

Highlands Council Municipal Plan Conformance Implementation Process

This document provides information for municipalities regarding the actions and sequencing of Plan Conformance implementation requirements. Implementation begins after Highlands Council approval of a Petition for Plan Conformance and execution of an Amended Plan Conformance Grant Agreement. The Final Consistency Review and Recommendations Report (issued to the municipality with the Highlands Council's approving resolution) includes a listing of implementation actions in Section D. These actions will require coordinated work by various municipal bodies and the Highlands Council. It is the responsibility of each municipality to ensure that all documents are properly approved in accordance with the specific requirements of the Municipal Land Use Law and other statutes and regulations (as applicable). Accordingly, the schedules listed in the Highlands Implementation Plan & Schedule for your municipality provide a guide for action and may be modified as needed, to apply specifically to your municipality.

Please note that all documents provided to municipalities upon Highlands Council approval of their Petitions for Plan Conformance are still subject to modification to address local needs and conditions. We must emphasize, however, that the Final Consistency Review and Recommendations Report ("Final Report") requires that any modifications be reviewed by Highlands Council staff, and indicates that substantive modifications may require formal approval of the Highlands Council. This ensures that the documents remain consistent with the Highlands Act and Regional Master Plan. **It is also important to note that the Highlands Council staff periodically updates the model documents to address emerging issues and to provide minor corrections as they are identified.** Therefore, for completion of Modules 4, 5 and 6, municipalities must provide the final draft version of each document (showing all edits in tracked changes) to the Highlands Council for final review prior to adoption. Highlands Council staff will ensure that any updates to the models are incorporated into the municipal documents at that time.

Immediate Plan Conformance Activities

1) **Planning Area Petition Ordinance**

- a) Purpose: Only for municipalities approved for Plan Conformance in the Planning Area, where this ordinance has not yet been adopted. Required action pursuant to Highlands Act.
- b) Responsibility: Governing Body (Note: Planning Board referral not required)
- c) Action(s): Ordinance adoption and submittal to Highlands Council
- d) Supporting Action(s): Highlands Council approves compliance with condition of the Final Report.
- e) Document(s) Used: Highlands Council model document available on the Council website at: www.highlands.state.nj.us/njhighlands/planconformance/Highlands_Model_Planning_Area_Petition_Ordinance.doc. Any modifications must be reviewed by your Highlands Council liaison prior to adoption.
- f) Schedule: As soon as possible.
- g) Funding: Provided in Amended Grant Agreement for this specific purpose.

2) Master Plan Reexamination Report and Resolution

- a) Purpose: Applicable to all municipalities. Review of existing municipal master plan to support adoption of Checklist Ordinance, Highlands Master Plan Element, Highlands Area Land Use Ordinance and Zoning Map. (NOTE: For municipalities with designated Highlands Centers or notified of eligibility for conforming as a “Checklist Ordinance municipality” meaning that only the Checklist Ordinance will be adopted, certain modifications to the standard Master Plan Reexamination Report are required which your Highlands Council liaison will discuss with municipal representatives and professionals.)
- b) Responsibility: Planning Board
- c) Actions:
 - i) Preparation of Reexamination Report based on Highlands Council model. Adoption of the Reexamination Report **as an addendum to the municipal master plan** is important, requiring public hearing and notice as per MLUL requirements applicable to amendments to the municipal master plan.
 - ii) The municipality must submit the Report for review by your Highlands Council liaison prior to adoption.
 - iii) *Optional*: The municipality may elect to modify the model Resolution to adopt only the Reexamination Report (as an amendment to the municipal master plan) as a first step, with adoption of the Master Plan Highlands Element to occur at a later time. Under this option, the last “Resolve” of the model resolution would be deleted. If this option is selected, the municipality must modify the Reexamination Report to include a recommendation that the Checklist Ordinance be adopted as an interim protective measure, to be retained until such time as the Highlands Area Land Use Ordinance is completed and adopted Governing Body; the model Checklist Ordinance should be added to the Appendices of the Reexamination Report, which should also include the draft Highlands Master Plan Element and draft Highlands Area Land Use Ordinance. This option will ensure that the goals and intents of the Regional Master Plan are established as a part of the local master plan from the outset, providing the basis for adoption of the checklist ordinance. The public process involved in adoption of the full Master Plan Highlands Element may be taken up next.
- d) Document Used: Highlands Council Model available on the Council website at: http://www.highlands.state.nj.us/njhighlands/planconformance/Highlands_Model_Master_Plan_Reexamination_Resolution_and_Report.doc
- e) Schedule: Initiated immediately after approval of Petition for Plan Conformance.
- f) Funding: To be included within funding for the Highlands Master Plan Element (Module 5) adoption process, as provided in the Amended Grant Agreement.

