local governments modify their land use requirements and restrictions to support the goals and requirements of the RMP. The Act directs the Highlands Council to develop a set of requirements to protect the Highlands which include mandatory restrictions over land use and development practices within the Preservation Area and provisions for voluntarily conformance with respect to the Planning Area.

In accordance with the Highlands Act, the Highlands Council is authorized to “approve, reject, or approve with conditions the revised master plan and development regulations” of Highlands municipalities and counties. The Highlands 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 (N.J.S.A. 13:20-14 and 15).

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. Assessment of the Highlands natural systems and resources conducted by the Highlands Council during the preparation of the RMP revealed that important ecosystems and natural resources lie not only within the Preservation Area, but also within the Planning Area. The Highlands 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 Region will depend upon the voluntary conformance with the RMP by those communities that lie within the Planning Area.

II. PLAN CONFORMANCE OVERVIEW

“Plan Conformance” is the process by which a municipality or county revises its local master plan and development regulations, as applicable to the development and use of land, in order to align them with the goals, requirements, and provisions of the Highlands Act and the RMP. The Highlands Council will review and approve a Petition for Plan Conformance by adoption of a formal resolution during a publicly-noticed Highlands Council meeting, which is subject to the Governor’s Review period that follows.

Petition approvals are typically rendered with conditions, requiring follow-up implementation activities which are supported by appropriate Highlands Council grant funding. Once the Highlands Council and the Petitioner have executed the Plan Conformance Grant Agreements, providing for such funding, the municipality or county embarks on the implementation phases of Plan

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Conformance. It is important to note that the protective legal benefits of achieving Plan Conformance as provided under the Highlands Act (see Benefits of Plan Conformance below, items “c” and “d”) apply to a Highlands municipality only after it has been deemed a “conforming municipality,” as defined herein.

A. 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 goals, requirements, and provisions of the RMP.
- (b) All activities undertaken by the Highlands Council or Highlands municipalities and counties to bring master plans and development regulations into conformance with the RMP are considered to be within the scope of Plan Conformance.
- (c) Plan Conformance shall incorporate a process for effective and thorough local government involvement and public input.
- (d) The Highlands Council intends to ensure that Plan Conformance will address local or unique circumstances. The Highlands Council recognizes that the RMP was created at a regional scale and that new or additional information available at the county or municipal level may be utilized during Plan Conformance.

B. Required Conformance in the Preservation Area

- (a) The Highlands Act requires that each county and municipality located wholly or partially in the Preservation Area submit a Petition for Plan Conformance to the Highlands Council for that portion of its jurisdiction lying within the Preservation Area.
- (b) Petitions for Plan Conformance may 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 to achieve conformance with the goals, requirements, and provisions of the RMP.

C. Voluntary Conformance in the Planning Area

- (a) Petitions for Plan Conformance for that portion of a county or municipality lying within the Planning Area may be submitted to the Highlands Council at any time.
- (b) Petitions for Plan Conformance may 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 to achieve conformance with the goals, requirements, and provisions of the RMP.

D. Construction of Plan Conformance Procedures

- (a) Nothing in these Plan Conformance Procedures shall be construed to limit the authority of a municipality or county, as provided in the Highlands Act (N.J.S.A. 13:20-14), to adopt revisions to its master plan, development regulations, or other regulations for the purposes of Plan

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Conformance that are stricter, as determined by the Highlands Council, than the minimum necessary to obtain approval of conformance with the RMP.

- (b) These Plan Conformance Procedures should be liberally construed to conform with the State's obligation to stringently safeguard the State's public trust resources and other resources of the Highlands Region. These Plan Conformance Procedures 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.
- (c) If any section, part, phrase, or provision of these Plan Conformance Procedures 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 Procedures or the application thereof to other persons or entities.

E. Plan Conformance Meetings and Public Input

- (a) In order for Plan Conformance to be timely and successful, it is essential that there be opportunities for open public dialogue between the Highlands Council, local government officials and their professionals, stakeholders, and interested citizens. It is also important that there be a free flow of information between the Highlands Council and local representatives.
- (b) 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. Only the Highlands Council may take final action on a Petition for Plan Conformance.
- (c) Notice of Plan Conformance issues before the Highlands Council, including the submission of Petitions for Plan Conformance, Highlands Council and Council Committee meetings, and public meetings on Petitions shall be provided to the public by postings on the Highlands Council website, newspapers of record, and, where involving a local government, in accordance with that local government's policies for public notice.

