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Governor

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JOHN R. WEINGART  
Chairman

EILEEN SWAN  
Executive Director

**MEETING AGENDA**  
***Thursday, May 22, 2008 - 4:00 p.m.***

1. CALL TO ORDER
2. ROLL CALL
3. OPEN PUBLIC MEETINGS ACT
4. PLEDGE OF ALLEGIANCE
5. APPROVAL OF MINUTES – May 15, 2008
6. CHAIRMAN'S REPORT (and Council Member Reports)
7. EXECUTIVE DIRECTOR'S REPORT
8. COMMITTEE REPORTS
  - a. TDR Committee – Council Member Whitenack
9. CONSIDERATION OF RESOLUTION – *Approval of Certain Planning Assistance Grants* - (voting matter with public comment)
10. REGIONAL MASTER PLAN DISCUSSION
  - a. Highlands Open Waters and Riparian Areas
  - b. Water Resource Availability
  - c. Land Preservation and Stewardship
  - d. Agricultural Resources
  - e. Future Land Use
  - f. Map Adjustments
  - g. Land Owner Equity
  - h. Plan Conformance Standards
11. PUBLIC COMMENTS
12. EXECUTIVE SESSION (if deemed necessary)
13. ADJOURN

NEW JERSEY HIGHLANDS WATER PROTECTION  
AND PLANNING COUNCIL  
MINUTES OF THE MEETING OF MAY 22, 2008

**PRESENT**

JOHN WEINGART	)	CHAIRMAN
	)	
KURT ALSTEDE	)	COUNCIL MEMBERS
ELIZABETH CALABRESE	)	
TRACY CARLUCCIO	)	
WILLIAM COGGER	)	
MIMI LETTS	)	
JACK SCHRIER	)	
	)	
<b>VIA TELECONFERENCE</b>	)	
JANICE KOVACH	)	
DEBBIE PASQUARELLI	)	
ERIK PETERSON	)	
	)	
<b>ABSENT</b>	)	
TIM DILLINGHAM	)	
GLEN VETRANO	)	
TAHESHA WAY	)	
SCOTT WHITENACK	)	

**CALL TO ORDER**

The Chairman of the Council, John Weingart, called the 69<sup>th</sup> meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:10 pm.

**ROLL CALL**

The members introduced themselves.

**OPEN PUBLIC MEETINGS ACT**

Chairman Weingart announced that the meeting was called in accordance with the Open Public meetings Act, N.J.S.A. 10:4-6 and that the Highlands Council had sent written notice of the time, date, and location of this meeting to pertinent newspapers or circulation throughout the State and posted on the Highlands Council website.

**PLEDGE OF ALLEGIANCE** was then recited.

**APPROVAL OF MINUTES OF MAY 15, 2008**

Mr. Schrier introduced a motion to approve the minutes, Mr. Cogger seconded it. Ms. Calabrese abstained and all other members present and on the telephone voted to approve. The minutes were approved.

**EXECUTIVE DIRECTOR'S REPORT**

Ms. Swan reported that there had been a County Planner's meeting on May 16<sup>th</sup> and that staff had met with Hampton Borough this morning. Ms. Swan stated that the Regional Master Plan discussion items would be discussed later in the agenda.

### **CHAIRMAN'S REPORT**

Chairman Weingart reported that the TDR Committee had met on May 15<sup>th</sup> and that the Council's TDR Consultant Charlie Simon was present along with John Stokes from the Pinelands Commission and Monique Purcell from the Department of Agriculture. He noted that the Chair of the TDR Committee Scott Whitenack was unable to attend today's meeting to give his report. He announced that the next Highlands Council meeting will be held on June 5<sup>th</sup> at 10 am.

Ms. Letts complimented the work of Jeff LeJava and any other Council staff and members that had been involved in the preparation of the TDR materials. She expressed her appreciation for the detailed analysis of these complex issues.

### **CONSIDERATION OF RESOLUTION - APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS FOR BOROUGH OF HAMPTON AND BOROUGH OF HOPATCONG**

Ms. Swan introduced the Resolution of two Initial Assessment Grants for the Boroughs of Hampton and Hopatcong. Ms. Swan noted that Hopatcong had been awarded a \$7,500 COAH grant in October of 2005. She also noted that Hampton had been awarded a \$12,500 COAH in April of 2006 and that this grant was still open as there is a pending court issue.

Mr. Schrier moved the motion and Mr. Cogger seconded it. There was discussion amending the motion to clarify the language that there were two separate grants not to exceed \$15,000 each and Mr. Schrier and Mr. Cogger agreed to the amendments. All members present and on the telephone voted to approve the motion as amended. The Resolution was APPROVED.

### **REGIONAL MASTER PLAN DISCUSSION**

Ms. Swan began a presentation on the Regional Master Plan items.

#### **Highlands Open Waters and Riparian Areas GPOs**

Ms. Swan outlined the revisions to the Goals, Policies and Objectives (GPOs) regarding the Highlands Open Waters and Riparian Areas discussing the need to continue the 300 foot buffer requirement for all Highlands Open Waters (HOW) for the Preservation and Planning Areas. She reviewed the need to address disturbed buffer use and restoration in the Planning Area in the RMP, for example, she pointed out that it may be appropriate to have public access to some urban streams in disturbed areas, while requiring a measurable and scientific approach to ensure no net loss of stream buffer functional value.

She stated that the policies revised for the Planning Area included provisions that proposed disturbances shall only occur in previously disturbed areas and there would be a sequence of low impact best management practices to be employed if any disturbance is allowed: 1) to avoid the disturbance of HOW buffers; 2) minimize impacts to HOW buffers; and 3) mitigate all adverse modification to the HOW buffers resulting in no net loss of the functional value of the buffer. Included in the revisions would also be a clarification that key functional values of buffers would include but not be limited to: habitat, water quality, temperature moderation and channel integrity. She then discussed a new objective that would include a policy through Plan Conformance to have

municipalities develop and implement a municipal wide or subwatershed wide Stream Corridor Protection/Restoration Plan that would protect the functional values broadly, not just on a site by site basis. Stream corridor planning can also identify remedial or mitigation opportunities providing a systematic procedure for evaluating specific stream reaches in the subwatershed. These plans would help achieve the Act's goals of Protect, Restore and Enhance. She finished this section by commenting that the changes proposed were based on comments received.

There was discussion regarding exemptions and waivers with Mr. Borden commenting that there are various exemptions under the Highlands Act that would allow activities in HOW buffers. He noted that DEP presently does not need to review certain exemptions and stated that the issue of exemptions and waivers is being addressed in Land Owner Equity rather than repeating the exemptions and waivers in each section. Mr. Alstede asked when the key functional value requirements would come into play and Mr. Borden replied that an exemption is available for a single family home but that if a landowner wanted to construct a commercial building, then the HOW requirements would apply because these provisions apply to non-exempt projects.

Ms. Carluccio expressed her concern that the section detailing the Stream Corridor Protection/Restoration Plan could allow less than a 300 foot buffer if prepared by the municipality. Dr. Van Abs reviewed the process stating that this approach was an attempt to allow a municipality to utilize a science based approach to identify buffers specific for particular stream reaches and apply the buffers accordingly to more detailed drainage patterns. Ms. Swan mentioned *Objective 1D4c* noting that it requires adherence to the minimum stream buffer requirements of NJDEP's Stormwater Rules, Flood Hazard Area rules and Freshwater Wetland rules.

Mr. Cogger asked that historical value be identified as important. Mr. Weingart commented that historic structures would be covered under land acquisition priorities.

Ms. Carluccio asked in *Objective 1D2a* whether there would be onsite testing for soils in Riparian Areas and Ms. Swan replied that the soils were mapped and as part of the Hi-map this information will be available by block and lot. Ms. Carluccio also raised concerns about the *Objective 1D4i* and suggested that Sec. 2 include *Objectives 1D4d* through *1D4b*. She continued to raise concerns that this approach was weakening the 300 foot buffer requirement. Dr. Van Abs discussed this "variable source area technique" as one that has been used successfully elsewhere in the country and provided a science based approach for determining the most effective buffer that gets the best result. It was agreed that staff would add language from *Objective 1D4b* to section 2 of *Objective 1D4i* for clarity. Ms. Swan emphasized that the object of the changes was to strengthen the protections afforded to the streams in a scientific manner and she pointed out the comparison between the 2007 final draft and these revisions as outlined in the ED Report. Ms. Pasquarelli also expressed concern that this section was weakening the 300 foot buffer requirement and advocated for more specific standards. Ms. Swan pointed out that the objective that allowed for the increase of the 300foot buffer where necessary was included in the GPOs.

Ms. Pasquarelli asked what the definition of "previously disturbed areas" was in *Objective 1d4e* and it was agreed that staff would add a definition. She also expressed concern about having more specificity for waivers and noted that wherever there was ambiguity, in her experience, there is opportunity for litigation.

Mr. Alstede asked about whether agricultural development was exempt and Mr. Borden summarized the different exemptions for the Preservation Area and the Planning Area and that the Highlands Act does not exempt agricultural activities. He specified that the Act requires that agricultural uses and development activities in the Preservation Area are not subject to NJDEP's Highlands rules, but if the 3 and 9% impervious cover limits are triggered, they will be subject to Department of Agriculture rules for farm and resource plans. Ms. Swan pointed out that there was language in the Agricultural Resources section on how Ag would be treated.

Ms. Carluccio asked if (in connection with *Objective 1d4i*) every town would prepare a Stream Corridor plan during conformance and if so, could a town come in with a plan that does not follow the 300 foot buffer. She wanted to know if there are minimums for buffers. Dr. Van Abs clarified that the *Objective 1D4e* includes a provision for a minimum of 150 feet and also that staff would develop guidance for municipalities as to how to do the Stream Corridor plans. It was agreed that staff would include *Objectives 1d4b* and *1d4c* in *1D4i* and that *1D4e* and *1D4f* also need to be addressed.

Ms. Letts asked if the buffers could be averaged and Ms. Swan responded that this approach does provide for averaging, but does provide for identifying the functional values. There was additional discussion resulting in the Chair asking staff to write a separate paragraph for Section 2 of *Objective 1D4i* identifying what that section applies to.

#### **Water Resource Availability**

Ms. Swan continued the presentation with a discussion of policies and objectives that were consolidated to improve ease of understanding. She noted that the order of GPOs was changed for better transition and that mitigation requirements had been incorporated from the white paper discussed at the May 1<sup>st</sup> meeting and that details would be included in the Plan Conformance Standards and Highlands Project Review requirements.

Ms. Carluccio asked that an objective for aquatic ecosystems be added and it was noted that staff would add it with respect to *Policy 2B4*. She also raised concerns about *Objective 2B4a* and Dr. Van Abs committed to add clarifying language to it.

The discussion turned to what actions would be taken under the performance bond scenario in *Objective 2B9b*. It was agreed that staff would create a general statement as to the criteria for performance bonds and in what circumstances they would be used.

#### **Land Preservation and Stewardship**

Ms. Swan reviewed the changes noting that most of those changes related to clarifying language, removing duplicate language, combining and reorganizing GPOs. She discussed a new *Policy 1H2* that addresses all the coordinating efforts and technical assistance needs for land preservation and stewardship. She also summarized a new *policy 1H7* that was *1H11* that provides for the designation of a Special Environmental Zone to comply with the Act's mandate. She read the language from the Act noting that the zone was in the Preservation Area. She then reviewed the recommended method for the Special Environmental Zone to use parcel clusters within designated Conservation Priority Areas in the Preservation Area and that five indicators were chosen as the most important for protection of water resource and environmentally sensitive lands: forest with the forest resource area, riparian corridor condition high, Highlands Open Water Protection area, critical habitat, and water quality management tier (excluding the developed lake community sub-zone).

The Special Environmental Zone analysis resulted in 360 parcels totaling 19,000 acres. She discussed the use of the confidential list of parcels that has been developed for Green Acres and SADC and said that the Special Environmental Zone took the analysis to the next level. She again noted that the Special Environmental Zone was only in the Preservation Area. Ms. Letts inquired as to whether the exemptions were in place and was told that the exemptions would still apply. Mr. Schrier remarked that there was no monetary compensation attached to the development regulations in *Policy 1H7*. Mr. Borden discussed the two avenues of relief provided for in the Act as exemptions and waivers. He stated that one of Highlands Act waivers authorizes relief to avoid a taking. Chair Weingart commented that development regulations may not permanently preserve the Special Environmental Zone lands given the exemptions and the waivers. Mr. Cogger raised the issue of confidentiality of the lists and felt that they should be shared with municipalities and non-profit agencies. Ms. Swan noted that the list had been completed and that staff had complied with the mandate of the Act to keep the list confidential and submit it only to Green Acres and SADC. Staff has met with John Flynn from Green Acres, Sue Craft from SADC and Monique Purcell from the Department of Agriculture to discuss the methodology to be employed. She pointed out though the Act mandates the confidentiality of the lists, in the case of the Environmental Zone it says that the RMP shall identify zones where development shall not occur. This zone does not have to be confidential. Borden commented that the Special Environmental Zone was analyzed on a regional scale and that map will be available to non profits showing that zone as well as the Conservation and Agricultural Priority Area in the Regional Master Plan. Ms. Letts asked whether appraisals showing value before the Act were possible and Ms. Swan discussed the dual appraisal methodology that was put in place for five years with the passage of the Act. Appraisers are accustomed to this approach. Mr. Alstede did not agree that the list should be kept confidential. Mr. Cogger suggested that maintenance of forested areas be added to *Goal 1j*.

### **Agricultural Resources**

Ms. Swan reviewed the changes to the Agricultural Resource GPOs commenting that they were revised for clarification and to address comments from public, NJDA and NJFB as well as to be consistent with changes to Cluster program policies and objectives and the white paper on Conservation Plans. She highlighted *Policy 3D2* and *Policy 3D3* that amended the policy from “encourage” conservation plans for 3%/9% triggers to “require” in the Planning Area. She also spoke to new *Policy 3E4* and *Objectives 3E4a* and *3E4b* which address agricultural and horticultural use and development through Plan Conformance in coordination with NJDA, SADC, and CADBs and are consistent with the Right to Farm Act. The intent is to have one place to address the applicability of the resource protection requirements of the RMP.

She also mentioned that the new objective addresses the confidential list of preservation priority parcels, agriculture retention/farmland preservation plans and development regulations that prioritize the preservation of agricultural lands in the agricultural priority areas and limit non-agricultural uses. These objectives, she noted, also cover regional coordination with all groups to maximize agricultural preservation efforts as well as coordination with SHPO on historic agricultural structures.

Several Council members questioned the use of the terms credits in *Policy 3B4* and it was agreed that staff would clarify that language. There were some questions from Council members on acquisition and whether the farm acquired in fee simple is maintained as a farm. Mr. Schrier mentioned that the farms acquired as a preservation project and sell off the development rights are deed restricted as a farm even if they are auctioned by SADC. That restriction runs with the land whoever owns it. Mr.

Cogger gave Chubb Farm as an example. Mr. Cogger also commented that some municipalities have Right to Farm ordinances and that they can be more liberal than the Right to Farm act, but are necessary if a farm is to be preserved.

### **Map Adjustments and Future Land Use**

The presentation continued by Ms. Swan discussing the distinction between RMP Updates, which are factual updates, and Map Adjustments, which address policy issues. The processes had been separated in revisions in response to comments. She emphasized that Map Adjustments can only be used after waivers, exemptions, and RMP Updates have been examined. She remarked that priority for Map Adjustments will be given to conforming municipalities and that municipal coordination will be encouraged when appropriate. There will also be criteria established for different zones, standards and digital submissions. She then summarized the various adjustments to the Protection Zone, Conservation Zone or Environmentally constrained Sub-Zones and the adjustment proposed to change an Existing Community Zone to another zone or sub-zone.

She continued the review with Future Land Use GPOs and that the policies and objectives have been consolidated. She highlighted the model for local build out analysis that would be required through Plan Conformance would be provided to municipalities and would be sufficient to address build out needs for all levels of government including local, county, regional and State as well as for Plan Endorsement.

She finished the discussion with a brief review of LUCM zone policies. As a result of questions from Council members, Chairman Weingart asked staff to clarify that the build out analysis is a tool that municipalities can use to meet various build out needs and Ms. Swan also mentioned that developable lands would be a part of the analysis as an example. Ms. Carluccio asked that *Policy 6B5* say “such as clustering” instead of “including clustering”.