3) Checklist Ordinance

- a) Purpose: Applicable to all municipalities unless the Highlands Area Land Use Ordinance will be adopted within 60-90 days of the effective date of the Amended Grant Agreement, specifically regarding all lands affected by Plan Conformance approval. The Ordinance is a land development ordinance amending the existing municipal checklist ordinance applicable to Development Applications. (NOTE: For municipalities with designated Highlands Centers or notified of eligibility for conforming as a “Checklist Ordinance municipality” meaning that

only the Checklist Ordinance will be adopted, certain modifications to the standard Checklist Ordinance are required which your Highlands Council liaison will discuss with municipal representatives and professionals.)

- b) **Responsibility:** Governing Body (Note: Planning Board referral required)
- c) **Action(s):** Preparation of Ordinance to tailor to municipality; submission to Highlands Council required prior to adoption; adoption by the Governing Body.
- d) **Supporting Action(s):**
 - i) *Master Plan Reexamination Report and Resolution:* The Checklist Ordinance adoption should be preceded by Planning Board adoption of a Reexamination Report and Resolution focused specifically on issues related to Plan Conformance (see #2, above).
 - ii) *Optional – Highlands Environmental Resource Inventory (ERI):* The Checklist Ordinance may (but is not required to) be preceded by Environmental Commission approval of the Highlands ERI. The Highlands ERI should be approved prior to the Highlands Master Plan Element (see #5).
 - iii) *Optional – Highlands Master Plan Element:* The Checklist Ordinance should be preceded by Planning Board adoption of the Reexamination Report (see #2, above), or the Highlands Element, or both. The Highlands Council notes that there are significant benefits to adoption of the Highlands Master Plan Element (see #6) or Reexamination Report in this order.
 - (1) Where the Final Report indicates that the Highlands Element will be significantly revised to address a Highlands Center approved or conceptually approved by the Highlands Council, the Checklist Ordinance should not be delayed to allow for these revisions. Rather, the Highlands Element should be adopted with language generally addressing the Highlands Center, which will be amended later to address details. Alternatively, the Reexamination Report may be adopted first, with the adoption of the Highlands Element to follow after completion.
 - iv) Referral to Planning Board for Master Plan consistency review and recommendations required prior to adoption. Reexamination Report (adopted as an addendum to the master plan) and, if applicable, the adopted Highlands Element, provide the basis for a finding of consistency.
 - v) Highlands Council approves Checklist Ordinance as being in compliance with condition of Final Report.
- e) **Document(s) Used:**
 - i) Highlands Council model Checklist Ordinance available on the Council website at:
 - [Planning Area Only](#) (December 2012 Version)
 - [Preservation Area Only](#) (December 2012 Version)
 - [Planning and Preservation Area](#) (December 2012 Version)
 - ii) **For municipalities with designated Highlands Centers:** Certain modifications are required to the Checklist Ordinance, which are available through your Highlands Council liaison.

- iii) **For municipalities noticed of eligibility for “Checklist Ordinance municipality”:**
Certain modifications are required to the Checklist Ordinance, which are available through your Highlands Council liaison.

In all cases, modifications must be reviewed by your Highlands Council liaison prior to adoption.

- f) Schedule: As soon as possible following Planning Board adoption of Reexamination Report (as an addendum to the municipal master plan).
- g) Funding: Provided in Amended Grant Agreement for this specific purpose.