F. Benefits of Plan Conformance

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 to counties and municipalities that come into conformance with the Regional Master Plan. Such municipalities and counties are eligible for the benefits specified below.

(a) Planning Grants and Technical Assistance:

1. The Highlands Council shall make grant funds and other financial and technical assistance available to Highlands municipalities and counties for the reasonable costs of any revision of their master plans, development regulations, or other regulations or plans which are designed to further the Goals, Policies and Objectives of the RMP or for the implementation of a Transfer of Development Rights program pursuant to the Highlands Act.

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2. Plan Conformance grants shall be awarded to municipalities and counties through the approval of a resolution by the Highlands Council. The Council shall provide grant funds for all mandatory aspects of Plan Conformance and may also provide grant funds for discretionary aspects of Plan Conformance as determined by the Council.

(b) **State Aid and Assistance for Smart Growth:**

1. Highlands municipalities and counties approved by the Highlands Council as being in conformance with the RMP shall qualify for all State aid, planning assistance, technical assistance, and other State-provided benefits and incentives that may be awarded or provided to municipalities and counties which have received Plan Endorsement from the State Planning Commission or have otherwise been acknowledged by the State as practicing or implementing smart growth strategies and principles. These benefits apply to any conforming municipality in the Preservation Area, and subsequent to Plan Endorsement for the Planning Area of the Regional Master Plan by the State Planning Commission (see part (e) below), to any conforming municipality in the Planning Area. Any such municipality or county shall also qualify for any State aid that may be provided for smart growth projects.
2. Any municipality or county 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 matters that may require the funding, implementation, or active participation of a State agency. The Highlands Council may act to coordinate such matters with the appropriate State agency, where such action is consistent with the RMP, to gain agreements with the appropriate State agency to facilitate, approve, fund, or take other actions necessary to implement the matter of local priority.

- (c) **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 as in conformance with the RMP shall be entitled to a strong presumption of validity. In any cause of action filed against such a local government unit and contesting an action 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 Highlands Act requires that 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 as being in conformance with the RMP. 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.

- (d) **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 action 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 that have been adopted by the municipality or county, approved by the Highlands Council as being in conformance with

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the RMP, and the master plan or associated regulations are the subject of the cause of action filed against the local government unit;

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 RMP;
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; and
4. In the case of a Planning Area municipality, the municipality shall have adopted a Planning Area Petition Ordinance.

- (e) **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 State Planning Commission endorsement of the RMP adopted by the Highlands Council, Highlands Council approval of any municipal master plan and development regulations or county master plan and associated regulations through the Plan Conformance process, for lands in the Planning Area, shall be deemed the equivalent of having those plans endorsed by the State Planning Commission and such entities shall be entitled to any applicable plan endorsement benefits.

III. PLAN CONFORMANCE PETITION PROCESS

A. Initial Assessment

Any municipality or county interested in Plan Conformance will work with the Highlands Council to conduct an initial assessment to identify the changes necessary to align the local jurisdiction's planning program (including master plan and associated materials, land use regulations, development controls, and/or administrative processes) with the RMP. Some communities seeking to conform may need to make fundamental changes to their master plans and/or develop new master plan elements to achieve conformance, while others may need only modest revisions and updates to their existing planning programs. The extent of modifications necessary depend on the existing local government regulations, the development potential of lands within the municipality, and/or the Highlands environmental resources present. In addition, the Highlands Council has recognized that in some instances the development potential within the conformance area is so limited that adoption of major planning program changes are unnecessary. Based on these findings, the Highlands Council seeks to provide a flexible program for plan conformance implementation.

For example, where the conformance area of the subject municipality is precluded from new development due to existing circumstances, such as the extensive presence of preserved lands, items to be implemented by the municipality will be minimal to none. Where very limited development potential is noted, modifications for RMP consistency in such instances may be achieved by adoption of a Highlands municipal referral land use ordinance amendment which: a) establishes Highlands Districts (including Preservation Area, Planning Area, and Highlands Land Use Capability Zones); b) regulates both septic system density and water/wastewater infrastructure in accordance with

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Highlands requirements; and c) refers development applications to the Highlands Council for RMP consistency determinations as a condition of completeness. Finally, where the conformance area of the subject municipality contains significant Highlands resources and the area is identified as having the potential for development, modifications to achieve RMP consistency will require adoption of Highlands master plan and land use ordinance revisions to provide the resource protections called for in the RMP.