### **Landowner Equity**

Ms. Swan stated that for consistency and to avoid repetition, this section will address the Act’s exemptions and waivers as applicable throughout the RMP. She then noted that three new goals were added covering issuance and monitoring of exemptions, issuance, tracking and monitoring of permits and waivers, and mitigation to the maximum extent possible of the impacts of exempt development on the ecosystem integrity of the region through use of innovative land use programs.

Chair Weingart asked why the section started with “Additionally” and Mr. Borden stated that TDR language is the first part of Part 7 and this language would follow that introduction. Mr. Borden discussed the fact that the primary focus exemption activities are now in the Preservation Area and that the Council staff needs to develop guidance on exemptions for the Planning Area as the Highlands Council will be processing these exemptions. Ms. Letts asked that in *Objective 7F1a* that the exemptions be annotated with the applicability in the Planning Area and Preservation Area. Staff will address her request.

### **Conformance Standards**

The last issue discussed was guidance for Steep Slopes with respect to conformance standards. Ms. Swan noted that this section was to illustrate for Council Members the approach to developing conformance standards and in response to comments on details necessary for Conformance. Ms. Carluccio commented that this effort was a huge piece of work. Council members questioned when

this would be ready for Plan Conformance and were told that the work was being done now so that it would be completed in time for adoption.

Chair Weingart announced that the next Council Meeting would be June 5<sup>th</sup> at 10 am.

## **PUBLIC COMMENT**

### **Betty Schultheis, Councilwoman Allamuchy Township**

She expressed concern that the TDR process could fall into the same category as Regional Contribution Agreements. She noted that her township has had a vacant low income rental unit for 2 years and questioned the validity of the COAH numbers recently presented.

### **David Shope, Lebanon Township**

He asked for a clarification of ecological uses for water availability and said he was interested in landowner equity not equity for species. He believes that the Highlands Act is like the imposition of the Napoleonic code. He also expressed concerns, using laboratory testing of animals to illustrate, that denial of equity was unfair and unethical.

### **Eliot Ruga, NJ Highlands Coalition**

He commented on the map adjustments presentation asking that non-conforming municipalities not have the same status of conforming municipalities with respect to request for non-regional planning purposes. He believes that even if no net loss is required within the HUC14 that it sounds like horse trading.

### **Helen Heinrich, NJ Farm Bureau**

She brought and submitted an article on what farmers sell in farmers' markets. She asked that a definition of sustainable agriculture be included in the glossary noting that some defined it narrowly as organic, but the Farm Bill defines it more broadly. She remarked that she would review the Agricultural Resources section but that she was opposed to amending the farmland assessment statute for forest management and explained her concerns. She commented that some Council members wanted more rigid standards versus flexibility and that she believed that more rigid standards that did not apply to a given site would give rise to more litigation.

### **Frank Minch, NJ Department of Agriculture**

He expressed concern regarding the many difficulties associated with the functional value analysis for stream buffers. He supported the Council's efforts in support of agricultural practices.

### **Deborah Post, Chester Township**

She spoke against flexibility in developing standards and turned to a discussion of the TDR analysis of the initial offering price. She disagreed with the tax-based methodology that was used to develop the initial offering price of \$16,000 and remarked that \$500 million dollars of credit according to her calculations was not close to a report that had estimated that the loss to landowners amounted to \$15 billion dollars. She believed that market data should have been used instead of tax data and that the initial offering price was 75% below fair market value. She advocated that actual comps and appraisals should be used for the TDR program.

### **Julia Somers, NJ Highlands Coalition**

She continues to be concerned that the mitigation program in deficit subwatersheds had not been dropped and believes it should be. She expressed gratitude for the Special Environmental Zone. She

commented that she would need more time to review the map adjustment program. She did comment that she approved of the hierarchy of Avoid, Minimize and Mitigate and that it should be reflected in map adjustment protocols and the same functional analysis should be included in map adjustments. She felt that the build out analysis being used for multiple agencies made sense.

**Andrew Drysdale, Chester Township**

He commented that environmental extremism had created the Highlands Act and that the current high price of gas is one more example of that extremism.

**Wilma Frey, NJ Conservation Foundation**

She commented that she thought the Special Environmental Zone was good, but questioned the small acreage versus the total acreage in the Preservation Area. She thought that the Policy 1I3 was good, but that land trusts were not mentioned and should be. She described the lack of monitoring by municipalities and that NJCF monitors annually and recommended that land trusts would be better suited to monitoring because of the staffing constraints that exist in municipalities and thus they should be included in the GPOs. She also noted that the contributions of land trusts were not noted and should be. She then remarked that in Policy 1J1 that DEP or Green Acres was better suited than the SADC to administer a Forest Preservation Easement Program because of the ecological and wildlife values involved. In Objective 1J1a, she advocated that DEP administer the program and thought that it should be expanded to include threatened and endangered species, management of invasive species and the management of water resources – quality and quantity. With respect to Agricultural Resources, she said that NJCF would be sending in comments. In Policy 3B4, she thought there should be an impervious cover limit in place. She also asked that forest management should be called forest stewardship. She expressed concern about cluster and supported Ms Carluccio's comments. She also said she would be sending in a written correction to her comments at the last meeting as she felt the minutes did not accurately capture them.

**Marianne Harris, Morris County Trust for Historic Preservation**

She thanked Mr. Cogger for his comments on adding historic resources, but expressed concern about the lack of support from other Council members. She asked that in the riparian section that there should be a cross reference for archaeological resources as they might be found there. She went on to discuss that she believed that the land stewardship policies should address stewardship of historic resources. In Policy 1H4, she wanted to include sites that should be restored for historic purposes. She discussed the Federal tax credit for income producing property with respect to SHPO. She asked for more references for historic preservation in land preservation.

**Mark Zakutansky, NJ Highlands Coalition**

He encouraged the Council Members to continue to ask questions as the public had little advance notice of the documents. He thanks the staff for clarifying changes and encouraged cross referencing.

The meeting was adjourned at 6:50 pm.

**Vote on the Approval of  
these Minutes**

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Councilmember Alstede	✓			
Councilmember Calabrese	✓			
Councilmember Carluccio	✓			
Councilmember Cogger	✓			
Councilmember Dillingham			✓	
Councilmember Kovach	✓			
Councilmember Letts	✓			
Councilmember Pasquarelli				✓
Councilmember Peterson	✓			
Councilmember Schrier	✓			
Councilmember Vetrano			✓	
Councilmember Way			✓	
Councilmember Whitenack	✓			
Councilmember Weingart	✓			

**PUBLIC COMMENTS SUBMITTED**

HELEN HEINRICH 3 PGS (1)  
5/22/07 COUNCIL MTG.

Sustainable agriculture is defined in the 1990 farm bill as "an integrated system of plant and animal production practices having site-specific application that will over the long term - (a) satisfy human food and fiber needs; (b) enhance environmental quality and the natural resource base upon which the agricultural economy depends; (c) make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls; (d) sustain the economic viability of farm operations; and (e) enhance the quality of life for farmers and society as a whole"

From the 1990 Farm Bill

You are viewing an archived document from the New Jersey State Library.  
Starting a farmers' market in a rural area where massive crowds may not be assured offers an opportunity to communicate with residents closer to farms and may encourage more visits to farmer-owned roadside stands.

Photo courtesy Tara Bowers, Foodshed Alliance

2

l than its western and ample selling ven-  
Sussex and Warren east one market, and

See RURAL, Page 9

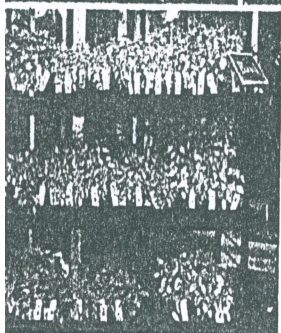
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## Rutgers research relays markets' benefits to farmers, communities

By SARAH L. CRANSTON  
AFP Correspondent

**EAST RUTHERFORD, N.J.** — The Rutgers New Jersey Agricultural Experiment Station (NJAES) Food Innovation Center (FIC) and Cooperative Extension hosted three forums in Bordentown, Paterson, and Bridgeton last month to report on the center's findings from research conducted in cooperation with the Food Policy Institute and the New Jersey Department of Agriculture on farm earning opportunities and community farmers' markets (CFMs) in New Jersey.

Through a series of surveys, focus groups sessions and one-on-one interviews, FIC staff and Food Policy Institute researchers investigated the economic impact that CFMs are having on the state's farms. At the forums, FIC focused on how to use markets to make money, promote local agriculture and support community improvement programs that either serve local populations or support the state's extensive tourism industry as agritourism destinations.

Forum presenters included FIC Director Lou Cooperhouse; FIC Associate Director Diane Holtaway; New Jersey Secretary of Agriculture Charles Kuperus; and NJDA Assistant Secretary Albert Murray to name a few.

Staff and researchers conducted the study in order to identify best practices, spotlight models that are meeting farmers' and communities' goals, and give information about how to set up and sell at CFMs.

One catalyst for the study was the fact that the occurrence of farmers' markets in New Jersey grew 158 percent from 2000 to 2006. That's nearly three times the national rate. Initiators of the study also noted that consumer demand for locally-grown, fresh produce is growing and is likely to continue to do so as communities show increased interest in starting markets for a variety of social and nutritional reasons. The benefits for farmers are also there. Some N.J. farmers reported CFM revenues of more than \$110,000.

"We believe that the number of CFMs will continue to increase," Cooperhouse said. "Consumers are seeking local foods for purchase and value an interaction with New Jersey farmers. Communities are increasingly seeing farmers' markets as a vehicle for local economic development, and farmers have found this to be an opportunity in which they can earn considerably greater income."

Benefits for communities are varied. For example, CFMs can substitute for town centers in some

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## Forum . . .

Continued from Page 4

settings, they appeal to a culturally diverse consumer base, they provide fresh produce and promote healthy eating, and span urban and rural divides. "We have worked hard to link farmers with community farmers markets, and the resulting rapid growth of these markets distinguishes the Garden State," said Kuperus, who spoke at a forum held in Paterson on April 2.

"New Jersey farmers markets play an important role in community and economic development, bolster local farm businesses and provide an additional marketplace for Jersey Fresh produce and New Jersey-prepared specialty foods. In some urban areas underserved by food retailers, these markets may be the only opportuni-

ty, or one of just a few, for residents to access the healthy, nutritious and delicious foods that come direct from our state's farms."

The markets also support N.J.'s agritourism business by extending the reach of farms to communities throughout the state, foster traffic to the farms themselves, and bring traffic to businesses located near the market's location.

Key findings in the study found that in terms of revenue from CFMs, participants can expect reliable cash flow at higher margins, market diversification, which supports risk management, and positive attention for farms and their farmers.

Median revenues per day at markets for survey respondents was \$863, though reported revenues were highly variable — anywhere from \$25 per day into the thousands of dollars. In fact, some farmers reported earning as much as \$6,000 per day at

some popular upscale markets. Also, one-third of farmers earned more than 50 percent of their total income from farmer's markets.

"For some New Jersey farmers, CFMs have become an important distribution channel," Holtaway said. "Our research indicates that some farmers are beginning to rely on direct sales CFMs and other channels for more and more of their income. They are adapting to new demands and finding ways to earn more by selling directly to consumers."

In terms of investment, the study found that the fixed cost of participating in CFMs was \$3,350. This included tables, tents/umbrellas, apparel, merchandising material, Web site development, re-usable cartons and baskets, and a truck.

The variable costs including marketing materials, fuel, stall rental fees, insurance, ice and containers, packaging, labor, and more was ap-

proximately \$6,410 per season.

However, not all benefits to the farmer are quantifiable in terms of revenue.

The study found that participating in markets could extend farmers' product lines, build trust between the consumer and producer, and expand one's ability to deliver on key consumer trends. The forums also offered advice to those wishing to start a market in their area. Tips included researching demographics, identifying competing markets and farm-stands, identifying sponsors and partners, learning about operations and access issues, and more.

Reported challenges included weather, reliable labor, adherence to regulations, competition from "Green grocers and farmers who sell what they buy from distributors", and maintaining consistent, high levels of consumer traffic.

## Myers. . .

Continued from Page 5

for easy handling? While food safety concerns can make it difficult to provide samples of your fresh products, don't forget about the sense of smell. Point out fragrant flowers, snap open some cloves of garlic, or crush some fresh herbs to

release a strong scent.

Farmers' markets are destinations. Shoppers must go out of their way to come and shop the market. But in Chrzan's study, location was not the only perceived inconvenience.

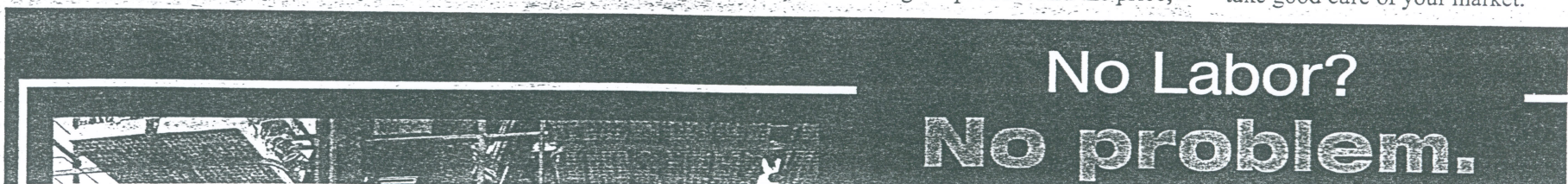
If markets don't carry dairy products, meats or other poultry products, customers will have to make another food shopping stop for those items. We must work to

expand the variety of products offered at our markets by establishing protocols and standards for producing, processing and marketing these value-added products.

Many markets provide great socializing and educational opportunities for vendors and customers alike. But new shoppers may be hesitant to become engaged in the market atmosphere. Prominent signage describing the product and the price,

plastic bag dispensers within easy reach, and a quick willingness to smile and share information about your product will help make for a more enjoyable shopping experience.

Remember the primary purpose for forming a farmers' market is to offer consumers a great food retailing experience. Take good care of your market customers, and they'll take good care of your market.



No Labor?  
No problem.

## RESOLUTION 2008-16

### NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS

**WHEREAS**, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

**WHEREAS**, the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments to carry out any power, duty or responsibility under the Highlands Act; and

**WHEREAS**, Section 18 of the Highlands Act authorizes the Highlands Council to make available grants and other financial and technical assistance to municipalities and counties in furtherance of the Regional Master Plan; and

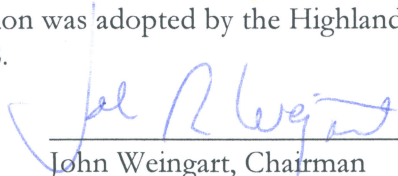
**WHEREAS**, on February 28, 2008 the Highlands Council by Resolution 2008-4 authorized the initiation of a grant application process for Initial Assessment grants to municipalities within the seven Highlands counties in furtherance of Plan Conformance, in an annual amount not to exceed \$1,500,000; and

**WHEREAS**, the Highlands Council staff has reviewed the following grant application and recommends approval by the Highlands Council; and

**NOW, THEREFORE, BE IT RESOLVED** by the Highlands Council that the Executive Director, or her designee, is hereby authorized to enter into grant agreements with the Borough of Hampton and the Borough of Hopatcong for Initial Assessment Grants each in an amount not to exceed \$15,000.

#### CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 22<sup>nd</sup> day of May, 2008.

  
\_\_\_\_\_  
John Weingart, Chairman

#### Vote on the Approval of this Resolution

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
<u>Councilmember Alstede</u>	✓	_____	_____	_____
<u>Councilmember Calabrese</u>	✓	_____	_____	_____
<u>Councilmember Carluccio</u>	✓	_____	_____	_____
<u>Councilmember Cogger</u>	✓	_____	_____	_____
<u>Councilmember Dillingham</u>	_____	_____	_____	✓
<u>Councilmember Kovach</u>	✓	_____	_____	_____
<u>Councilmember Letts</u>	✓	_____	_____	_____
<u>Councilmember Pasquarelli</u>	✓	_____	_____	_____
<u>Councilmember Peterson</u>	_____	_____	_____	✓
<u>Councilmember Schrier</u>	✓	_____	_____	_____
<u>Councilmember Vetrano</u>	_____	_____	_____	✓

**RESOLUTION 2008-16**  
**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**  
**APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS**

**Vote on the Approval of  
this Resolution**

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
<u>Councilmember Way</u>	_____	_____	_____	_____ ✓
<u>Councilmember Whitenack</u>	_____	_____	_____	_____ ✓
<u>Councilmember Weingart</u>	_____ ✓	_____	_____	_____

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**Subpart b. Highlands Open Waters and Riparian Areas**

Highlands Open Waters and their associated riparian areas are a primary focus of the Highlands Act and must be protected, enhanced and restored to ensure achievement of the Act's goals for water quality, water supply and ecological sustainability. The Highlands Regional Master Plan focuses on four areas of action to address the need to protect, restore and enhance Highlands Open Waters and Riparian Areas:

- Identify and inventory each type of resource area;
- Evaluate the integrity of each type of resource area;
- Establish resource protection measures; and
- Establish programs to promote consistent standards for the protection, restoration and acquisition of important waters and riparian areas of the Highlands Region.

“Highlands Open Waters” are defined by the Highlands Act as all springs, streams including intermittent streams, wetlands, and bodies of surface water, whether natural or artificial (excluding swimming pools), located wholly or partially within the boundaries of the Highlands Region. Highlands Riparian Areas are the lands associated with and bordering Highlands Open Waters that provide critical hydrologic, ecologic and pollutant attenuation functions for the open waters. Highlands Open Waters and Riparian Areas exist in a wide variety of settings, ranging from preserved lands to urban areas. Some support very high quality ecosystems, while others are degraded by existing land uses, stream corridor modifications, stormwater flows and pollutant loadings.

A high priority is for municipalities to develop and implement a Stream Corridor Protection/Restoration Plan that achieves the policies and objectives below, as refined using local scientific knowledge, with incorporation of local planning goals where they do not conflict with these policies and objectives. The Stream Corridor Protection/Restoration Plan will be used as a basis for both development review and restoration activities. Where a Stream Corridor Protection/Restoration Plan has not been approved by the Council, site-by-site development applications in municipalities will be required to strictly adhere to the RMP goals, policies and objectives below.

<b>GOAL 1D</b>	<b>PROTECTION, RESTORATION, AND ENHANCEMENT OF HIGHLANDS OPEN WATERS AND RIPARIAN AREAS.</b>
<b>Policy 1D1</b>	To establish and maintain an inventory of Highlands Open Waters and their integrity. “Highlands Open Waters” are all springs, streams including intermittent streams, wetlands, and bodies of surface water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but shall not mean swimming pools.
<b>Objective 1D1a</b>	The Watershed Resource Value of Highlands HUC14 subwatersheds shall be established through an analysis of the relative amount of developed lands, habitat quality for threatened and endangered wildlife species, total forest and core forest in each HUC14 subwatershed.
<b>Policy 1D2</b>	To establish and maintain an inventory of Highlands Riparian Areas and their integrity.

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<b>Objective 1D2a</b>	Highlands Riparian Areas shall consist of the floodprone areas, wetlands, soils that are hydric, alluvial or have a shallow depth to ground water, and wildlife passage corridors that are associated with Highlands Open Waters.
<b>Objective 1D2b</b>	The integrity value of Highlands Riparian Areas within each Highlands HUC14 subwatershed shall be established through an analysis of the relative amount of impervious cover, agricultural land use, density of road crossings of streams, vegetative condition, and habitat for wetland/water dependent threatened and endangered wildlife species of the riparian areas.
<b>Policy 1D3</b>	To periodically review and update, as necessary, the Watershed Resource Value and Riparian Area Integrity Values.
<b>Policy 1D4</b>	Highlands Open Waters shall include a protection buffer of 300 feet from the edge of the discernable bank of the Highlands Open Water feature, or from the centerline where no discernable bank exists. With respect to wetlands and other Highlands Open Waters features (e.g., seeps, springs, etc.), the feature shall include a protection buffer of 300 feet from the delineated Letter of Interpretation (LOI) line issued by the NJDEP for wetlands, or from a field-delineated boundary for other features. Any proposed disturbance shall, through local development review and Highlands Project Review, comply with Highlands Open Waters buffer standards.
<b>Objective 1D4a</b>	Require that all applications for approval through local development review and Highlands Project Review include the identification and mapping of Highlands Open Waters.
<b>Objective 1D4b</b>	Preservation Area buffers for Highlands Open Waters shall comply with the Highlands Preservation Area rules at N.J.A.C. 7:38, which provide that all major Highlands developments are prohibited within a Highlands Open Water and its adjacent 300-foot buffer in the Preservation Area except for linear development, which may be permitted provided that there is no feasible alternative for the linear development outside the Highlands Open Waters or its buffer. Structures or other land improvements existing within a Highlands Open Waters buffer in the Preservation Area on August 10, 2004 may remain, provided that the area of disturbance is not increased other than through a Highlands Preservation Area Approval (HPAA).
<b>Objective 1D4c</b>	Require that proposed development within all Highlands Open Waters buffers (Preservation and Planning Areas) conforms through local development review and Highlands Project Review with the buffer requirements of N.J.A.C. 7:8 (Stormwater Management rules), N.J.A.C. 7:13 (Flood Hazard Area rules), and N.J.A.C. 7:7 (Freshwater Wetland rules), and with any applicable requirements of a Regional Stormwater Plan adopted pursuant to N.J.A.C. 7:8 (Stormwater Management Rules).
<b>Objective 1D4d</b>	Structures or other land improvements existing within a Highlands Open Waters buffer of the Planning Area on August 10, 2004 may remain, provided that the area of disturbance shall not be increased unless approved through local development review or Highlands Project Review in compliance with RMP policies and objectives.
<b>Objective 1D4e</b>	In the Protection and Conservation Zones of the Planning Area, proposed disturbances of Highlands Open Water buffers shall only occur in previously disturbed areas, unless a waiver is granted by the Highlands Council. Such proposed disturbances must demonstrate full utilization of the following performance standards in the listed order,

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to demonstrate the necessity of an encroachment into Highlands Open Water buffers: 1) avoid the disturbance of Highlands Open Waters buffers; 2) minimize impacts to Highlands Open Waters buffers; and 3) mitigate all adverse impacts to Highlands Open Waters buffers so that there is no net loss of the functional value of the buffer, in compliance with **Objective 1D4h**. Minimization and mitigation opportunities shall be considered only upon a clear and convincing demonstration by the applicant that the protection buffer can not be avoided and in no case shall the remaining buffer be reduced to less than 150 feet from the edge of the Highlands Open Waters, unless a waiver is granted by the Highlands Council and the proposed disturbance complies with **Objective 1D4c**.

**Objective 1D4f** In the Existing Community Zone of the Planning Area, proposed disturbances of Highlands Open Water buffers shall only occur in previously disturbed areas, unless a waiver is granted by the Highlands Council and the proposed disturbance complies with **Objective 1D4c**. Such disturbances shall employ performance standards such that all proposed disturbances of Highlands Open Water buffers shall employ low impact development best management practices to mitigate all adverse modification to Highlands Open Waters buffers so that there is no net loss of the functional value of the buffer, in compliance with **Objective 1D4h**.

**Objective 1D4g** Encourage opportunities to restore and enhance Highlands Open Waters buffers of all zones in both the Preservation and Planning Areas. Restoration activities shall be targeted to ensure improvements to one or more of the functional values that the buffers provide while ensuring that there is no net loss of any of the functional elements, in compliance with **Objective 1D4h**. Specifically during site redevelopment, techniques may include, but are not limited to: disconnecting the direct drainage of impervious surfaces to Open Waters; retrofitting of stormwater management facilities to achieve the water quality, quantity, and recharge standards of the Stormwater Management Rules as specified in N.J.A.C. 7:8; reducing the temperature of stormwater discharges; and minimizing concentrated stormwater discharges through or into protection buffers.

**Objective 1D4h** Key functional values that Highlands Open Water protection buffers provide or contribute to include but are not limited to habitat, storm water and flood water retention and filtration, water quality protection, temperature moderation, aquatic ecosystem integrity and channel integrity. The mitigation requirement of no net loss of functional value shall ensure improvements to one or more function and that there shall be no net loss of any function in the mitigation design. For the Highlands Open Water buffer functional value assessment, require that the applicant demonstrate improvement or no net loss of functions as follows:

**1) Habitat** – no net loss of instream food sources and no net loss of terrestrial and aquatic habitat functional value due to a shift to a less valuable overall vegetative condition in the protection buffer based on the following continuum from highest to lowest: forest or wetland, scrub/shrub, pasture or meadow, agriculture, maintained lawn, unpaved impervious surface, and other structures;

**2) Water Quality** – a degradation of this functional value will occur if, as a result of the proposed land conversions, pollutant loads increase to the Highlands Open Waters.

**3) Temperature Moderation** – a loss in temperature moderation functional value will occur if changes to the existing vegetation result in reduced shading of the Highlands Open Waters or stormwater that discharges to Highlands Open Waters. Further, a loss

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<b>Objective 1D4i</b>	<p>in temperature moderation functional value may occur with the heating of stormwater by new structures and other impervious surface. Mitigation approaches include removing or relocating impervious surfaces away from the Highlands Open Waters or ensuring that stormwater temperature is reduced through shading or other techniques;</p> <p><b>4) Channel Integrity</b> – a loss of channel integrity functional value will occur if the project will result in: the loss of bank stabilizing vegetation; the placement of infrastructure that can be feasibly located outside the stream corridor; an increase in the peak rate of stream flow generated, or in localized scour potential, that will increase stream bank and stream bed erosion; or the removal or burial of aquatic habitat in any substantial part of a stream bed or for threatened or endangered species.</p> <p>Develop through Plan Conformance and implement municipal-wide or subwatershed-based Stream Corridor Protection/Restoration Plans which shall:</p> <ol style="list-style-type: none"><li>1. Identify areas where existing development or land uses are within the Highlands Open Water buffers, along with any remedial or mitigation opportunities, or where proposed development patterns conflict with RMP goals, policies and objectives regarding Highlands Open Waters;</li><li>2. Provide for a systematic procedure for alternative Highlands Open Waters buffers based on an evaluation of specific stream corridors in the subwatershed to determine the extent of the features critical to supporting the functions of a healthy Highlands Open Waters buffers, which shall protect buffer functional values that are no less protective than the requirements of Objectives 1D4d through 1D4g;</li><li>3. Prioritize locations for rehabilitation of areas with disturbed Highlands Open Waters and buffers.</li></ol>
<b>Objective 1D4j</b>	<p>The Highlands Council may require on a case-by-case basis, through Highlands Project Review, an expansion of the 300-foot buffer to protect the habitat of a water or wetlands-dependant rare, threatened or endangered species, to the minimum expansion necessary to achieve protection of that species.</p>
<b>Policy 1D5</b>	<p>Protect the integrity of the Riparian Areas through the application of RMP standards during local development review and Highlands Project Review.</p>
<b>Objective 1D5a</b>	<p>Require that all applications for approval through local development review and Highlands Project Review include the identification and mapping of Highlands Riparian Areas, including those identified by the Highlands Council and by site-specific analysis.</p>
<b>Objective 1D5b</b>	<p>Limit disturbance of existing natural vegetation or increases in impervious area within High and Moderate Integrity Riparian Areas in any LUC Zone to the minimum alteration feasible in areas beyond the Highlands Open Water buffer requirements; protect the water quality of adjacent Highlands Open Waters; and maintain or restore habitat value of the Riparian Area.</p>
<b>Objective 1D5c</b>	<p>Prohibit modifications to Riparian Areas in the Protection Zone except where a waiver is approved by NJDEP or the Highlands Council.</p>
<b>Objective 1D5d</b>	<p>Restrict modifications to Riparian Areas in the Existing Community Zone, other than those addressed by <b>Objective 1D5b</b>, that would alter or be detrimental to the water quality and habitat value of a Riparian Area.</p>
<b>Objective 1D5e</b>	<p>Implement Low Impact Development Best Management Practices for any development activity proposed within a Riparian Area, which minimize both alterations of natural vegetation and increases in impervious area, in compliance with <b>Policies 6N3 and 6N4</b></p>

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	and provide for mitigation through restoration of impaired Riparian Areas in the same HUC14 subwatershed.
<b>Objective 1D5f</b>	Require that development within Riparian Areas conforms through local development review and Highlands Project Review to any applicable requirements of a Regional Stormwater Plan adopted pursuant to N.J.A.C. 7:8 (Stormwater Management Rules).
<b>Objective 1D5g</b>	Require identification and implementation of opportunities where the restoration and enhancement of previously impaired Riparian Areas are feasible and appropriate as mitigation to any allowable modification to Riparian Area requirements.
<b>Policy 1D6</b>	To establish priorities for preservation of Riparian Areas.
<b>Objective 1D6a</b>	Assign high priority to land acquisition and development restrictions for lands within both High Resource Value Watersheds and High Integrity Riparian Areas.
<b>Objective 1D6b</b>	Consistent with Policy 1H1, identify opportunities for and implement Riparian Area restoration practices on public and private lands that give priority to ecological and watershed protection measures.

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## **Overview of 300-foot Highlands Open Waters Buffers in Planning Area**

### **300-foot Highlands Open Waters Buffers in Planning Area in Final Draft RMP**

In the Final Draft Plan, Objective 1D4d identified when exceptions may be made to the 300-foot Highlands Open Waters buffer in the Planning Area for specific water categories. These were:

- 1) “Exceptional Waters” (waters that are not in the Preservation Area and are not Category 1 (C-1) streams but that include habitat for threatened and endangered species) within a HUC14 subwatershed that exhibits a Low Resource Value Watershed and a Low Integrity Riparian Area. The 300-foot buffer may be reduced to 150 feet at a minimum; and
- 2) “Intermediate Waters” (waters that are not in the Preservation Area, are not C-1 streams, and do not include habitat for threatened and endangered species) within a HUC14 subwatershed that exhibit a Low Resource Value Watershed and a Low Integrity Riparian Area. The 300-foot buffer may be reduced to 75 feet at a minimum.
- 3) Further, in both cases, the applicant needed to demonstrate that “the exception will not cause measurable degradation to the quality and ecological integrity of Highlands Open Waters.”

The Final Draft RMP did not specifically address instances when there were existing disturbances within the 300-foot Highlands Open Waters buffers. In the Preservation Area, the NJDEP Preservation Area rules (N.J.A.C. 7-38-3.6) state that structures or other land improvements existing within a Highlands Open Waters buffer in the Preservation Area on August 10, 2004 may remain, provided that the area of disturbance is not increased other than through a Highlands Preservation Area Approval (HPAA). The expectation was that the RMP would likewise accept existing disturbances within the 300-foot buffer, but no provisions addressed how proposed developments within that area would be regulated.

Finally, the Final Draft RMP did not address scenarios where high quality streams existed within a HUC14 subwatershed that was of Low Resource Value overall. Further research shows clearly that some subwatersheds have both highly developed and minimally developed areas, and the stream quality and buffer quality would be very different within the two areas.

### **300-foot Highlands Open Waters Buffers in Planning Area Proposed for Final RMP**

New Objective 1D4e proposed for the Final RMP states that in the Protection and Conservation Zones of the Planning Area, proposed disturbances of Highlands Open Waters 300-foot buffers shall only occur in previously disturbed areas and such disturbances must demonstrate full utilization of the following performance standards in the listed order:

- 1) avoid the disturbance of Highlands Open Waters buffers;
- 2) minimize impacts to Highlands Open Waters buffers; and
- 3) mitigate all adverse impacts to Highlands Open Waters buffers so that there is no net loss of any of the functional values of the buffer (e.g., habitat, water quality maintenance, temperature moderation, and maintenance of stream channel integrity).

Minimization and mitigation opportunities shall be considered only upon a clear and convincing demonstration by the applicant that the buffer can not be avoided and in no case shall the remaining buffer be reduced to less than 150 feet.

New Objective 1D4f states that in the Existing Community Zone of the Planning Area, proposed disturbances of Highlands Open Waters 300-foot buffers shall only occur in previously disturbed areas and that such disturbances shall employ low impact development (LID) best management practices to mitigate all adverse modifications to Highlands Open Waters buffers so that there is no net loss of any of the functional values of the buffer.