4) **Wastewater Management Plan**

- a) Purpose: Applicable to all municipalities. Compliance with N.J.A.C. 7:15 and conditions of the Final Report.
- b) Responsibility: Highlands Council and municipality, with lead assigned depending on whether the full municipality is addressed by the approved Petition for Plan Conformance. In Sussex County only, approval of the Sussex County Areawide Water Quality Management Planning Agency is required.
- c) Action(s):
 - i) *Plan Conformance for Full Municipality*: The Highlands Council will prepare a draft WMP based on data from the Highlands Municipal Build-Out Report (Modules 1 and 2) and any additional data as necessary, in collaboration with the municipality. Municipality will review and provide any and all edits necessary.
 - ii) *Plan Conformance for Part of Municipality*: The municipality or the County lead (for Hunterdon, Morris, Somerset and Sussex Counties) will prepare a draft WMP, based on data from the Highlands Municipal Build-Out Report (Modules 1 and 2) and any additional data as necessary, in consultation with the Highlands Council. Municipality will review where a County has lead.
- d) Supporting Action(s):
 - i) Highlands Council Consistency Determination regarding draft WMP (automatic where the Highlands Council prepares the WMP).
 - ii) Sussex County approval and incorporation into County WMP (where applicable)
 - iii) NJDEP approval as part of County WMP or as stand-alone municipal WMP (as applicable)
- e) Document(s) Used: Highlands Council template for fully conforming municipalities (as approved by NJDEP) or NJDEP template for partially conforming municipalities, as appropriate.
- f) Schedule: Initiated immediately after approval of Petition for Plan Conformance, parallel with other actions.
- g) Funding: Provided in Amended Grant Agreement for this specific purpose.

5) Highlands Environmental Resource Inventory

- a) Purpose: Applicable to all municipalities. Provide supporting information on environmental resources to inform and support the adoption of the Highlands Master Plan Element and Highlands Area Land Use Ordinance.
- b) Responsibility: Environmental Commission (in absence of Environmental Commission, Planning Board)
- c) Action: Approval by Environmental Commission (in absence of Environmental Commission, Planning Board).
- d) Supporting Actions:
 - i) Where approved by Environmental Commission, the ERI is sent to the Planning Board.
 - ii) Submission upon approval to Highlands Council. Adopted version should include date of approval on the front cover. We recommend that Figure dates (month/year) be inserted before adoption (in the Figure document footer) to coincide with the final preparation dates of each of the text documents. Dates of adoption of each document should be added to the cover pages after final action has been taken by the applicable municipal body.
 - iii) Highlands Council confirms that the adopted Highlands ERI addresses the conditions of the Final Report.
- e) Document Used: Highlands ERI with Highlands Council edits and updated figures, as provided to municipality on CD subsequent to approval of Plan Conformance. Please note, incorporation of the Figures into the MSWord® file is not recommended, as it greatly increases the size of the file and reduces print quality. Rather, the Figures (using the optimized file), should be inserted only after the text is translated to a pdf document, to maintain fidelity. The larger (non-optimized) Figures file should be used for printing hard copies, as it provides the best image quality.
- f) Schedule: Completion based upon Highlands Implementation Plan & Schedule.
- g) Funding: Provided in Amended Grant Agreement for this specific purpose (Module 4).

6) Highlands Master Plan Element

- a) Purpose: Applicable to all municipalities. Establishes policies of the Regional Master Plan as an integral part of the local Master Plan and planning program. Provides guidance for development of Highlands Area and support for implementation of land development regulations affecting all land development actions in the Highlands Area that are not exempt from the Highlands Act or excluded from application of the Highlands Land Use Ordinance. (NOTE: For municipalities with designated Highlands Centers or notified of eligibility for conforming as a “Checklist Ordinance municipality” meaning that only the Checklist Ordinance will be adopted, certain modifications to the standard Master Plan Highlands Element are required which your Highlands Council liaison will discuss with municipal representatives and professionals.)
- b) Responsibility: Planning Board
- c) Action(s): Planning Board adoption of Highlands Master Plan Element at public hearing as per MLUL requirements. (Note: Where the Final Report indicates that the Highlands Element will be

significantly revised to address a Highlands Center approved or conceptually approved by the Highlands Council, the adoption of the Highlands Master Plan Element should not be delayed to allow for these revisions if it is to be used in support of the Checklist Ordinance – see #3, above. Rather, the Highlands Element should be adopted with language generally addressing the Highlands Center, which will be amended later to address details.)

- d) Supporting Action(s):
 - i) Prior Approval of Highlands ERI.
 - ii) Review of final draft Highlands Master Plan Element by Highlands Council staff prior to adoption.
 - iii) Submission to Highlands Council after adoption. We recommend that Exhibit dates (month/year) be inserted before adoption (in the Exhibit document footer) to coincide with the final preparation dates of each of the text documents. Dates of adoption of each document should be added to the cover pages after final action has been taken by the applicable municipal body.
 - iv) Highlands Council confirms that the adopted Highlands Master Plan Element addresses the conditions of the Final Report.
- e) Document(s) Used: Highlands Master Plan Element with Highlands Council edits and updated Exhibits, as provided to municipality on CD subsequent to approval of Plan Conformance. Please note, incorporation of the Exhibits into the MSWord® file is not recommended, as it greatly increases the size of the file and reduces print quality. Rather, the Exhibits (using the optimized file), should be inserted only after the text is translated to a pdf document, to maintain fidelity. The larger (non-optimized) Exhibits file should be used for printing hard copies, as it provides the best image quality.
- f) Schedule: Completion based upon Highlands Implementation Plan & Schedule.
- g) Funding: Provided in Amended Grant Agreement for this specific purpose (Module 5).