At the conclusion of the Initial Assessment, the Council will provide interested municipalities with individualized information, including such documents (e.g., model Highlands Master Plan Elements and Land Use Ordinances), maps, and technical data as needed to proceed with the Plan Conformance process. A complete list of planning program documents that may be included in a municipal Petition appears in Appendix A. A municipality will only need to complete those items identified in the initial assessment report as applicable, based on findings of the initial assessment grant and any subsequent review during the petition review process.

Counties

For all counties, the extent of modifications to existing documents to achieve RMP consistency will focus on: a) provisions pertaining to roadway improvements and stormwater systems over which the county has jurisdiction, as may be identified through the initial assessment process; and b) administrative requirements needed to incorporate such items as Highlands Council notice requirements and referrals, as required pursuant to the Highlands Act for certain types of development applications and county capital projects. Additional RMP implementation initiatives are optional for counties, and will include items such as development of Sustainable Economic Development Plans, Farmland Preservation Plans, and Agricultural Retention/Expansion Plans. Options will be outlined in the information packets provided to each county following the Initial Assessment, inclusive of grant funding opportunities that will assist in their completion.

B. Plan Conformance Petition

- (a) Submittal documents required for Petitions for Plan Conformance will vary depending upon the results of the Highlands Council Initial Assessment discussed in Section A above. Specific requirements will be set forth in detail for each jurisdiction in the information packet provided following the Initial Assessment.
- (b) Petitions for Plan Conformance will include the following, as applicable:
 1. **Preservation Area Petition.** For any Petition involving Preservation Area lands, a certified resolution of the governing body endorsing the proposed planning program revisions, as applicable, and Petitioning the Highlands Council for a determination of Plan Conformance.
 2. **Planning Area Petition.** For municipal Petitions involving Planning Area lands, the Highlands Council will accept a resolution adopted by the Governing Body in lieu of an adopted Planning Area Ordinance for purposes of review and consideration of Petition materials. Counties have the option to Petition the Highlands Council by resolution or by ordinance. It should be noted that adoption of the Planning Area Petition Ordinance is required for conformance by Planning Area municipalities pursuant to the Highlands Act

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(N.J.S.A. 13:20-15), and that same will be a primary condition of any Petition approval by the Highlands Council.

3. Planning Program Documents. Proposed substantive revisions, updates and/or supplements to the master plan, land use regulations, management plans, redevelopment plans, and various other planning documents required to achieve Plan Conformance shall be submitted as part of the Plan Conformance Petition. (A complete list of planning program documents that may be included in a municipal Petition appears in Appendix A. A municipality will only need to complete those items identified by the Highlands Council and the municipality or county, as applicable, based on findings of the initial assessment grant and any subsequent review during the petition review process.)

4. Map Adjustments and RMP Updates.

- i.** Map Adjustments: If applicable, any requests for Map Adjustments shall include all information, justification, and evidence in support of same as set forth and required under the Map Adjustments Program (Regional Master Plan, Chapter 6) and procedures. If the Petitioner seeks no Map Adjustments, the Petition shall so indicate.
- ii.** RMP Updates: If applicable, any requests for RMP Updates shall be included in the Plan Conformance Petition. An RMP Update is a factual update to Highlands Council data. This may result in changes to the configuration and boundary lines of Highlands Land Use Capability Zones, which could significantly alter certain aspects of the conformance process.

IV. REVIEW OF PLAN CONFORMANCE PETITIONS

A. Notice of Petitions

- (a) Upon receipt of a Petition for Plan Conformance, the Executive Director shall post a record of the receipt of the Petition on the Highlands Council's website and shall regularly update the website to include appropriate Petition information.
- (b) The Executive Director shall review Plan Conformance Petitions for administrative completeness within 60 days of receipt. The Executive Director shall inform the Petitioner of these findings in writing. In the event a Petition is deemed administratively incomplete, the letter shall specify the deficiencies and the timeframe (if applicable) within which they must be corrected. A finding of administrative completeness shall in no event preclude the Highlands Council from requesting such additional information as may prove necessary during the process of its review, to clarify, complete, correct or modify a Petition in the interest of ultimately achieving Plan Conformance.
- (c) Where a Petition for Plan 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.