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With respect to the concept of “no net loss,” new Objective 1D4h requires that an applicant conduct a scientifically valid and site-specific Highlands Open Waters buffer functional value assessment that demonstrates improvement or no net loss of the functional values of the buffer. The functional values are specified in this new objective.

Finally, new Objective 1D4i calls for the development and implementation of Stream Corridor Protection/Restoration Plans that identify restoration opportunities and “Provide for a systematic procedure for alternative Highlands Open Waters buffers based on an evaluation of specific stream corridors in the subwatershed to determine the extent of the features critical to supporting the functions of a healthy Highlands Open Waters buffers, which shall protect buffer functional values that are no less protective than the requirements of Objectives 1D4d through 1D4g.” The intent of these plans is to provide better protection to Highlands Open Waters and the functional value of buffers than can be achieved through site-by-site regulation through a science-based approach, which can incorporate such tailored techniques as larger buffers, consideration of topography, restoration and enhancement of buffers, and filtration approaches that will improve buffer function even where existing disturbance or limited modification of buffers are addressed. Buffer “averaging” – a modification of buffers to address development needs – is not an appropriate technique under this objective. The standard is improved protection of buffer functional values through methods appropriate to the stream systems. Another intent of this objective is to address the situation discussed above, where a subwatershed has streams and buffers of very different quality due to development in one part of the subwatershed. The Stream Corridor Protection/Restoration Plan should address each stream corridor based on its actual quality, stresses and protection or restoration needs.

**Comparison of Buffer Protection – Final Draft RMP versus Proposed Policies for Final RMP**

The proposed buffer policies for the Final RMP are more stringent than the buffer policies in the Final Draft RMP and provide enhanced buffer protection as follows:

- The new policies provide that proposed disturbances of Highlands Open Waters 300-foot buffers in the Planning Area shall only occur in previously disturbed areas. There is no provision for encroachment into undisturbed buffers with the new policies. (Note: as with all policies, the impacts of exemptions and waivers under the Highlands Act are addressed separately.) The policies in the Final Draft RMP did not make a distinction between disturbed and undisturbed buffers. Thus, under the Final Draft RMP policies, undisturbed buffers along Exceptional and Intermediate waters in low value watersheds and low integrity riparian areas would have been potentially subject to disturbance. This issue would be corrected.
- The exceptions to the 300-foot Highlands Open Waters buffers in the Final Draft RMP did not provide a measurable or scientific approach to ensure no net loss of buffer functional value; the requirement of a functional value assessment in the new proposed policies does so. Under the Final Draft RMP policies, disturbance of both previously disturbed and undisturbed buffers along Exceptional and Intermediate waters in low value watersheds and low integrity riparian areas could result in a net loss of buffer functional values. The use of a functional value assessment in the proposed policies provides a tool to set measurable management objectives for restoration and enhancement of impaired Highlands Open Waters and their buffers. New Objective 1D4g speaks to that point and notes that restoration activities shall be targeted to ensure improvements to one or more of the functional values that buffers provide.
- The Final Draft RMP did not address instances when there are existing disturbances within the 300-foot buffers in the Planning Area, and therefore did not facilitate opportunities for restoration and enhancement of impaired Highlands Open Waters within already disturbed buffers. For example, in an already disturbed buffer, there may be opportunities for incorporating state-of-the-art stormwater management techniques to improve water quality. The proposed policies and objectives would facilitate such opportunities.

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- The proposed policies place a much greater emphasis on watershed-based protection, restoration and enhancement of Highlands Open Water buffers through the Stream Corridor Protection/Restoration Plans, which will be valuable in identifying restoration opportunities, especially within Low Resource Value Watersheds and Low Integrity Riparian Areas. In this manner, the Council will be able to focus municipal efforts and partnership development on areas where existing buffer losses and damages should be remedied over time, making use of the watershed and riparian area integrity scores from the technical report released in January 2007.
- The proposed policies more explicitly require compliance at a minimum with both the RMP policies and with NJDEP rules for flood hazard areas, stormwater rules, freshwater wetlands rules and adopted regional stormwater management plans. The Final Draft RMP was less detailed in this regard.

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**CHAPTER IV. GOALS, POLICIES, AND OBJECTIVES**

**Part 2. Water Resources and Water Utilities**

A fundamental purpose of the Highlands Act is to protect water supplies for human use and ecological sustainability both within and outside of the Highlands Region. The Highlands Regional Master Plan addresses five fundamental issues with regard to water resources in the Highlands Region:

- The availability of water resources for human and ecological use;
- The protection and restoration of water resource availability;
- The protection, restoration, and enhancement of water quality;
- The management of land development patterns and densities to ensure that the carrying capacity of water resources are not exceeded; and
- The cost-effective and efficient provision and use of water utility capacity in a manner that ensures compatibility with the carrying capacity of water resources.

**Subpart a. Water Resources Availability**

The availability of water for human use is a critical factor in determining the capacity for growth and continued economic vitality for both existing development and agriculture within and outside the Highlands Region. The availability of water for ecological purposes is critical to sustaining the aquatic ecosystems of streams, ponds and lakes in the Highlands Region. The Highlands Regional Master Plan provides a method for identifying the quantity of available water resources in the Highlands Region, which is used to identify areas where water resources are or are not sufficient to support existing human and ecological uses, and to support future uses. Where sufficient water availability exists, the method fairly allocates available water resources among future human uses as shown in the Land Use Capability Zone Map. Where water resources have been stressed, additional planning and mitigation is necessary.

The Goals, Policies and Objectives for water resources availability establish a method for determining available water for human use by each subwatershed (HUC14), of which 183 are in (or partially in) the Highlands Region. Surface water availability from existing reservoir systems are addressed through regulations of NJDEP and a major purpose of the RMP is to protect the safe yields of those reservoir systems by limiting upstream use of ground waters, which has the added benefit of protecting aquatic ecosystems. Ground water availability is determined using stream flow information, with thresholds based upon the predominant Land Use Capability Zone for each subwatershed. Net water availability reflects current uses, and may show surpluses or deficits. For all subwatersheds, municipal Plan Conformance requires development of Water Use and Conservation Plans that will set priorities for the use of available water (where net water availability is positive) and will establish methods to reduce and, where feasible, eliminate deficits where they exist. In all cases, efficient use of water is required to make best use of limited resources. Where deficits exist and a Water Use and Conservation Plan has not yet been adopted, limited amounts of conditional water availability are provided for uses that will be permitted while the deficits are reduced through water conservation and enhanced recharge. The amount of mitigation is determined based on the amount of water use proposed and the severity of the current deficit, but is never less than 125 percent; mitigation will be required prior to the water use where either the proposed water use or current deficit is large.

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<b>GOAL 2A</b>	<b>PROTECTION OF THE VALUE OF THE HIGHLANDS REGION AS AN “ESSENTIAL SOURCE OF DRINKING WATER, PROVIDING CLEAN AND PLENTIFUL DRINKING WATER FOR ONE-HALF OF THE STATE’S POPULATION” (HIGHLANDS ACT, SECTION 2), ALONG WITH THE ECOLOGICAL VALUES OF CLEAN WATER, THROUGH THE PROTECTION, ENHANCEMENT AND RESTORATION OF WATER RESOURCES QUANTITY, FLOW CHARACTERISTICS AND QUALITY AS FUNDAMENTAL TO ENSURING THAT THERE ARE ADEQUATE WATER SUPPLIES TO SUPPORT THESE NEEDS.</b>
<b>Policy 2A1</b>	To identify and periodically update net water availability and water deficits as a factor in the Land Use Capability Water Availability Map.
<b>Policy 2A2</b>	To ensure that increasing water demands do not exceed Net Water Availability or exacerbate existing deficits of subwatersheds. Net Water Availability is affected at a subwatershed level by location and extent of Land Use Capability Map Zone Map and its status as Current Deficit Area or Existing Constrained Area.
<b>GOAL 2B</b>	<b>PROTECTION, RESTORATION AND ENHANCEMENT OF WATER QUALITY AND QUANTITY OF SURFACE AND GROUND WATERS (SECTIONS 10.B(1) AND 10.C(1)), AND TO DETERMINE “THE AMOUNT AND TYPE OF HUMAN DEVELOPMENT AND ACTIVITY WHICH THE ECOSYSTEM OF THE HIGHLANDS REGION CAN SUSTAIN WHILE STILL MAINTAINING THE OVERALL ECOLOGICAL VALUES THEREOF, WITH SPECIAL REFERENCE TO SURFACE AND GROUND WATER QUALITY AND SUPPLY...” (SECTION 11.A.(1)(A)).</b>
<b>Policy 2B1</b>	To track and consider water availability in local development review and Highlands Project Review.
<b>Policy 2B2</b>	To estimate Net Water Availability on a HUC14 subwatershed basis.
<b>Objective 2B2a</b>	Establish Ground Water Capacity by HUC14 subwatershed by subtracting the subwatershed’s MA7CD10 (minimum average seven day low flow with a return period of ten years, also known as the 7Q10) from the September median stream flow.
<b>Objective 2B2b</b>	Establish Ground Water Availability thresholds for application to HUC14 subwatersheds based on the Land Use Capability Zone and watershed resource value, and as modified by status as an Existing Constrained Area. Ground Water Availability shall be determined by multiplying Ground Water Capacity by percentage thresholds specified in the following table that are related to the nature of the environmental resources and conservation objectives of the Plan for each Zone.

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<b>Ground Water Availability Thresholds As Percentage Of Ground Water Capacity</b>		
<b>Predominant Land Use Capability Zone (or Watershed Value)</b>	<b>Standard Threshold</b>	<b>Existing Constrained Area*</b>
Protection Zone (High)	5%	5%
Conservation Zone (Moderate)	5% non-agricultural 10% agricultural	5% + 2003 Depletive & Consumptive Use (up to Standard Threshold)
Existing Community Zone (Low)	20%	5% + 2003 Depletive & Consumptive Use (up to Standard Threshold)

\*Within HUC14 Subwatershed upstream of a Current Deficit Area

<b>Objective 2B2c</b>	Estimate Net Water Availability for each HUC14 subwatershed by subtracting from Ground Water Availability an estimate of maximum monthly consumptive and depletive ground water and surface water use (other than from reservoir storage or other supply with a NJDEP approved safe yield). Adjust consumptive and depletive water use to account for the return of wastewater to the same HUC14 subwatershed from which the water originated, or as appropriate, water originating from another HUC14 subwatershed.
<b>Objective 2B2d</b>	Designate Current Deficit Areas as those HUC14 subwatersheds where the Net Water Availability is less than zero.
<b>Objective 2B2e</b>	Designate Existing Constrained Areas as those HUC14 subwatersheds that have positive Net Water Availability and are upstream of and contributing flow to a Current Deficit Area.
<b>Objective 2B2f</b> (from 2B8b, 2B9c, 2B10c)	Modify Net Water Availability in Existing Constrained Areas to be the 2003 consumptive and depletive ground and surface water use plus 5 percent of the Ground Water Capacity (up to the standard thresholds assigned to each Land Use Capability Zone) to ensure continued stream flows to downstream Current Deficit Areas, emphasizing techniques including, but not limited to, water reuse, recycling and conservation
<b>Policy 2B3</b>	To conditionally provide water availability (Conditional Water Availability) within a Current Deficit Area with appropriate standards regarding its use.
<b>Objective 2B3a</b>	A Current Deficit Area subwatershed that is primarily within the Protection Zone or Conservation Zone shall be assigned Conditional Water Availability not to exceed an aggregate of 1 percent of Ground Water Capacity, and will be applied to consumptive and depletive water uses that comply with the mitigation requirement in Objective 2B9b.
<b>Objective 2B3b</b>	A Current Deficit Area subwatershed that is primarily within the Existing Community Zone shall be assigned Conditional Water Availability not to exceed an aggregate of 2 percent of Ground Water Capacity, and will be applied to consumptive and depletive water uses that comply with the mitigation requirement in Objective 2B9b.
<b>Objective 2B3c</b>	The Highlands Council will track the use of Conditional Water Availability within each Current Deficit Area allocated during local development review and Highlands Project Review and adjust remaining Conditional Water

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	Availability accordingly.
<b>Policy 2B4</b> (from 2B8, 2B9)	To apply water resource standards in the Protection Zone and Conservation Zone that maintain the integrity of aquatic ecosystems, recognizing the regional significance of these resources. Consumptive and depletive water uses for non-agricultural uses shall be stringently limited.
<b>Objective 2B4a</b> (from 2B8d, 2B9d, 2B9e)	Give highest priority for the use of non-agricultural Net Water Availability or Conditional Water Availability within Protection Zone and Conservation Zone subwatersheds, through a Water Use and Conservation Plan developed under Objective 2B9c, local development review and Highlands Project review: <ol style="list-style-type: none"><li>1. to address a documented existing or imminent threat to public health and safety from contaminated domestic and other on-site water supplies that is of sufficient scale to justify a public water supply and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. Such needs shall have highest priority for Net Water Availability;</li><li>2. to serve a designated Highlands Redevelopment Area;</li><li>3. to serve a cluster development that complies with Objective 2J4b.</li><li>4. to serve affordable housing projects where at least 10% of the units are affordable.</li></ol>
<b>Policy 2B5</b>	To apply standards within Existing Community Zone subwatersheds to provide for the protection of water supply, water resources and ecological values of the Region.
<b>Objective 2B5a</b>	The highest priority for use of Net Water Availability or Conditional Water Availability within Existing Community Zone subwatersheds, through a Water Use and Conservation Plan developed under Objective 2B9c, local development review and Highlands Project review to serve documented threats to public health and safety from contaminated water supplies, designated TDR Receiving Zones, infill development, designated Highlands Redevelopment Area, affordable housing projects where at least 10% of the units are affordable, or new areas for development that meet all other requirements of the RMP.
<b>Objective 2B5b</b>	Establish and implement mandatory stormwater reuse for recreational and other non-agricultural irrigation, as well as other non-potable water purposes to minimize both the volume of stormwater discharges and water withdrawals for these purposes.
<b>Policy 2B6</b>	To require, through Plan Conformance (including , through a Water Use and Conservation Plan developed under Objective 2B9c), local development review, and Highlands Project Review, the use of water conservation, recycling and reuse methods (where appropriate) and devices for any redevelopment or development activity, including renovations to existing residential, institutional, commercial or industrial buildings, to minimize consumptive water use tailored to meet the resource protection and other goals for each Zone and considering subwatershed-specific conditions and Net Water Availability status.
<b>Policy 2B7</b>	To require through Plan Conformance (including through a Water Use and Conservation Plan developed under Objective 2B9c), local development

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	<p>review, Highlands Project Review, and interagency coordination that proposed public water supply and wastewater service areas, new or increased water allocations and bulk water purchases will not directly or indirectly cause or contribute to a Net Water Availability deficit, and where feasible will help mitigate any existing deficit.</p>
<b>Objective 2B7a</b>	<p>Areawide Water Quality Management Plans, Wastewater Management Plans or their amendments shall ensure that the proposed service area will not directly or indirectly cause or contribute to a Net Water Availability deficit, and shall be in conformance with any Water Use and Conservation Plan developed under Objective 2B9c.</p>
<b>Objective 2B7b</b> (from 2B8e, 2B9f, 2B10h)	<p>NJDEP Water Allocation decisions and Highlands Project Reviews shall ensure that any new or increased water allocation permits within the Highlands Region are in conformance with the policies and objectives of the RMP policies and objectives and do not result in significant reductions in safe yields for any water supply facility with an existing water allocation permit and NJDEP-approved safe yield.</p>
<b>Policy 2B8</b>	<p>To ensure through Plan Conformance (including through a Water Use and Conservation Plan developed under Objective 2B9c), local development review, and Highlands Project Review that the use of Net Water Availability and Conditional Water Availability within each subwatershed supports development patterns that are in conformance with RMP policies and objectives.</p>
<b>Objective 2B8a</b>	<p>Establish and implement best management practices for recreational, landscape irrigation and other practices through applicable State and federal programs.</p>
<b>Policy 2B9</b>	<p>To require through Plan Conformance, local development review, and Highlands Project Review the efficient and effective use of water availability, the planning for future water needs, the reduction and elimination of water deficits, and the mitigation of new consumptive or depletive use in any Current Deficit Areas or subwatersheds that could become deficit areas based on projected development and water uses, to ensure sustainable water supply, water resource and ecological values in conformance with RMP policies and objectives.</p>
<b>Objective 2B9a</b> (from 2B8b, 2B9b, 2B10b)	<p>Prevent net increases in consumptive or depletive water uses in Current Water Deficit Areas to prevent exacerbation of and help reduce or eliminate the deficit to ensure sustainable water supply, water resource and ecological values, emphasizing techniques including, but not limited to water reuse, recycling and conservation.</p>
<b>Objective 2B9b</b>	<p>Proposed increases in consumptive or depletive water uses within a Current Deficit Area shall only occur under the auspices of a Water Use and Conservation Management Plan approved under Objective 2B9c or through mitigation of the proposed consumptive or depletive use within the same HUC14 subwatershed through: a permanent reduction of existing consumptive and depletive water uses; ground water recharge in excess of the requirements of N.J.A.C. 7:8 (Stormwater Management Rules); or other permanent means. Where a Water Use and Conservation Management Plan has not been approved:</p>

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1. Each project shall achieve mitigation ranging from 125% to 200%, based on the severity of the Current Deficit and the amount of consumptive or depletive water use proposed, and for large consumptive and depletive water uses or high Current Deficits will require achievement of the mitigation prior to initiating the water use;
2. Total consumptive and depletive water uses from any single project and all projects combined are not to exceed the Conditional Water Availability of Objectives 2B3a or 2B3b;
3. Mitigation shall be completed by one year of final municipal development approval or prior to initiation of the water use, whichever is later, for any mitigation volumes of less than or equal to 20,000 gallons per day in the Planning Area or 10,000 gallons per day in the Preservation Area. Mitigation may be phased in keeping with project development;
4. Mitigation shall occur prior to initiation of the water use, for water uses where the combination of proposed consumptive and depletive water uses and current subwatershed deficit is high, according to a schedule established by the Highlands Council. Mitigation may be phased in keeping with the level of consumptive or depletive water uses;
5. Mitigation for projects not addressed by #3 and #4 above shall occur within a schedule established through local development review and Highlands Project Review. The schedule is to be the shortest feasible time, shall be phased to ensure continuing implementation, and shall not exceed five years from project approval; and
6. Mitigation shall be guaranteed through performance bonds.