7) Highlands Area Land Use Ordinance

- a) Purpose: Applicable to all municipalities. Effectuates the goals, policies and objectives of the municipality's Highlands Master Plan Element. Implementation of land development regulations affecting all land development actions that are not exempt from the Highlands Act or excluded from application of the Highlands Area Land Use Ordinance. (NOTE: For municipalities with designated Highlands Centers, certain modifications to the standard Highlands Area Land Use Ordinance are required which your Highlands Council liaison will discuss with municipal representatives and professionals. Municipalities notified of eligibility for conforming as a "Checklist Ordinance municipality" meaning that only the Checklist Ordinance will be adopted, will not adopt the Highlands Area Land Use Ordinance.)
- b) Responsibility: Governing Body
- c) Action(s): Adoption by Governing Body
- d) Supporting Action(s):
 - i) Approval of Highlands ERI.

- ii) Adoption of Reexamination Report and Highlands Master Plan Element.
 - iii) Referral of final draft Ordinance to Highlands Council staff for review prior to adoption.
 - iv) Referral of Ordinance to Planning Board for Master Plan (including Reexamination Report and Highlands Element) consistency review and recommendations required.
 - v) Submit adopted ordinance to Highlands Council. We recommend that Exhibit dates (month/year) be inserted before adoption (in the Exhibit document footer) to coincide with the final preparation dates of each of the text documents. Dates of adoption of each document should be added to the cover pages after final action has been taken by the applicable municipal body.
 - vi) Highlands Council approves adopted Highlands Ordinance as being in compliance with conditions of Final Report.
- e) Document(s) Used: Highlands Area Land Use Ordinance with Highlands Council edits and updated Exhibits (as applicable), as provided to municipality on CD subsequent to approval of Plan Conformance. Please note, incorporation of the Exhibits into the MSWord® file is not recommended, as it greatly increases the size of the file and reduces print quality. Rather, the Exhibits (using the optimized file), should be inserted only after the text is translated to a pdf document, to maintain fidelity. The larger (non-optimized) Exhibits file should be used for printing hard copies, as it provides the best image quality. For the Highlands Land Use Ordinance, the larger file is prepared for use in a plotter for large printouts that will readily viewable from a distance.
- f) Schedule: Begin after adoption of Highlands Master Plan Element. Completion based upon Highlands Implementation Plan & Schedule, starting from effective date of Amended Grant Agreement.
- g) Funding: Provided in Amended Grant Agreement for this specific purpose (Module 6).

8) Municipal Zoning Map

- a) Purpose: Applicable to all municipalities. To modify the Zoning Map of the municipality adopted pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-65, to incorporate overlay Highlands Zones and Sub-Zones established by the Highlands Area Land Use Ordinance. (NOTE: Municipalities notified of eligibility for conforming as a “Checklist Ordinance municipality” will not need to amend the Municipal Zoning Map.)
- b) Responsibility: Governing Body
- c) Action(s): Adoption of Zoning Map and submittal to Highlands Council
- d) Supporting Action(s):
 - i) Referral to Planning Board for review of consistency with Master Plan (including Highlands Element) and to Highlands Council staff for review of consistency with Final Report.
 - ii) Submit to Highlands Council upon adoption.
 - iii) Highlands Council approves adopted Zoning Map as being in compliance with conditions of Final Report.

- e) Document(s) Used: Based upon existing municipal Zoning Map with modifications based on Highlands Area Land Use Ordinance Exhibit #1 and other Exhibits as appropriate.
- f) Schedule: Should be completed concurrent with #7, or readied for adoption immediately following adoption of Highlands Area Land Use Ordinance.
- g) Funding: Provided in Amended Grant Agreement for this specific purpose.