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- (d) After completing the Petition review, the Executive Director shall prepare a report making recommendations regarding one or more of the following actions:
1. The waiver of 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 or require its submission;
 2. The approval, rejection, or approval with conditions of any revisions to the master plan and/or development regulations that have been submitted in the Petition for Plan Conformance;
 3. 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;
 4. 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) Where the Executive Director has recommended rejection, or approval with conditions of any revisions to the master plan and/or development regulations that have been submitted in the Petition for Plan Conformance, the municipality or county may request that the Highlands Council defer action on the Petition. The municipality or county may be granted deferral of action for a time to be specified by the Executive Director to resubmit the Petition with such modifications as the Petitioning jurisdiction deems necessary to address the Executive Director's recommendation, pursuant to the procedure outlined above. The Executive Director may then choose to modify the recommendation on the basis of the Petition modifications, without a new completeness review.

B. Public Meeting for Review of Plan Conformance Petitions

- (a) The Executive Director will post the draft report on the Highlands Council website for a minimum thirty (30) day public comment period. Notice of the public comment period shall be made in accordance with both the Council and local government's policies for public notice, including publishing such notice in print and digital media.
- (b) Upon receipt of the final report, including any public comments received, the Highlands Council shall conduct such deliberations as needed and shall, within 60 days of the date of receipt of the final report, approve, reject, or approve with conditions the revised master plan and development regulations and any other aspects of the Petition as it deems appropriate. The Highlands Council decision shall be by resolution, with an opportunity for public comment. Nothing herein shall preclude an extension of the 60 day time period, by consent of the Petitioner.
- (c) The Highlands Council shall adopt a memorializing resolution on each Petition for Plan Conformance providing its findings, conclusions, and final determination in the matter and a listing of any conditions pertaining thereto, a copy of which shall be provided to the Petitioner.

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- (d) The Executive Director shall provide public notice of any determination on the Highlands Council web site and shall publish any other notices as legally required.

IV. POST-PETITION APPROVAL PROCEDURES

A. Failure to Obtain or Fulfill Terms of Plan Conformance Approval

- (a) In the event that any municipality or county fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, including any condition thereto imposed by the Highlands Council, the Highlands Council may 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 pertinent to the Preservation Area, including any condition thereto imposed by the Highlands Council, the Highlands Council shall have all local enforcement authority provided to the municipality or county pursuant to the Municipal Land Use Law or the County Planning Act for that portion of the Preservation Area. The Highlands Council shall in addition have all authority under 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 RMP.

B. Duration of Plan Conformance and Conformance Amendments

- (a) A municipality shall be considered to be a conforming municipality after adoption of a land use ordinance and certification of said land use ordinance by the Highlands Council that implements the Highlands Act and the RMP. The term "land use ordinance" shall be inclusive of any amendment to the municipality's land development ordinance adopted to further the municipality's petition of plan conformance. This shall include any of those ordinances listed in Appendix A.5. For Planning Area municipalities, this also requires adoption of the Planning Area Petition ordinance. The Highlands Council shall issue a letter to each municipality that satisfactorily completes these requirements, certifying that the municipality is a conforming municipality and the effective date of same.
- (b) Plan Conformance approval shall continue without expiration, provided that the conforming jurisdiction retains the consistency of its planning program and program materials with the RMP.
- (c) Upon the commencement of each reexamination by a municipality or county of its master plan and development regulations and where these plans and regulations have been previously approved by the Highlands Council to be in conformance with the RMP pursuant to the Highlands Act, the municipality or county shall so notify the Council and, thereafter, submit to the Council for review the Reexamination Report and/or any proposed revisions of its master plan and development regulations, to determine conformance with the RMP.
- (d) If, after conducting a reexamination, the municipality or county does not resubmit to the Council its master plan and development regulations as they pertain to the Planning Area and obtain re-approval thereof from the Council in accordance with the Highlands Act and these Procedures,

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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 deem the jurisdiction as not in conformance with the RMP. Any financial or other assistance the jurisdiction has received for tasks that have been previously deemed consistent with the RMP shall remain the property of the jurisdiction. However, in such a case where the jurisdiction used financial or other assistance from the Highlands Council that resulted in a determination of non-conformance, the Council may require the jurisdiction to reimburse the Council or the State, as appropriate, in whole or in part for any financial or other assistance or incentives received from the State.