**Objective 2B9c**

Water Use and Conservation Management Plans shall be required through municipal Plan Conformance for all subwatersheds to meet the policies and objectives of Goal 2B, to ensure efficient use of water through water conservation and low impact development best management practices, and to avoid the creation of new deficits in Net Water Availability. Where developed for Current Deficit Areas, the plans shall include provisions to reduce or manage consumptive and depletive uses of ground and surface waters as necessary to reduce or eliminate deficits in Net Water Availability, or to ensure continued stream flows to downstream Current Deficit Areas from Existing Constrained Areas, to the maximum extent practicable within each HUC14 subwatershed.

**Objective 2B9d**

All water users within a Current Deficit Area shall seek funding and opportunities to meet the intent of Objective 2B4b.

**Objective 2B9e**

Allow water resource transfers between or from Highlands subwatersheds only when there is no other viable alternative and where such transfers would demonstrably not result in impairment of resources in any subwatershed. Potential effects on upstream and downstream subwatersheds should be included in any such evaluation.

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**Subpart e. Land Preservation and Stewardship**

Public and private investment in land preservation over the years has preserved nearly a third of the Highlands Region.. Maintaining the land in a natural condition is necessary to preserve and enhance ecosystem integrity and to protect drinking water supplies. The Highlands Act contemplates preservation of additional open space resources in order to protect and enhance ecosystem function, protect drinking water resources, and provide for passive and active recreational lands. In order to accomplish these purposes, the case for preservation and stewardship must be addressed by the Highlands Council including identifying and maintaining an inventory of open space and preserved lands, coordinating and implementing strategies for land preservation and stewardship among preservation partners, and ensuring that sufficient financial, institutional, and innovative resources are available for land preservation and stewardship.

Open space preservation currently occurs through compensation to landowners through fee simple or easement acquisition, donations and bequests. However, it will also occur, under the Highlands Development Credit program, through sale of such credits. Agriculture and forestry are also a vital component of the preserved landscape and the Goals, Policies, and Objectives specifically addressing these issues are outlined in Agricultural Resources, and Highlands Forest Resources. The Land Preservation and Stewardship Goals, Policies, and Objectives address land preservation in the Highlands Region holistically.

<b>GOAL 1H</b>	<b>PROTECTION OF CRITICAL RESOURCES THROUGH LAND PRESERVATION AND STEWARDSHIP OF OPEN SPACE THROUGHOUT THE HIGHLANDS REGION.</b>
<b>Policy 1H1</b>	To identify and maintain an inventory of private and public open space land holdings and conservation easements in the Highlands Region.
<b>Objective 1H1a</b>	Create a coordinated and continually updated open space database that includes preserved lands and land stewardship activities by municipal, county, state and federal agencies, non-profit organizations and individuals.
<b>Policy 1H2</b>	To serve as a regional clearinghouse for information regarding preservation programs and funding sources for land acquisition, restoration and enhancement; technical assistance; and long-term stewardship of preserved lands, for public and private organizations in order to maximize land preservation efforts in the Highlands Region..
<b>Objective 1H2a</b>	Promote the coordination by appropriate federal, state, county, and municipal land preservation agencies for the purpose of coordinating open space acquisition activities under new or existing programs, including identification of high priority lands for preservation, land stewardship initiatives, and funding needs.
<b>Objective 1H2b</b>	Creation of a landowner assistance program to provide technical assistance and guidance with regard to land preservation options and the Highlands Development Credit Program to owners of land which should not be developed in order to protect water resources and environmentally sensitive resources.
<b>Objective 1H2c (New)</b>	Implement or support implementation of new, innovative, and alternative methods and programs of land preservation that are deemed most appropriate for the Highlands Region.

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<b>Policy 1H3</b>	To develop and maintain a confidential inventory of open space lands and farmland within Conservation Priority Areas and Agricultural Priority Areas which should be preserved.
<b>Objective 1H3a</b>	Include, within the confidential inventory, those lands which are 5 and 10 year priorities for land acquisition in the Highlands Region in order to determine the cost of implementing the RMP.
<b>Objective 1H3b</b>	Coordination of Highlands Region priority open space preservation and land stewardship activities with the NJDEP Green Acres Program and the State Agriculture Development Committee with regard to land acquisition and preservation priorities in the Highlands Region.
<b>Objective 1H3c</b>	Coordination with NJDEP regarding the review of applications for Green Acres diversions for consistency with the RMP.
<b>Policy 1H4</b>	<p>To advocate for the establishment of dedicated sources of funding for the preservation and stewardship of open space lands in the Highlands Region including but not limited to:</p> <ol style="list-style-type: none"><li>1. Dedicated sources of State revenue to be used for open space preservation in the Highlands Region, such as coordination with the NJDEP Green Acres Program for re-authorization of the Garden State Preservation Trust Fund, including a dedicated fund for the anticipated land acquisition needs of the Highlands Region, and enactment of a water user fee.</li><li>2. Dedicated sources of State revenue for a reserve fund to capitalize the Highlands Development Credit Bank.</li><li>3. An on-going program to secure significant federal funding in support of land acquisition and stewardship efforts in the Highlands Region including, but not limited to, additional appropriations under the Federal Highlands Conservation Act.</li><li>4. An on-going program to seek funding for land acquisition and stewardship from unique sources of funding such as gifts, endowments and donations and federal and state court-imposed fines for natural resource damages.</li><li>5. A dedicated source of revenue for the preservation and land stewardship of open space through a surcharge on public water supply system rates for any system that directly or indirectly relies on Highlands water resources for more than 5 percent of their annual needs.</li><li>6. A Highlands Conservation Trust to secure monies from alternate sources of funding to assist in land acquisition and stewardship.</li></ol>
<b>Policy 1H5</b>	To encourage municipalities and counties to establish and fund local open space acquisition and land stewardship programs or to expand existing open space and land stewardship programs.
<b>Policy 1H6</b>	To support legislation to extend the dual appraisal methodology used by the Garden State Preservation Trust for lands in the Highlands Region beyond the June 30, 2009 expiration date to a minimum of five years beyond adoption of the RMP.
<b>Policy 1H7</b>	To identify and designate a Special Environmental Zone in the Preservation Area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to fee simple acquisition, easement

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	acquisition, transfer of development rights programs, and development regulations.
<b>Objective 1H7a</b>	Create and maintain a Special Environmental Zone based upon RMP Conservation Priority Area rank and indicators designed to identify lands with the highest water resource and environmental integrity.
<b>Objective 1H7b</b>	Adoption and enforcement of development regulations which prohibit the development of those portions of a parcel of land which are located within a Special Environmental Zone.
<b>Objective 1H7c</b>	To require through Plan Conformance, local development review, Highlands Project Review, and NJDEP review under N.J.A.C. 7:38 that development shall not occur within a Special Environmental Zone. In any Special Environmental Zone, any exemption or waiver issued under the Highlands Act shall be conditioned upon a determination that the State or local government unit has exhausted all means for the permanent preservation of these lands through use of preservation tools including, but not limited to, fee simple acquisition, easement acquisition, and transfer of development rights.
<b>Objective 1H7d</b>	Preparation and delivery of documents to appropriate land preservation/acquisition agencies identifying parcels of land wholly or partially within a Special Environmental Zone.
<b>Objective 1H7e</b>	Implementation of the Highlands Development Credit Program as a means of permanently preserving land in a Special Environmental Zone.
<b>GOAL 1I</b>	<b>CONFORMING MUNICIPALITIES AND COUNTIES INCLUDE OPEN SPACE PRESERVATION AND LAND STEWARDSHIP PROGRAMS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS.</b>
<b>Policy 1I1</b>	To require conforming municipalities and counties to include an open space preservation and land stewardship element in their master plans.
<b>Policy 1I2</b>	To require conforming municipalities and counties to: identify and delineate existing preserved open space, including fee simple and easements; maintain a current Recreation and Open Space Inventory (ROSI) where required by the Green Acres Program; and identify lands subject to land stewardship programs in their master plans and provide that information to the Highlands Council.
<b>Policy 1I3</b>	To require conforming municipalities and counties to require conservation or land stewardship easements, enforceable by the Highlands Council and at least one of the following: the appropriate municipality, the County Agriculture Development Board, the State Agriculture Development Committee, or Green Acres, as a condition of development approval for lands within parcels proposed for development that are identified for preservation on a proposed site plan or subdivision plat.
<b>GOAL 1J</b>	<b>PRESERVATION OF FORESTS IN PRIVATE OWNERSHIP THROUGH CREATION OF A FOREST PRESERVATION EASEMENT PROGRAM.</b>
<b>Policy 1J1</b>	To promote the creation of a Forest Preservation Easement Program for the Highlands Region, eligible for use through the State Agricultural Development Committee or the Green Acres Program.
<b>Objective 1J1a</b>	Achieve maximum preservation of working forests through the Forest Preservation Easement Program.

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**Part 3. Agricultural Resources**

Agriculture is a vital component of the Highlands Region's culture, landscape and economy. It provides important economic benefits to the Highlands Region in the form of agricultural production and agri-tourism, provides a local food source to area residents using less energy than would be required to import produce from other regions, and helps maintain the Highland's rural character. Agriculture is also an industry in which the land is the primary instrument of production. Therefore it is imperative to retain the land base and preserve contiguous areas of agriculture to sustain and enhance agricultural resources and the agricultural industry.

The major Goals, Policies, and Objectives (GPOs) for Agricultural Resources seek to meet two essential objectives of the Highlands Act; the preservation of agricultural land and the viability of the agricultural industry. The New Jersey Legislature declared that the agricultural lands in active production in the Highlands Region are important resources of the State that should be preserved, and that the agricultural industry in the Highlands Region is a vital component of the economy, welfare, and culture of the Garden State. The Legislature also declared that the maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible whenever appropriate in the Highlands Region. The GPOs below lay the foundation to carry out these objectives, and to provide incentives and funding opportunities, to not only preserve agriculture, but to encourage best management practices (BMPs) that enhance the resources of the Highlands Region. As stewards of the land, many farmers already implement BMPs, and the GPOs seek to reward these individuals with tax credits and cost-share opportunities.

<b>GOAL 3A</b>	<b>PROTECTION AND ENHANCEMENT OF AGRICULTURAL RESOURCES AND THE AGRICULTURAL INDUSTRY IN THE HIGHLANDS REGION.</b>
<b>Policy 3A1</b>	To create and maintain an inventory of preserved farms, farmland assessed lands, other lands in agricultural use, and undeveloped vacant lands which contain soils which are highly suitable for agricultural use in the Highlands Region.
<b>Policy 3A2</b>	To consider Prime, Statewide Importance, Unique, and Locally Important soils as Important Farmland Soils which are critical agricultural resources of the Highlands Region.
<b>Policy 3A3</b>	To delineate Agricultural Resource Areas in the Highlands Region as those areas of contiguous and the most concentrated agricultural uses, using Important Farmland Soils as a critical factor.
<b>Policy 3A4</b>	To promote farmland preservation and limit non-agricultural uses within the Agricultural Resource Areas and accord priority to the preservation of agricultural lands within Agricultural Priority Areas, through fee simple acquisition, easement acquisition, Transfer of Development Rights (TDR) and other agricultural land conservation techniques.
<b>Objective 3A4a (new)</b>	Create and maintain a confidential inventory of agricultural lands in the Agricultural Priority Areas, in coordination with the New Jersey Department of Agriculture and the State Agriculture Development Committee, to prioritize the preservation of farmland.
<b>Objective 3A4b (new)</b>	Implement through Plan Conformance Agriculture Retention/Farmland Preservation Plan elements and development regulations promoting preservation in the Agricultural Resource Areas (ARA) and limiting non-agricultural uses within the ARA to those uses that support the preservation of farmland, avoid conflicts with agriculture, maintain and enhance the sustainability and continued viability of the agricultural industry, protect important farmland soils, and meet resource management and protection requirements

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	of the RMP.
<b>Policy 3A5</b>	Where it is not feasible to preserve agricultural lands within the Agricultural Resource Area (ARA) by such methods as fee simple acquisition, easement acquisition, or a TDR Program, require mandatory clustering through Municipal Plan Conformance, local development review and Highlands Project Review for residential development in an ARA. Cluster development within the Planning Area that incorporates public or community on-site wastewater utilities shall meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and within the Preservation Area shall meet the requirements of Policy 2I1 and Objectives 2I1a and 2I1b, and where reliant on septic systems shall meet the requirements of Objective 6G1b.
<b>Objective 3A5a</b>	Implement regulations requiring that cluster or conservation design development proposed within an Agricultural Resource Area support the preservation of farmland, avoid conflicts with agriculture, maintain and enhance the sustainability and continued viability of the agricultural industry, protect Important Farmland Soils, , and meet resource management and protection requirements of the RMP.
<b>Objective 3A5b</b>	Implement regulations requiring that all cluster or conservation design development proposed in an Agricultural Resource Area be buffered appropriately with existing natural resources, such as hedgerows or trees, or with new buffers to avoid conflicts between non-agricultural development and agricultural activities, and to protect existing agricultural uses and sensitive environmental resources.
<b>Objective 3A5c</b>	Implement regulations requiring that all land preserved in perpetuity for environmental protection or agricultural purposes as a result of clustering be subject to a conservation easement enforceable by the Highlands Council and at least one of the following: the appropriate municipality, for agricultural purposes the County Agriculture Development Board or the State Agriculture Development Committee and for environmental purposes Green Acres or a qualified non-profit organization.
<b>Objective 3A5d</b>	Where the preserved land in the cluster project area is preserved for agricultural purposes, support continued agricultural viability of the agricultural land and require the implementation of best management practices through the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan, including development and implementation of a Farm Conservation Plan that addresses the protection of water and soil resources prepared by the USDA Natural Resources Conservation Service (NRCS), Technical Service Provider (TSP), appropriate agent or New Jersey Department of Agriculture (NJDA) staff, and approved by the local Soil Conservation District (SCD).
<b>Policy 3A6</b>	To permit through local development review and Highlands Project Review limited development, including family and farm labor housing in Agricultural Resource Areas which are necessary to support the viability of the agricultural operation, in coordination with the NJDA and the SADC, and subject to compliance with the resource management and protection requirements of the RMP.
<b>Objective 3A6a</b>	Implement regulations allowing for construction of ancillary structures and family and farm labor housing that is necessary to support the viability of the agricultural operation, upon a demonstration that the proposed development is consistent with the resource management and protection requirements of the RMP.
<b>Policy 3A7</b>	To implement programs which encourage owners and operators of farmland with woodlots within Agricultural Resource Areas to prepare and implement approved Forest Management Plans that conform to the resource management and protection