9) Housing Element/Fair Share Plan

- a) Purpose: Applicable to all municipalities. Continued compliance with the constitutional mandate for ensuring provision of a municipality's "fair share" of affordable housing.
- b) Responsibility: The Highlands Council recognizes that recent court decisions and ongoing legislative consideration of the Fair Housing Act have presented significant uncertainties for municipalities in addressing their fair share of affordable housing needs. **Therefore, no work should be performed or invoiced under the Amended Grant Agreement regarding affordable housing (Module 3) without approval by the Highlands Council of a scope of work for anticipated activities.** Except for extenuating circumstances, the Highlands Council anticipates approval of scopes of work under this task only when sufficient certainty exists regarding ongoing municipal responsibilities.
 - i) *Planning Board*: Adoption of compliant Housing Element and Fair Share Plan as necessary.
 - ii) *Governing Body*: Endorsement and submittal of Fair Share Plan to relevant entity (e.g., Department of Community Affairs (DCA), Law Division of the New Jersey Superior Court).
- c) Action(s): Submit adopted Housing Element and approved Fair Share Plan to either to the Department of Community Affairs (DCA) or to the Law Division of the New Jersey Superior Court for judgment of repose.
- d) Supporting Action(s): Submit draft Housing Element and Fair Share Plan (if not already completed) or substantive modifications thereof for Highlands Council review of consistency with the Regional Master Plan.
- e) Document(s) Used: Existing Housing Element and Fair Share Plan (where relevant); regulations and guidance from State agencies and Highlands Council.
- f) Schedule: Where Housing Element and Fair Share Plan have not been submitted previously, as soon as possible. Otherwise, as necessary based on DCA or Court review, amended statutory or court requirements, etc.
- g) Funding: Provided in Amended Grant Agreement for this specific purpose (Module 3).

10) Right to Farm Ordinance

- a) Purpose: Applicable to municipalities with active farms. Establishing mechanism to address and resolve complaints and disputes regarding commercial farm activities.
- b) Responsibility: Governing Body (Planning Board referral may be required should the ordinance trigger MLUL restrictions)

- c) Action(s): Adoption of Right to Farm Ordinance (if none exists), or submittal of existing Right to Farm Ordinance to Highlands Council and adoption of amended ordinance if any modifications are required to address consistency.
- d) Supporting Action(s):
 - i) Submit draft or existing Ordinance for Highlands Council review of consistency with Final Report, and to SADC for review of consistency with State law.
 - ii) Submit to Highlands Council upon adoption.
 - iii) Highlands Council approves adopted Right to Farm Ordinance as being in compliance with conditions of Final Report.
- e) Document(s) Used: The State Agriculture Development Committee (“SADC”) has developed a model ordinance that may be used:
<http://www.state.nj.us/agriculture/sadc/rtfprogram/resources/>
- f) Schedule: Within 6 - 9 months of effective date of Amended Grant Agreement.

Continuing Planning Activities

Note: The activities in #1 through #10 above will require intensive effort by the municipal governing body and boards, municipal staff and (as appropriate) municipal consultants. Therefore, initiation of the following activities will occur as soon as the schedule allows, **but is not to slow the mandatory Plan Conformance Activities outlined above.** Further, in some cases the Highlands Council is developing guidance materials based on internal or consultant work, which will be provided to municipalities upon completion.

As noted above, municipalities must receive Highlands Council approval of scopes of work for any activities under #11 through #13, which will be provided only where critical to adoption of the Highlands Element and Highlands Land Use Ordinance (#6 and #7), or where the immediate Plan Conformance activities under #1 through #10 are complete or nearly so.

11) Community Planning

- a) Purpose: Plans to improve the economic and social sustainability of communities, where identified in the Final Report and funding is provided through the Amended Grant Agreement. Community plans for which the municipality will serve as lead may include:
 - i) Sustainable Economic Development Plan Element
 - ii) Highlands Center Designation Planning
 - iii) Highlands Redevelopment Area Planning
 - iv) Community Facilities Plan Element
 - v) Agriculture Retention/Farmland Preservation Plan Element
 - vi) Residential Cluster Development Plans

12) Water Use and Conservation Management Plans

- a) Purpose: To prevent, reduce if necessary, and eliminate where feasible any deficits in Net Water Availability for each subwatershed in the Highlands Region. The Highlands Council will take the lead in the development of these plans in coordination with municipality where identified in the Final Report.

13) Resource Management Plans

- a) Purpose: Protection, management and enhancement of Highlands resources, where identified in the Final Report and funding is provided through the Amended Grant Agreement. Resource management plans for which the municipality will serve as lead may include:
 - i) Habitat Conservation & Management Plan
 - ii) Lake Restoration Management Plan
 - iii) Stream Corridor Protection/Restoration Plan
 - iv) Land Preservation and Stewardship Program