- (e) No amendment to any master plan or development regulations of a conforming county or municipality 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 RMP. Alternately, the Executive Director may notify 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 RMP.
- (f) 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 substantive issue with respect to the conformance of the county or municipal master plan or development regulations with the RMP. If the Executive Director determines no such substantive issue is raised, the Executive Director shall certify such fact to the clerk of the county or municipality and to the Highlands Council and shall provide public notice on the Highlands Council web site. Such amendment shall thereupon take effect in accordance with its terms and applicable law.
- (g) If the Executive Director determines that the amendment raises a substantive issue with respect to the conformance of the amended county or municipal master plan or development regulations to the RMP, the amended county or municipal master plan or development regulations shall be reviewed in accordance with these procedures and the Executive Director shall so inform the county and municipal clerk.
- (h) The Highlands Council may revoke a conformance approval granted pursuant to the Highlands Act, after providing notice to the municipality and conducting a public meeting, if the Council finds that the local government unit has taken action inconsistent with the RMP.
- (i) The Highlands Council may only provide legal representation under the standards set forth in Section II.F(d).

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DEFINITIONS

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

“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.

“Conforming municipality” means a municipality that has adopted a land development ordinance implementing the municipality’s plan conformance petition and said land development ordinance has been certified as consistent by the Highlands Council with the Highlands Act, the RMP and the municipality’s Plan Conformance approval. The term “land development ordinance” shall be inclusive of any amendment to the municipality’s land development ordinances that is adopted to further the municipality’s petition of plan conformance. This shall include, but not be limited to, any of those ordinances listed in Appendix A.5.

“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.

“Highlands Act” means the Highlands Water Protection and Planning Act (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.

“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.

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

“Petition for Plan Conformance” 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.

“Plan Conformance” means the process by which a municipality revises the master plan, development regulations and other regulations related to the development and use of land to conform them with the goals, requirements, and provisions of the Regional Master Plan in accordance with these Highlands Plan Conformance Procedures.

“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.

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APPENDIX A. Municipal Planning Program Documents

The content of municipal Petitions for Plan Conformance will vary, as described in the “Plan Conformance Petition Process” section of this document. Municipal Planning Program Documents that may be included in a Petition include proposed revisions, updates and/or supplements to the master plan, land use regulations, management plans, redevelopment plans, and other planning documents, as listed below. A municipality will only need to complete those items identified by the Highlands Council and the municipality as applicable, based on findings of the initial assessment grant and any subsequent review during the petition review process.

1. Environmental Resource Inventory
 - i. Environmental Resource Assessment
 - ii. Environmental Resource Mapping
2. Environmental/Infrastructure Capacity Analysis (including a Land Use Capability Analysis, a Limiting Factor Analysis, and local Build-Out Analysis).
3. Municipal Master Plan, including:
 - i. Statement of Policies, Goals & Objectives
 - ii. Land Use Plan Element
 - iii. Housing Element and Fair Share Plan
 - iv. Conservation Plan Element
 - v. Utility Service Plan Element
 - vi. Circulation Plan Element
 - vii. Recreation and Open Space Plan
 - viii. Agriculture Retention/Farmland Preservation Plan
 - ix. Community Facilities Plan Element
 - x. Sustainable Economic Development Plan
 - xi. Historic, Archaeological and Cultural Preservation Plan
 - xii. Scenic Resource Plan
 - xiii. Highlands Center Plan
 - xiv. Highlands Redevelopment Area Plan
 - xv. Development Transfer Plan
4. Master Plan Reexamination Report
5. Zoning/Land Use Ordinances & Development Regulations, including:
 - i. Highlands Referral Ordinance
 - ii. Implementation of Land Use Capability Zones
 - a. Septic System Densities
 - b. Infrastructure extension limitations
 - iii. Water Use & Wastewater Treatment Regulations (including septic system densities)
 - iv. Cluster Development Ordinance Provisions
 - v. Open Water Protection Areas
 - vi. Critical Habitat Protection
 - vii. Steep Slopes
 - viii. Carbonate Rock