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	requirements of the RMP.
<b>Objective 3A7a</b>	Coordinate with the NJDEP State Forester and conservation experts to provide guidance for the development of Forest Management Plans that improve the maintenance of ecosystem and water resource values of the Highlands Region.
<b>Policy 3A8 (new)</b>	To serve as a regional clearinghouse for information regarding agriculture preservation programs and funding sources, protection and enhancement of the agricultural industry, and technical assistance for public and private organizations in order to maximize agriculture preservation efforts in the Highlands Region.
<b>Objective 3A8a (new)</b>	Encourage coordinated activities of appropriate federal, State, county, municipal and non-profit representatives for agriculture preservation and funding programs, and technical assistance in order to maximize agriculture preservation efforts in the Highlands Region.
<b>Objective 3A8b (new)</b>	Coordinate with the State Historic Preservation Office and the State Agriculture Development Committee to include historic structures in tax incentive and adaptive reuse funding programs.
<b>GOAL 3B</b>	<b>PROTECTION AND ENHANCEMENT OF AGRICULTURAL SUSTAINABILITY AND VIABILITY OF THE AGRICULTURAL INDUSTRY WITHIN THE HIGHLANDS REGION.</b>
<b>Policy 3B1</b>	To encourage private and public owners of lands within an Agricultural Resource Area to lease open lands to farmers and/or to manage open space lands in a manner which is compatible with adjoining agricultural uses.
<b>Policy 3B2</b>	To promote research and study, and support proposals to enhance the long-term viability of the agricultural industry in the Highlands Region through innovative programs including, but not limited to, health care, banking practices, housing, food distribution, education, energy, and labor.
<b>Policy 3B3</b>	To seek additional funding from any and all state and federal funding programs to maintain and enhance sustainability and continued viability of the agricultural industry within the Highlands Region.
<b>Policy 3B4</b>	To advocate for the amendment of the Farmland Assessment Act to permit the inclusion of credits for the control of invasive species, white-tailed deer reduction programs, and the water value of well-managed agricultural lands.
<b>Policy 3B5</b>	To promote and enhance innovative agricultural practices and programs that promote long-term viability of the agricultural industry including, but not limited to, direct marketing, organic farming, agri-tourism such as farmers markets and road side stands, niche markets, and community supported agriculture.
<b>GOAL 3C</b>	<b>MINIMIZE CONSTRUCTION OF NON-AGRICULTURAL DEVELOPMENT-INDUCING WATER AND WASTEWATER INFRASTRUCTURE IN AGRICULTURAL RESOURCE AREAS.</b>
<b>Policy 3C1</b>	To prohibit through Plan Conformance, local development review and Highlands Project Review the development of additional water and wastewater infrastructure in a Agricultural Resource Area (ARA) within the Conservation and Protection Zones of the Planning Area, unless they meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and will

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maximize the preservation of agricultural lands within the ARA.

<b>GOAL 3D</b>	<b>PROTECTION AND ENHANCEMENT OF SURFACE AND GROUND WATER QUALITY AND NATURAL RESOURCES IN THE HIGHLANDS REGION AND AGRICULTURAL RESOURCE AREAS.</b>
<b>Policy 3D1</b>	To work with the State Agriculture Development Committee and the Garden State Preservation Trust to establish incentives for any landowner in the Highlands Region seeking to preserve land under the farmland preservation program that would be provided in exchange for the landowner agreeing to permanently restrict the amount of impervious surface and agricultural impervious cover on the farm to a maximum of five percent of the total land area of the Farm Management Unit.
<b>Policy 3D2</b>	To require any agricultural or horticultural development in the Preservation Area and the Planning Area which involves new agricultural impervious cover, since enactment of the Highlands Act, to the total land area of a Farm Management Unit (either individually or cumulatively) of greater than 3% but less than 9%, to develop and implement a Farm Conservation Plan prepared by the USDA NRCS, TSP, appropriate agent, or NJDA staff, and approved by the local SCD.
<b>Policy 3D3</b>	To require any agricultural or horticultural development in the Preservation Area and the Planning Area which involves new agricultural impervious cover, since enactment of the Highlands Act, to the total land area of a Farm Management Unit (either individually or cumulatively) of 9% or greater to develop and implement a Resource Management System Plan prepared by the USDA NRCS, TSP, appropriate agent, or NJDA staff, and approved by the local SCD.
<b>Policy 3D4</b>	To promote the use of appropriate alternative and innovative wastewater treatment systems to provide enhanced protection of surface and ground water quality in Agricultural Resource Areas of the Conservation Zone.
<b>Policy 3D5</b>	To promote efforts to increase the use of USDA NRCS and Farm Service Agency cost-share programs, Integrated Pest Management, and Integrated Crop Management programs and other innovative management techniques, in coordination with the NJDA and Rutgers Cooperative Extension, that reduce pesticide and fertilizer use and promote best management practices in conjunction with agricultural activities.
<b>Policy 3D6</b>	To identify subwatersheds with elevated nitrate levels and develop and implement management plans to enhance water quality in these subwatersheds while maintaining and enhancing agricultural viability.
<b>GOAL 3E</b>	<b>CONFORMING MUNICIPALITIES AND COUNTIES INCLUDE AGRICULTURE RETENTION/FARMLAND PRESERVATION PLAN ELEMENTS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS.</b>
<b>Policy 3E1</b>	To prepare technical guidelines for the preparation of an Agriculture Retention/Farmland Preservation Plan (AR/FPP) element for inclusion in municipal and county master plans and development regulations.
<b>Policy 3E2</b>	To require conforming municipalities and counties to include an AR/FPP element consistent with the RMP in municipal and county master plans and development regulations.
<b>Policy 3E3</b>	To require conforming municipalities and counties to incorporate Right to Farm

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provisions, in accordance with N.J.S.A. 4:1C-1 et seq. and N.J.A.C. 2:76-2, in their master plans and development regulations.

**Policy 3E4 (new)**

To address agricultural or horticultural development and agricultural or horticultural use through Plan Conformance in accordance with the Right to Farm Act, N.J.S.A. 4:1C-1, and in coordination with the New Jersey Department of Agriculture, the State Agriculture Development Committee, and the County Agriculture Development Boards.

**Objective 3E4a (new)**

To cooperatively develop, in coordination with the State Agriculture Development Committee, specific Agricultural Management Practices that address air and water quality control, noise control, pesticide control, fertilizer application, integrated pest management, labor practices and other related activities consistent with the resource management and protection requirements of the RMP.

**Objective 3E4b (new)**

To develop municipal and county development regulations through Plan Conformance that are consistent with the Right to Farm Act and necessary to address agricultural practices that pose a direct threat to public health and safety.

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**For Comparison Purposes - Policies and Objectives Referenced in Policy 3A5 and Policy 3C1**

**Policy 2J4 with Objectives 2J4a through 2J4d:**

**Policy 2J4.** To minimize, through Plan Conformance, local development review and Highlands Project Review, the creation or extension of public water supply systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area, and to allow for the creation or extension of public water supply systems where appropriate within the Existing Community Zone.

**Objective 2J4a.** Prohibit new, expanded or extended public water systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2 and 4, the project must maximize the protection of sensitive environmental resources such as Open Water buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat Areas. For approvals regarding part 3, the project must avoid disturbance of Open Water buffer areas, Riparian Areas, Steep Slopes and Critical Habitat Areas, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, and Prime Ground Water Recharge Areas. The extension or creation of systems shall follow the requirements in Objective 2J4b (parts 2 and 3). The applicable purposes are:

1. to address a documented existing or imminent threat to public health and safety from contaminated domestic and other on-site water supplies that is of sufficient scale to justify a public water supply and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. To address other issues of public health and safety. Such needs shall have highest priority for allocation of existing system capacity;
2. to serve a designated Highlands Redevelopment Area;
3. to serve a cluster development that meets all requirements of Objective 2J4b; or
4. to avoid the taking of property without just compensation.

**Objective 2J4b.** Clustered development served by public water supply within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area shall be approved only if the following conditions are met:

1. The development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in Agricultural Resource Areas pursuant to Policy 3A6;
2. Extension of an existing public water system will occur only where the cluster development is within or immediately adjacent to an Existing Area Served with available capacity;
3. Creation of a new public water system will occur only where such development is not within or immediately adjacent to an Existing Area Served with available capacity;
4. The clustered development preserves in perpetuity for environmental protection or agriculture purposes the following portion of the project area:
  - a. If served by septic systems, at least 80 percent;
  - b. If served by a public or community on-site wastewater system, at least 80 percent, and to the maximum extent feasible the developed portion of the project area (i.e. not including wetlands, open water buffers, and recreational lands) is no more than 10 percent;
5. Where the preserved land in the cluster project area is preserved for agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan supports continued agricultural viability of the agricultural land and requires the implementation of best management practices, including development and implementation of a USDA Natural Resources Conservation Service Farm Conservation Plan that addresses the protection of water and soil resources.

**Objective 2J4c.** Allow the expansion or creation of public water systems within the Existing Community Zone of the Planning Area, other than the Environmentally-Constrained Sub-zone, to serve lands which are appropriate for designated TDR Receiving Zones, infill or redevelopment, to meet needs and protection requirements equivalent to Objective 2J4a within the Existing Community Zone, or to serve new areas for

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development that meet all other requirements of the RMP. TDR Receiving Zones, affordable housing projects (where the affordable units exceed 10% of the total units), infill and redevelopment shall have higher priority for capacity than expansion of public water service areas within this Zone.

**Objective 2J4d.** All development within the Highlands Region, in areas that are not served by public water systems, shall be at a density that can be supported by onsite wells. Where cluster development in the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area shall be served by on-site wells, and the undeveloped land is preserved for agricultural purposes in perpetuity, the cluster design in combination with the Agriculture Retention/Farmland Preservation Plan required by Objective 2J4b shall provide for best management practices that protect the on-site wells from contamination resulting from agricultural practices and shall include provisions to minimize or reduce net pollutant loadings from the total project area including the preserved agricultural lands.

**Policy 2K3 with Objectives 2K3a through 2K3e**

**Policy 2K3.** To provide adequate, appropriate, efficient and cost-effective wastewater management to all development in the Highlands Region, through Plan Conformance, local development review and Highlands Project Review.

**Objective 2K3a.** Areawide Water Quality Management Plan, including Wastewater Management Plan and project-specific amendments, shall be consistent with requirements of this Plan.

**Objective 2K3b.** Existing wastewater collection and treatments systems which are non-compliant with state water quality standards for wastewater treatment and effluent discharge shall be prohibited from collecting and treating additional wastewater until the treatment systems are fully compliant with State permit requirements.

**Objective 2K3c.** Prohibit new, expanded or extended public wastewater collection and treatment systems and community on-site treatment facilities within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2 and 4, the project must maximize the protection of sensitive environmental resources such as Open Water buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat Areas. For approvals regarding part 3, the project must avoid disturbance of Open Water buffer areas, Riparian Areas, Steep Slopes and Critical Habitat Areas, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, and Prime Ground Water Recharge Areas. The choice of extension or creation of systems shall follow the requirements in Objective 2K3d (2 and 3). The applicable purposes are:

1. to address a documented existing or imminent threat to public health and safety from a pattern of failing septic systems (where the failing systems cannot reasonably be addressed through rehabilitation or replacement) or highly concentrated septic systems, where the threat is of sufficient scale to justify a public wastewater collection and treatment system or community on-site treatment facility and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. To address other issues of public health and safety. Such needs shall have highest priority for allocation of existing system capacity;
2. to serve a designated Highlands Redevelopment Area;
3. to serve a cluster development that meets all requirements of Objective 2K3d; or
4. to avoid the taking of property without just compensation.

**Objective 2K3d.** Clustered development served by a public wastewater collection and treatment system or community on-site treatment facility within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area shall be approved only if the following conditions are met:

1. The development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in Agricultural Resource Areas;
  2. Extension of an existing public wastewater collection and treatment system will occur only where the cluster development is within or immediately adjacent to an Existing Area Served with available capacity;
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3. Creation of a community on-site treatment facility will occur only where such development is not within or immediately adjacent to an Existing Area Served with available capacity, where the proposed system is designed, permitted and constructed at a capacity limited to the needs of the clustered development, and where the system does not create the potential for future expansion into areas that are not the subject of cluster developments immediately adjacent to the initial cluster served;
4. The cluster development preserves at least 80 percent of the project area in perpetuity for environmental protection or agriculture purposes, and to the maximum extent feasible the developed portion of the project area (i.e. not including wetlands, open water buffers, and recreational lands) is no more than 10 percent.
5. Where the preserved land in the cluster project area is preserved for agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan supports continued agricultural viability of the agricultural land and requires the implementation of best management practices, including development and implementation of a USDA Natural Resources Conservation Service Farm Conservation Plan that addresses the protection of water and soil resources.

**Objective 2K3e.** Allow the expansion or creation of wastewater collection systems within the Existing Community Zone of the Planning Area, other than the Environmentally-Constrained Sub-zone, to serve lands which are appropriate for designated TDR Receiving Zones, infill or redevelopment, to meet needs and protection requirements equivalent to Objective 2K3c within the Existing Community Zone, or to serve new areas for development that meet all other requirements of the RMP. The highest priority for allocation of excess or additional wastewater treatment capacity is to areas where there are clusters of failed septic systems that are located within or adjacent to Existing Areas Served. TDR Receiving Areas, where designated, affordable housing projects (where the affordable units exceed 10% of the total units), infill and redevelopment shall have higher priority for capacity than other developments requiring expansion of sewer service areas.

**Policy 2I1 and Objectives 2I1a and 2I1b**

**Policy 2I1.** To prohibit the expansion or creation of public water supply systems, public wastewater collection and treatment systems and community on-site treatment facilities in the Preservation Area unless approved through a Highlands Applicability Determination or a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38.

**Objective 2I1a.** Designated sewer service areas in the Preservation Area shall be restricted to the Existing Area Served as of August 10, 2004, except to serve development that is approved through a Highlands Applicability Determination or a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38.

**Objective 2I1b.** The expansion or creation of public water supply systems, public wastewater collection and treatment systems and community on-site treatment facilities in the Preservation Area as approved through a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38 shall maximize the protection of sensitive environmental resources including avoidance of Open Water buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas, and Critical Habitat Areas.

**Objective 6G1b**

**Objective 6G1b.** Adopt municipal and county master plans and land development regulations which require that cluster developments preserve in perpetuity for environmental protection or agricultural purposes at least 80 percent of the project area, and to the maximum extent feasible that the developed portion of the project area (i.e., not including wetlands, open water buffers, recreational lands) is no more than 10 percent if served by a public or community on-site wastewater system.

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**Part 6. Future Land Use**

The Highlands Regional Master Plan establishes a framework for future land use which guides development away from environmentally sensitive lands and agricultural lands. This framework also promotes compact development and redevelopment in or adjacent to existing developed areas where adequate public facilities are available to serve new growth and development, provided that such development and redevelopment is compatible with existing land uses and community character. The Goals, Policies and Objectives for Future Land Use address the basis for Land Use Capability Zones and Sub-zones, methods for modifying RMP data layers and maps through RMP Updates, applicable standards for Plan Adjustments, local build out analyses, and general guidelines for new land uses in the Zones and Sub-zones.

**Subpart a. Regional Guidance**

The Land Use Capability Map Series provides the basis for defining the six zones of the Highlands Region, which are found in both the Preservation and Planning Areas. These six zones include three major zones (the Protection Zone, the Conservation Zone, and the Existing Community Zone) and three sub-zones (the Lake Community Zone, and the Environmentally-Constrained Sub-Zone within both the Conservation Zone, and the Existing Community Zone) (. These Zones and Sub-Zones are then related to a series of additional information layers, using both tabular results and maps, to help define the land use capability of the various parts of the Highlands Region. The RMP Update process is provided for making factual improvement to the RMP, whether regarding mapped or other information that affects land use capability. The Plan Adjustment process allows for limited changes to the Land Use Capability Zone Map based on local planning factors; compliance with the protection standards of the RMP must be ensured and no net loss of resources or resource values may occur, among other limitations. During the Plan Conformance process, a municipality will complete a local build out analysis, using the Highlands Build Out Model with local information. In addition, general policies are provided in this section for the Zones and Sub-Zones, which are supplemented in following sections.

<b>GOAL 6A</b>	<b>USE THE HIGHLANDS LAND USE CAPABILITY MAP SERIES AS A FRAMEWORK FOR DETERMINING THE CHARACTER, LOCATION, AND MAGNITUDE OF NEW GROWTH AND DEVELOPMENT IN THE HIGHLANDS REGION.</b>
<b>POLICY 6A1</b>	To use the Land Use Capability Map Series (LUCM Series) as a geographic framework for land use planning and management within the Highlands Region.
<b>Objective 6A1a</b>	A Highlands Land Use Capability Map Series based on the most current, relevant and available data.
<b>POLICY 6A2</b>	To develop a program for RMP Updates for all substantive components of the RMP, based upon the receipt of new, corrected or updated factual information and verification by the Highlands Council, when and where necessary to improve the accuracy of the RMP.
<b>POLICY 6A3</b>	To develop a program allowing for petitions by municipalities and counties (with accompanying municipal support by resolution) for a Map Adjustments to the Land Use Capability Zone Map in the Highlands Region.



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<b>REDEVELOPMENT IN OR ADJACENT TO EXISTING DEVELOPED LANDS.</b>	
<b>Policy 6B1 (new)</b>	To require conforming counties and municipalities to review the parcel based Developed Land Inventory, and identify additional developed properties appropriate for the inventory, and track development activities in the Highlands Region.
<b>Policy 6B2 (new)</b>	To evaluate land use capability and support planning for development, redevelopment and infill that meets RMP policies and objectives.
<b>Objective 6B2a (new)</b>	Provide a Highlands Build Out Model that evaluates Regional Master Plan policies , supports State, regional and local requirements, and provides a consistent framework for water supply, wastewater, transportation and affordable housing planning and the SDRP Plan Endorsement process.
<b>Objective 6B2b (new)</b>	Counties shall, through Plan Conformance, use the Highlands Build Out Model or its equivalent to prepare a utilities plan element of the County Master Plan that evaluates available development capacity based on lands, resources and utilities through the.
<b>Objective 6B2c (new)</b>	Municipalities shall, through Plan Conformance, use the Highlands Build Out Model to develop a local build out analysis that incorporates RMP policies and objectives to evaluate land use capability and capacity planning.
<b>Policy 6B3</b>	To protect, restore, or enhance sensitive environmental resources of the Highlands Region, including but not limited to Forests, Critical Habitat, Highlands Open Waters and their buffers, Riparian Areas, Steep Slopes, Prime Ground Water Recharge Areas and Wellhead Protection Areas.
<b>Objective 6B3a</b>	Identification of lands within the Highlands Region which contain sensitive environmental resources of the Highlands Region.
<b>Objective 6B3b</b>	The Protection Zone of the Highlands Land Use Capability Zone Map shall include regionally significant environmental resources to the maximum extent feasible.
<b>Objective 6B3c</b>	Identification of major environmentally sensitive areas within the Conservation Zone and the Existing Community Zone as environmentally constrained sub-zones, and preparation and implementation of standards ensuring that development capacity is directed away from such areas to the maximum extent feasible.
<b>Objective 6B3d</b>	Identification of developed lake communities within the Existing Community Zone as lake community sub-zones, and preparation and implementation of standards ensuring management of land uses within the sub-zones for protection and restoration of lake quality, ecosystems and community character to the maximum extent feasible.
<b>Objective 6B1e</b>	Prevent the extension or creation of water and wastewater utility services in the Protection Zone, Conservation Zone and Environmentally Constrained Sub-Zones of the Planning Area, unless they meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and will maximize the protection of agricultural and environmentally sensitive resources.
<b>Objective 6B1f</b>	Encourage the protection, restoration and enhancement of Environmentally-Constrained Sub-Zones of the Conservation and Existing Community Zones of the Planning Area through measures that may include but are not limited to: fee simple and easement acquisition (see Policy 1H2 and Policy 3A5); designation as TDR Sending Zones (see Policy 7B4); incentives for development and implementation of Forest Stewardship Plans (see Policy 1B1) and Resource Management System Plans (see Policy 3A8) for forestry and agricultural operations, respectively; restoration of Highlands

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(see 6B10f)	Open Water buffers (see Objective 1D4i); and restoration of Critical Habitat (see Policy 1F3).
<b>Policy 6B4</b>	To protect and promote agriculture by protecting and enhancing lands within the Highlands Region currently or capable of being used for agricultural purposes and ensuring that lands associated with or adjacent to agricultural lands are not developed in a manner that conflicts with the ongoing agricultural uses.
<b>Objective 6B4a</b>	Identification of Agricultural Resource Areas within the Highlands Region.
<b>Objective 6B4b</b>	The Conservation Zone of the Land Use Capability Zone Map shall include regionally significant agricultural lands within the Agricultural Resource Areas of the Highlands Region.
<b>Policy 6B5</b>	To require conforming municipalities to include site development programs, including clustering and lot-size averaging, to protect natural and agriculture resources.
<b>Policy 6B6</b>	To promote compatible growth opportunities that include in-fill development, adaptive re-use, redevelopment, and brownfields redevelopment in existing developed areas.
<b>Objective 6B6a</b>	Identification of existing developed areas within the Highlands Region using the Developed Lands Analysis.
<b>Objective 6B6b</b>	Designation of existing previously developed areas of regional significance as the Existing Community Zone in the Highlands Land Use Capability Zone Map.
<b>Objective 6B3c</b>	Identification of brownfields, grayfields and underutilized properties that have potential for redevelopment that is compatible with resource protection and smart growth principles.
<b>Policy 6B7</b>	To promote land uses which create a sense of place with attractive, walkable neighborhoods that support community connectivity of developed lands and community facilities.
<b>Objective 6B7a</b>	Communities of place with a mix of uses which promote multi-purpose trips, through proximity of neighborhood retail, commercial and entertainment uses to residential land uses that create communities that are largely self-sufficient regarding daily needs.
<b>Objective 6B7b</b>	Communities of place with a pattern of development which promotes the use of transit, walking and biking.
<b>Policy 6B8</b>	To integrate public parks and green spaces into development and redevelopment projects and ensure restoration of impaired natural resources to the extent required by law, at a minimum, and where feasible to a greater extent to maximize long term value of the project.
<b>Policy 6B9</b>	Provisions and standards relating to regional growth activities which increase the intensity of development shall be discretionary for conforming municipalities and counties.
<b>Policy 6B10</b>	Regional growth, where accepted through local planning and regulations, should identify opportunities to maximize land use intensity while protecting natural features and community character.
(see 6D1a, 6G1d,	

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<b>6I1a)</b>	
<b>Objective 6B10a</b>	Development and redevelopment initiatives shall encourage the use of Highlands Development Credits (HDC) as a means to enhance the existing or adjacent community while protecting local and regional natural resources.
<b>Objective 6B10b</b>	Preparation and implementation of standards ensuring that development protects environmentally sensitive resources in all Land Use Capability Map Zones and sub-zones.
<b>Policy 6B11</b>	To incorporate smart growth principles and green building design and technology in development and redevelopment initiatives.

**Subpart b. Protection Zone**

The Protection Zone include lands within the Highlands Region which contain the highest quality resource value lands which are essential to maintaining and enhancing water quality and quantity and preserving ecological function. The Protection Zone includes regionally significant lands that serve to protect environmentally sensitive resources of the Highlands Region.

<b>GOAL 6C</b>	<b>PRESERVATION OF THE LAND AND WATER RESOURCES AND ECOLOGICAL FUNCTION OF HIGHLANDS AREAS.</b>
<b>Policy 6C1</b>	To preserve high quality land and water resources and ecological function within the Protection Zone.
<b>Policy 6C2</b>	To limit use and development of land in Protection Zone.
<b>Policy 6C3</b>	To give the highest land acquisition priority to non-preserved, undeveloped lands within the Protection Zone in the Preservation Area.
<b>GOAL 6D</b>	<b>LIMITATION OF DEVELOPMENT IN PROTECTION ZONES TO DEVELOPMENT AND REDEVELOPMENT WHICH DOES NOT ADVERSELY AFFECT THE NATURAL RESOURCES OF THE HIGHLANDS REGION ECOSYSTEM.</b>
<b>Policy 6D1</b>	To limit new human development in the Protection Zone to redevelopment, exempt activities, and environmentally-compatible low density new land uses, in accordance with RMP resource protection needs and water quality and quantity capacity constraints and to ensure that the impacts of development using exemptions under the Highlands Act are considered in regional protection measures.
<b>Objective 6D1a</b>	Centers in the Protection Zone, potentially including clustered development, shall be at densities appropriate to the Zone, the community character, the State Development and Redevelopment Plan, and the use of septic systems or community wastewater systems.
<b>Policy 6D2</b>	To ensure through Plan Conformance, local development review and Highlands Project Review that any future development or redevelopment which does occur in a Protection Zone is subject to standards and criteria which protect the land and water resources of the Protection Zone from any potential adverse impact to the maximum extent possible.

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<b>Policy 6D3</b>	To encourage owners of lands which are eligible for exemptions under the Highlands Act to voluntarily offer their land for acquisition, participate in the Highlands Development Credit program, or engage in contiguous or non-contiguous clustering in cooperation with other exempt landowners, and comply with standards and criteria which protect the land and water resources of the Highlands Region from any adverse impacts.
<b>Policy 6D4</b>	To establish voluntary programs whereby owners of land who are eligible for exemptions under the Highlands Act have an incentive to develop or use such exemptions in a manner which limits or mitigates any potential adverse impacts on the land and water resources of the Protection Zone.
<b>GOAL 6E</b>	<b>CONFORMING MUNICIPALITIES AND COUNTIES INCORPORATE REGIONAL AND LOCAL LAND AND WATER RESOURCE PLANNING AND MANAGEMENT PROGRAMS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS.</b>
<b>Policy 6E1</b>	To require that conforming municipalities and counties include land and water resource planning and management programs in their master plans and development regulations.
<b>Policy 6E2</b>	To encourage conforming municipalities and counties to include voluntary programs with incentives for the development or use of Highlands Act exemptions in a manner which limits or mitigates any potential adverse impacts on the land and water resources of the Protection Zones

**Subpart c. Conservation Zone**

The Conservation Zone includes lands of significant agricultural importance and associated natural resource lands which are adjacent to, or in common ownership with, land used for agricultural purposes. Development potential in the Conservation Zone is limited in location and intensity because of agricultural and natural resource protection requirements and infrastructure constraints.

<b>GOAL 6F</b>	<b>PROTECTION AND ENHANCEMENT OF AGRICULTURAL USES AND PRESERVATION OF ASSOCIATED LAND AND WATER RESOURCES IN HIGHLANDS AREAS.</b>
<b>Policy 6F1</b>	To protect existing agricultural uses in the Conservation Zone from incompatible development.
<b>Policy 6F2</b>	To promote the expansion of sustainable and economically viable agricultural activities in the Conservation Zone not constrained by existing environmentally sensitive resources.
<b>Policy 6F3</b>	To limit through Plan Conformance, local development review and Highlands Project Review the use and development of lands within the Conservation Zone to agriculture use and development, including ancillary and support uses, redevelopment of existing developed areas, and environmentally-compatible low density land uses that are to the maximum extent possible achieved in compact development patterns, to be designed and developed in a manner which is compatible with the long term use of adjacent land for agricultural purposes.

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<b>GOAL 6G</b>	<b>CONFORMING MUNICIPALITIES AND COUNTIES INCORPORATE REGIONAL AND LOCAL LAND AND WATER RESOURCE PLANNING AND MANAGEMENT PROGRAMS IN THEIR MASTER PLANS AND DEVELOPMENT REGULATIONS.</b>
<b>Policy 6G1</b>	To require conforming municipalities and counties to incorporate land and water resource planning and management programs for the Conservation Zone which protect natural resources from the adverse impacts and support agricultural sustainability.
<b>Objective 6G1a</b>	Municipal and county master plans and development regulations that ensure that new non-agricultural development is compatible with the long term vitality of agriculture in the Conservation Zone.
<b>Objective 6G1b</b>	Municipal and county master plans and land development regulations that require clustering or lot-averaging of non-agricultural development with a minimum of 80% of the property dedicated to agriculture and natural resources protection in order to avoid adverse impacts on agricultural uses and natural resources.
<b>Objective 6G1c</b>	Municipal and county master plans and development regulations which require appropriate and potable water, wastewater disposal and transportation facilities.
<b>Objective 6G1d</b>	Centers in the Conservation Zone, potentially including clustered development, shall be at densities appropriate to the Zone, the community character, the State Development and Redevelopment Plan, and the use of septic systems or community wastewater systems.

**Subpart d. Existing Community Zone**

The Existing Community Zone includes those areas characterized by existing development with comparatively fewer natural resource constraints than the Protection and Conservation Zones; they often are currently or more easily served with public infrastructure. The Existing Community Zone includes previously developed lands of regional significance in size, geography and infrastructure that may include areas of opportunity for future growth and development, including development and redevelopment which may involve the use of Highlands Development Credits, provided that such growth and development are consistent and compatible with existing community character, natural resource constraints and is desired by the municipality.

<b>GOAL 6H</b>	<b>SUPPORT OF COMPACT DEVELOPMENT AND MAXIMIZATION OF WATER, WASTEWATER AND TRANSIT INFRASTRUCTURE INVESTMENTS FOR FUTURE USE OF LAND AND DEVELOPMENT WITHIN THE EXISTING COMMUNITY ZONE.</b>
<b>Policy 6H1</b>	To promote compatible development and redevelopment within the Existing Community Zone.
<b>Policy 6H2</b>	To promote the restoration and redevelopment of brownfields, particularly those located in or adjacent to transportation corridors or transit stations. In cases where redevelopment is not appropriate, encourage “brownfield to greenfield” approaches.
<b>Policy 6H3</b>	To ensure that development activities within the Existing Community Zone are subject to standards and criteria which ensure that development and redevelopment

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	incorporate smart growth principles and do not adversely affect natural resources.
<b>Policy 6H4</b>	To ensure that development and redevelopment within the Existing Community Zone are served by adequate public facilities including water, wastewater treatment and transportation.
<b>Policy 6H5</b>	To ensure that development and redevelopment in the Existing Community Zone are compatible with existing community character.
<b>GOAL 6I</b>	<b>PROMOTION OF MIXED USE DEVELOPMENT AND REDEVELOPMENT IN THE EXISTING COMMUNITY ZONE.</b>
<b>Policy 6I1</b>	To encourage new growth, where desired by the municipality, and development in the Existing Community Zone in the form of center based and mixed use development.
<b>Objective 6I1a</b>	Center based development initiatives shall be planned within the Existing Community Zone at densities appropriate to the Zone, the community character, the State Development and Redevelopment Plan. Densities of five dwelling units and above are encouraged, and are required in areas designated as voluntary TDR Receiving Zones where TDR benefits are sought under the Highlands Act.
<b>Policy 6I2</b>	To encourage redevelopment in the Existing Community Zone as a means to relieve development pressure from more environmentally sensitive areas.

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**Subpart XXXX.**

**Map Adjustments**

**Issue Overview**

The RMP addresses the requirements of the Highlands Act to provide guidance to municipalities and counties for the implementation of the resource protection and smart growth policies during Plan Conformance. The Highlands Council recognizes that the RMP was created at a regional scale and that additional planning information may be available at the federal, State, county, municipal or public level which has not been considered by the Council. The *Map Adjustments Program* outlines the protocols for processing and tracking Land Use Capability Zone Map adjustments which may affect numerous components of the RMP. This process may only be undertaken when all other means, such as RMP Updates and the use of Highlands Act exemptions or waivers are inadequate to address the planning considerations underlying the petition.