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- ix. Water Use
 - x. Prime Groundwater Recharge Areas
 - xi. Lake Management Areas
 - xii. Agricultural Resources
 - xiii. Forest Resources
 - xiv. Wellhead Protection
 - xv. Historic, Cultural, Archaeological and Scenic Resource Protection
 - xvi. Zoning Map Amendments
6. Resource Management Plans
- i. Ground Water Recharge Protection and Mitigation Plan
 - ii. Water Use and Conservation Management Plan
 - iii. Wellhead Protection Plan
 - iv. Wastewater Management Plan
 - v. Septic System Management/Maintenance Plan
 - vi. Stormwater Management Plan, Inventory and Ordinances
 - vii. Educational Plan
7. Resource Protection & Supporting Regulations/Plans
- i. Open Water and Riparian Areas Identification and Protection Plan
 - ii. Steep Slopes Protection Plan
 - iii. Prime Groundwater Recharge Area Protection Plan
 - iv. Carbonate Rock Plan
 - v. Forest Area Protection Plan and Regulation
 - vi. Agricultural Resource Protection Plan/Right to Farm
 - vii. Open Space Stewardship Plan
 - viii. Critical Habitat Management Plan
 - ix. Lake Management Plans
 - x. Low Impact Development/Green Infrastructure
 - xi. Historic and Archaeological Resource Survey
 - xii. Scenic Resource Survey
8. Regional Master Plan Coordination
- i. Map Adjustments
 - ii. RMP Updates
 - iii. Plan Conformance petition amendments

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Appendix B: Highlands Center Designation Procedures

1.1 Executive Summary

A Highlands Center is an area within a municipality where development and redevelopment is encouraged and fostered. Highlands Centers are intended to support economic balance in the Highlands Region, providing for sustainable economic growth, while protecting critical natural and cultural resources.

With the implementation of a Highlands Center, the Land Use Capability Zones within the boundaries of the Center may be set aside. Mapping for the Center is to be guided by a comprehensive planning process, designed to identify the goals and best uses for a specific geographic area of a municipality within the context of the Highlands Regional Master Plan (RMP). The process is community-driven, allows flexibility in creating a tailored development plan for the Center, and should result in a healthy, active community with opportunities for growth and development consistent with the goals and principles of the Highlands Act and the RMP.

Highlands Center Designation is incorporated into the Plan Conformance petition process and results in the development of a center-specific land use ordinance as the means to implement the permissible uses and development and resource protection standards. The Highlands Council may develop specific RMP standards within the proposed Highlands Center. Highlands Center planning requires community visioning that engages residents, ensures on-going citizen involvement in center-based development/redevelopment projects, and garners support of residents and public officials.

The process for Highlands Center Designation is rooted in the Highlands Act, which requires the RMP to include a Smart Growth Component that provides opportunities for development, redevelopment, and economic growth, while taking into account public investment priorities, infrastructure investments, economic development, revitalization, housing, transportation, energy resources, waste management, recycling, brownfields, and design such as mixed-use, compact design and transit villages. The Highlands Act specifically authorizes the Highlands Council to work with interested municipalities to enter into agreements to establish, where appropriate, capacity-based development densities (N.J.S.A. 13:20-6.s.)

1.2 General Approach

Designation of a Highlands Center is incorporated into a municipal Petition for Plan Conformance, either as part of the original petition or as a subsequent amendment. As such, the process involves municipal submission of the complete Petition including Center Designation details (see following sections) to the Highlands Council. Highlands Council staff then review the Petition details and prepare recommendations to the Highlands Council. The Petition is open to public review and comment, and ultimately a determination is made by the Highlands Council of the appropriateness of the proposed Center.

Designation of a Highlands Center is intended to increase planning options while maintaining the benefits of Plan Conformance. The Highlands Plan Conformance Grant Program includes funding opportunities to initially evaluate centers, as well as pursuit of center planning initiatives. Sustainable economic development plans are often part of the center planning action items.

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Highlands Center planning is based on several key tenets:

- The entire process is intended to be community-driven, with a substantial public outreach component;
- Each proposed center should have specific goals associated with its desired future development/redevelopment;
- The center boundaries are expected to be identified in relation to areas of existing development;
- The proposed centers should be appropriate for additional growth and economic development;
- The proposed centers should have available infrastructure, either currently existing or reasonably anticipated; and
- Proposed centers that include areas for additional growth should consider the potential for use of the Highlands Transfer of Development Rights (TDR) program. (Funding to complete TDR feasibility studies is available through the Highlands Council grants program.)

1.3 Highlands Center Designation Process

The Highlands Center Designation process includes three primary steps that are explained in greater detail in the following sections. Municipalities that wish to request grant funding for any part of the Center Designation process must submit a scope of work for approval prior to beginning work on the process.

- A. Highlands Center Workshop Session** – The workshop session is an opportunity for municipal officials and their professional staff to discuss the parameters of a potential center(s) and the process for designation with Highlands Council staff. The Workshop Session is described in more detail below in Section 1.4.
- B. Highlands Center Implementation Plan** – The municipality shall prepare and submit a Highlands Center Implementation Plan. The plan shall include the proposed center(s) boundaries, the purpose and goals of the proposed center(s), the relationship of the RMP goals, policies, and objectives to those of the proposed center(s), a description of the built and natural resources within the proposed boundaries, and a narrative of how the municipality intends to undertake planning and implementation for the center(s). The Highlands Center Implementation Plan is described in more detail below in Section 1.5.
- C. Petition for Plan Conformance including Center Designation** – All Highlands Center designations must be reviewed by the Highlands Council as part of the approval of a Petition for Plan Conformance. The submission and approval of a Highlands Plan Conformance Petition including a Highlands Center designation is described in more detail below in Section 1.6.

1.4 Highlands Center Workshop Session

Municipalities seeking a Highlands Center designation should contact their Plan Conformance liaison to arrange for a workshop meeting with Highlands Council staff to discuss options for a proposed

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center or multiple centers. Prior to the workshop session the municipality should consider the potential boundaries of the center, the goals of the center, land use and utility constraints, and environmental and historic resources.

The following factors may be discussed during the workshop meeting.

- 1) A physical description of the proposed Highlands Center.
- 2) A map showing the proposed Highlands Center boundary, the boundaries of each parcel included in the proposed center.
- 3) Existing land use (by category) and local zoning of the proposed center properties and all adjacent properties. If the center includes a site that is part of an existing approved redevelopment plan in accordance with the Local Housing and Redevelopment Law or municipal Master Plan, the approved plan should be made available.
- 4) A general description of existing structures in the proposed center, including historic structures, open space/preserved lands, residential types, non-residential uses, community facilities, transit facilities, and any unique local or regional developed features that may characterize the area and serve to focus the goals envisioned for the proposed center(s).
- 5) Information related to the accessibility of sufficient water supply and wastewater capacity.
- 6) Information related to transportation and circulation issues.
- 7) Identification of Highlands resources and economic development conditions that may inform the designation process.
- 8) Potential for Highlands TDR Receiving Zones.

1.5 Highlands Center Implementation Plan

The Highlands Center Implementation Plan shall include the proposed center(s) boundaries, the purpose and goals of the proposed center(s), the relationship of the RMP goals, policies, and objectives to those of the proposed center(s), a description of the built and natural resources within the proposed boundaries, and a narrative of how the municipality intends to undertake implementation of the center(s).

- 1) Indication that the municipality will be conforming for the portion of their town for which a Highlands Center is proposed;
- 2) Explanation of the purpose and goals for the proposed center and how they are supported by rational planning principles;
- 3) Identification of the area(s) for which a center designation is desired and descriptions of the areas of existing development within the municipality;
- 4) Provide a summary of how the center planning process will be community-driven and an intended strategy for public outreach;
- 5) Explanation of how the proposed center(s) is/are appropriate for additional growth and economic development; and
- 6) Details of available infrastructure, either currently existing or reasonably anticipated, to serve the proposed center(s).

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1.6 Petition for Plan Conformance including Center Designation

After completion of a Highlands Center Workshop Session, the petitioning municipality should assemble all required materials to submit as part of their Petition for Plan Conformance. Specifically, the following materials shall be included in the submission:

- 1) Highlands Center Implementation Plan, containing the information described above in section 1.5;
- 2) Map of proposed Highlands Center boundaries;
- 3) Description of natural and built resources;
- 4) Explanation of the purpose and goals for the proposed Highlands Center as related to smart growth and sustainable economic development; and
- 5) Schedule for the implementation of the Highlands Center.

The Petition for Plan Conformance including the Highlands Center designation will then proceed through the established process for review of Highlands Council petitions prior to Highlands Council consideration. Following are details regarding how the Highlands Center designation specifically will be reviewed at each stage of this process.

Consistency Review and Recommendation Report. The Highlands Council staff shall prepare a draft Highlands Center Consistency Review and Recommendation Report, including an appendix that contains a preliminary Consistency Determination (CD) of the proposed Highlands Center. The CD will be based on the following criteria developed from the goals, policies and objectives of the RMP:

- 1) The proposed Highlands Center is located in an area with sufficient water availability, water supply, wastewater, and transportation capacity and is appropriate for increased land use intensity;
- 2) The proposed Highlands Center is consistent with the resource protection standards of the Regional Master Plan, in accordance with the intent and purpose of the Highlands Act;
- 3) The proposed Highlands Center is consistent with the Smart Growth and Low Impact Development (LID) standards of the Regional Master Plan; and
- 4) There is a need for land uses within the community that may be met by the Highlands Center, particularly those that complement local and regional (or sub-regional) socio-economic needs, provide for affordable housing, increased transit opportunities, and the potential use of Highlands Development Credits.

Municipal Response. The Highlands Council shall provide the draft Highlands Center Consistency Review and Recommendations Report to the municipality, after which the municipality shall have an opportunity to review and respond to the preliminary determination.

Public Comment. The Highlands Council shall revise the draft report as appropriate in light of any response from the municipality, shall provide a copy to the municipality, and shall post the revised report for public review and comments, for a period of not less than thirty (30) days. Notice of the public comment period shall be made in accordance with both the Council and local government's policies for public notice, including publishing such notice in print and digital media.

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Final Determination. The Highlands Council's final determination shall include written findings of fact and conclusions based thereon and shall be considered effective ten (10) business days after delivery of the meeting minutes to the Governor, unless vetoed by the Governor pursuant to N.J.S.A. 13:20-5.j.

1.7 Highlands Center Implementation

- A. Implementation Schedule: The petition for Center Designation shall include a schedule for the implementation of the Highlands Center. The schedule should propose specific timeframes for the development and adoption of the necessary planning and implementation documents for the Highlands Center. The schedule for implementation should be based on a 10-year timeframe.
- B. Highlands Center Implementation Plan Sequence: Highlands Center implementation sequencing is tailored to each Highlands Center individually. The following is the typical order of completion:
1. Adoption of Planning Area Petition Ordinance.
 2. Adoption of Municipal Master Plan Reexamination Report.
 3. Adoption of Highlands Referral Ordinance. Applications for development will then be reviewed by the Highlands Council for consistency with the RMP and with the standards, goals and objectives established for the Highlands Center until a Highlands Center land use ordinance is adopted (see below). Any planning work that has been accomplished for the Highlands Center will be used to support consistency reviews.
 4. Conduct Public Outreach: Develop and implement a Public Outreach Plan to seek input from the local community, which includes the following elements:
 - i. Outreach goals;
 - ii. Identification of audience/stakeholders;
 - iii. Identification of strategies/communication methods;
 - iv. Plan timeline; and
 - v. Evaluation of outreach program/next steps.
 5. Highlands Center Master Plan Element: Based on prior planning work and input from the local community, develop a Highlands Center Master Plan Element incorporating the following:
 - i. Summary of public input from outreach program;
 - ii. Goals and objectives for the Highlands Center;
 - iii. Capacity analysis to develop a capital improvement program and land use plan;
 - iv. Analysis of resources within the Highlands Center to determine the need for potential modifications;
 - v. Identify the need for future planning, such as Water Use and Conservation Management Plans, Habitat Conservation and Management Plans, Stream

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- Corridor Restoration Plans, Stormwater Management, and Sustainable Economic Development Planning; and
- vi. Evaluation of the potential for inclusion of housing units in accordance with the requirements of the Fair Housing Act.
6. Highlands Center Land Use Ordinance to implement the Highlands Center Plan. The ordinance may include land use designations, densities and design standards.

1.8 Duration of Center Designation

Provided the municipality adheres to all conditions of petition approval, continues to pursue full implementation of all aspects of the approved Highlands Center, and retains its approved status under Plan Conformance, designated Highlands Centers shall not expire.