**Map Adjustment  
Program Summary**

The Map Adjustment Program allows for the exchange, verification and administration of planning information between the Council and local government units that result in a sound basis for local planning and development review in support of the overall policies and objectives of the RMP and the Highlands Act. A Map Adjustment is a Council decision based upon the petitioner's request for an adjustment of the Land Use Capability Map Zone designations. If the Council processes a Map Adjustment other than those resulting from re-evaluations of the Regional Master Plan, it will also follow the standards in the Map Adjustments Program.

The Map Adjustment Program outlines a process for proposing adjustments to the Highlands Land Use Capability Zone Map. Joint petitions amongst municipalities and counties are encouraged and priority for review will be given to conforming municipalities and counties. All Council approved Map Adjustments will be documented and publicly available.

The Council has developed numerous spatial layers in support of the RMP. Fact-based updates to these layers are addressed in the *RMP Update Program*. The Map Adjustment Program is designed to allow for additional planning information beyond the existing spatial layers to be considered in support of sound regional planning. An example of a Map Adjustment may be a proposed modification of a Conservation Zone immediately adjacent to an Existing Community Zone where public utilities and water availability could support an extension of the Existing Community Zone for a TDR Receiving Zone, in full conformance with RMP resource protection and smart growth policies and objectives.

**RMP Policies and  
Objectives Addressed**

**Policy 6A1.** To use the Land Use Capability Map Series (LUCM Series) as a geographic framework for land use planning and management within the Highlands Region.

**Objective 6A1a.** A Highlands Land Use Capability Map Series based on the most current, relevant and available data.

**Policy 6A3.** To develop a program allowing for petitions by municipalities and counties (with accompanying municipal support by resolution) for a Map Adjustment to the Land Use Capability Zone Map in the Highlands Region.

**Objective 6A3a.** A Council review process to assess local initiatives where Map Adjustments may be approved to the Land Use Capability Zone Map's

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Protection and Conservation Zones or the Environmentally-Constrained Sub-Zones.

**Objective 6A3b.** Map Adjustments proposed to change Protection and Conservation Zones or the Environmentally-Constrained Sub-Zones may be approved by the Highlands Council where it finds that the petition does not result in unintended or deleterious impacts on the LUCM Zone or RMP policies and objectives applicable to adjacent or nearby lands, and the petitioner demonstrates that the petition meets all of the following criteria:

1. demonstrates that all other means to apply policies in an area that are different than those prescribed by the Zone designation are inadequate to address the planning considerations underlying the petition, including techniques such as;

- Waivers under the Highlands Act
- Exemptions from the Highlands Act
- RMP Updates Program

2. provides a no net loss of Highlands resources and resource values within a municipality and as appropriate any HUC 14 subwatershed, including but not limited to water availability, water quality, critical habitat and agriculture, such that all Map Adjustments provide results that are equal to or exceed on a whole the resource protection provided by the RMP;

3. use of Highlands Development Credits or the reduction of the equivalent development yield so that there is no net increase in land use intensity;

4. complies with the intent of the Highlands Act and the RMP to protect environmental resources and employ smart growth principles to development, and demonstrates that Highlands resource protection and smart growth planning principles have been addressed;

5. where the petition is for the creation or extension of Existing Community Zones, the Map Adjustment also: creates a meaningful opportunity to provide affordable housing; improves the balance of housing and employment; and promotes the use of alternative modes of transportation, including transit, such as being located within close proximity of Highlands Baseline Transportation and Transit features.

**Objective 6A3c.** Map Adjustments proposed to change an Existing Community Zone to another LUCM Zone or Sub-Zone may be approved by the Highlands Council where it finds that the petition demonstrates that the affected area:

1. is not currently developed at a density and scale that prevents the area from providing the agricultural or environmental protection benefits of the Conservation or Protection Zones, or the Environmentally-Constrained Sub-Zones;
2. is not currently served by public wastewater infrastructure;
3. includes ecological or agricultural attributes that are associated with the Conservation or Protection Zones; and
4. does not include a designated Redevelopment Site or TDR Receiving Zone.

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**Map Adjustment  
Process**

Requests for a Map Adjustment must be submitted by a Highlands Region municipality or county (with accompanying municipal support by resolution) in a petition or as part of Plan Conformance. Joint petitions among municipalities and counties are encouraged. Review priority will be given to conforming municipalities and counties. All petitions for Map Adjustment will be evaluated for consistency to the RMP and must meet Objective 6A3b.

**Map Adjustment  
Standards**

All petitions for a Map Adjustment will be evaluated for consistency with the RMP. The Map Adjustment Process evaluates areas where policies as prescribed by the most current LUCM Zone may differ from local planning initiatives. This process allows for flexibility while at the same time ensuring sound planning principles and conformance with the RMP policies and objectives, and must be undertaken once all other administrative remedies have been exhausted or are determined to be inapplicable.

Map Adjustments are evaluated for resource protection measures to meet or exceed protections provided by the RMP. A demonstration of a no net loss of resources is a method which allows for local flexibility while at the same time ensuring that resources are protected regionally. Demonstrations can be in the form of resource protection or mitigation planning and would identify the area and value of protected resources. Water availability is particularly important and reductions in water deficits must be addressed to equal or exceed appropriate mandates pursuant to the RMP.

Map Adjustments to change the Protection and Conservation Zones or Environmentally-Constrained Sub-Zones should limit the impact to areas with environmental constraints and represent areas that have ready access to infrastructure. Highlands Development Credits or the reduction of the equivalent development yield elsewhere, which result in the no net increase in land use intensity, must be used or demonstrated. The intent is to apply compact development concepts, create a meaningful opportunity to provide affordable housing; improve the balance of housing and employment; and promote the use of alternative modes of transportation, including transit, such as by being located within close proximity of Highlands Baseline Transportation and Transit features, in accordance with community character. This ensures that Map Adjustments are consistent with existing infrastructure and compatible with historic and efficient land use development patterns, and discourages scattered piecemeal development patterns.

Map Adjustments petitions will be evaluated in the context of regional LUCM Zones to identify and address potential unintended changes or deleterious impacts to areas adjacent to the proposed Map Adjustment area. This is to ensure that adjustments in one area do not unintentionally reduce protections to surrounding areas.

All petitions for Map Adjustments must be prepared by a qualified New Jersey Licensed Professional and must be submitted with an authorizing municipal resolution.

**Map Adjustment –  
Requirements for  
Digital Submission  
Standards**

All petitions for Map Adjustments shall include digital submissions that meet the NJDEP Geographic Information System Mapping and Digital Data Standards (N.J.A.C. 7:1D Appendix A) and the following minimum requirements:

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1. All digital geospatial data must meet or reference published standards such as those defined by the Federal Geographic Data Committee or a defined survey standard, regardless of scale. Testing against base maps or photography of known accuracy determines the accuracy of data. This will ensure appropriate positional accuracy of the geographic data, and therefore, compatibility of digital information.
2. All digital geospatial data must be provided to or produced for the Council as GIS Shape Files (.SHP) and are required to be in North American Datum 1983 (NAD83) horizontal geodetic datum, and in the New Jersey State Plane Coordinate System (SPC) or the most current SPC and in an ARCGIS compatible format.
3. All digital geospatial data must be documented using the Federal Geographic Data Committee (FGDC) Metadata Standard or be compliant with the FGDC metadata standard.

See the NJDEP Geographic Information System Mapping and Digital Data Standards (N.J.A.C. 7:1D Appendix A) for the complete submission standards.

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**Part 7. Landowner Equity**

Additionally, the Highlands Act includes seventeen (17) exemptions. If a project or activity falls within one of these seventeen exemptions, the project or activity is exempt from the Highlands Act, the Highlands Preservation Area rules adopted by the NJDEP, the Regional Master Plan, and any municipal master plan or development regulations that are revised to conform to the Regional Master Plan.

Tens of thousands of acres throughout the Region could potentially be developed under the exemptions based upon an analysis conducted by the Highlands Council. While the exemptions are one of the primary means for landowners to utilize their properties where development potential is limited by the Highlands Act, the exercise of these exemptions may result in further fragmentation of the Region's ecosystems due to the construction of additional impervious surface. Given this circumstance, the Regional Master Plan addresses the need to develop voluntary programs that attempt to mitigate these impacts, including programs to encourage non-contiguous clustering, intra-local government transfers of development rights and economic incentives.

Lastly, the Act also provides the authority to grant waivers from the strict application of Highlands Act provisions on a case by case basis, under certain circumstances. Under this authority, waivers may be issued: (1) where a project or activity is necessary in order to protect public health and safety; (2) for redevelopment in previously developed areas as identified by the Highlands Council, provided that such areas are either a brownfield site designated by NJDEP or a site at which at least 70% of the area thereof is covered with impervious surface; or (3) in order to avoid a taking of property without just compensation.

<b>GOAL 7F</b>	<b>ENSURE THAT HIGHLANDS ACT EXEMPTIONS ARE PROPERLY ISSUED AND MONITORED</b>
<b>Policy 7F1</b>	To provide guidance on the activities that are exempt from the provisions of the Highlands Act, the Regional Master Plan, any rules or regulations adopted by NJDEP pursuant to the Highlands Act, and any amendments to a master plan, development regulations, or other regulations adopted by a local government unit specifically to conform them with the Regional Master Plan.
<b>Objective 7F1a</b>	Provide a guidance document that outlines the process for obtaining approval of the seventeen (17) exemptions available under the Highlands Act. These detailed exemptions are summarized below: <ol style="list-style-type: none"><li>1. <b>Construction of a single family dwelling for one's own use or family use</b> on a lot owned by the individual on August 10, 2004.</li><li>2. <b>Construction of a single family dwelling on a lot in existence on August 10, 2007</b> provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more.</li><li>3. <b>Developments that received certain municipal approval and specific NJDEP Approvals on or before March 29, 2004</b> where construction beyond site preparation commenced on or before August 10, 2007.</li><li>4. <b>Reconstruction of buildings or structures within 125% of the footprint</b> of the lawfully existing impervious surfaces provided there is not an increase in impervious surface by one-quarter acre or more (not applicable to conversion of an agricultural or horticultural building or structure to a non-agricultural or non-</li></ol>

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	<p>horticultural use).</p> <ol style="list-style-type: none"><li>5. <b>Improvement to a single family dwelling</b> in existence on August 10, 2004, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system.</li><li>6. <b>Expansion of or improvement to any existing places of worship, schools, or hospitals</b> for non-residential purposes.</li><li>7. <b>Activities conducted pursuant to approved woodland and forest management plans.</b></li><li>8. <b>Construction or extension of trails (with non-impervious surfaces) on public or private lands.</b></li><li>9. <b>Public transportation or infrastructure systems</b> - Routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair, consistent with the goals and purposes of the Act without any new through-capacity travel lanes.</li><li>10. <b>Transportation safety projects by a State entity or local government unit</b>, provided that the activity does not result in the construction of any new through-capacity travel lanes.</li><li>11. <b>Public utility lines, rights of way, or systems</b> - Routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade by a public utility, consistent with the goals and purposes of the Act.</li><li>12. <b>Reactivation of rail lines and rail beds</b> existing on August 10, 2004.</li><li>13. <b>Public infrastructure projects approved by public referendum</b> prior to January 1, 2005 or a capital project approved by public referendum prior to January 1, 2005.</li><li>14. <b>Mining or quarrying</b> on any mine, mine site, or construction materials facility existing on June 7, 2004.</li><li>15. <b>Site Remediation of</b> contaminated sites.</li><li>16. <b>Military lands</b> existing on August 10, 2004.</li><li>17. <b>Affordable Housing pursuant to Settlements</b> in Planning Area 1 or Planning Area 2.</li></ol>
<b>Objective 7F1b</b>	Provide guidance that the Highlands Act exemptions apply for the entire Highlands Region including both the Preservation Area and the Planning Area.
<b>Objective 7F1c</b>	Preservation Area exemptions issued by NJDEP in accordance with N.J.A.C. 7:38, shall be required, where appropriate, prior to consideration of a local development review or a Highlands Project Review. Guidance shall specify the exceptions where a review may proceed absent an exemption determination from the NJDEP.
<b>Objective 7F1d</b>	Planning Area exemptions, issued by the Highlands Council, shall be required, where appropriate, prior to consideration of a local development review or a Highlands Project Review. Guidance shall specify the exceptions where a review may proceed absent such an exemption determination. Applications for exemptions submitted to the Highlands Council shall be based upon the application requirements exemptions codified in N.J.A.C. 7:38.
<b>Objective 7F1e</b>	Projects in the Planning Area that nearly qualify for exemptions #3 and #17, which are limited by the Highlands Act to major Highlands development in the Preservation Area, should be given priority consideration for a waiver where appropriate.
<b>Objective 7F1f</b>	Activities authorized under exemptions #9 and #11, which require a finding that the activity is consistent with the goals and purposes of the Highlands Act, shall be based upon a finding that the proposed activities are consistent with Highlands Act, the

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	Regional Master Plan, any rules or regulations adopted by NJDEP pursuant to the Highlands Act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit specifically to conform them with the Regional Master Plan.
<b>Objective 7F1g</b>	Highlands municipalities and counties may not issue Highlands Act exemption determinations. Delegation of Highlands Act exemption determinations, in the Highlands Region, may be authorized for conforming municipalities and counties through specific delegation approvals issued by the Highlands Council and NJDEP.
<b>Objective 7F1h</b>	Ensure that Highlands Act exemption determinations are limited to the activities specifically authorized under the Act. While the construction activities of a single family dwelling may be authorized under an exemption, water conservation requirements, septic maintenance requirements, or any other activities related to the use of that dwelling are not exempt.
<b>Policy 7F2</b>	To monitor and track activities which are, or may be, deemed to be exempt from the provisions of the Highlands Act.
<b>Objective 7F2a</b>	Develop and maintain an inventory of the exemptions that have been formally issued and map the land disturbance authorized under these exemptions.
<b>Objective 7F2b</b>	Develop and maintain an inventory of the exemptions that may be exercised and map the potential land disturbance that may occur under these exemptions.
<b>GOAL 7G</b>	<b>ENSURE THAT HIGHLANDS ACT PERMITS AND WAIVERS ARE PROPERLY ISSUED, TRACKED, AND MONITORED</b>
<b>Policy 7G1</b>	For the Preservation Area, coordinate with NJDEP during Highlands permit review for any major Highlands development including the review of waivers on a case-by-case basis: 1) if determined to be necessary in order to protect public health and safety; 2) for redevelopment in certain previously developed areas as identified by the Highlands Council, or 3) in order to avoid the taking of property without just compensation.
<b>Objective 7G1a</b>	Ensure through agency coordination in accordance with N.J.A.C. 7:38-1.1 that any Highlands permit, or permit with a waiver, be issued only with due consideration of the Regional Master Plan and/or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit specifically to conform them to the Regional Master Plan.
<b>Policy 7G2</b>	For both the Preservation Area and the Planning Area, a waiver may be issued by the Highlands Council on a case-by-case basis from the requirements of the Regional Master Plan or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit specifically to conform them with the Regional Master Plan: 1) if determined to be necessary in order to protect public health and safety; 2) for redevelopment in certain previously developed areas as identified by the Highlands Council, or 3) in order to avoid the taking of property without just compensation. Any waiver issued shall be conditioned upon a determination that the proposed development meets the requirements prescribed for a finding as listed in Section 36.a of the Highlands Act to the maximum extent possible.
<b>Policy 7G3</b>	For both the Preservation Area and the Planning Area during local development review, any variance or exception issued shall be conditioned upon a written determination, specifically included in an approving resolution, that the proposed

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development meets the requirements prescribed for a finding as listed in Section 36.a of the Highlands Act to the maximum extent possible.

**GOAL 7H**                      **MITIGATION TO THE MAXIMUM EXTENT POSSIBLE OF THE IMPACTS OF EXEMPT DEVELOPMENT ON THE ECOSYSTEM INTEGRITY OF THE HIGHLANDS REGION THROUGH USE OF INNOVATIVE LAND USE PROGRAMS.**

**Policy 7H1**                      To encourage municipalities with jurisdiction over lands which are entitled to any exemption(s) under Section 30 of the Highlands Act to establish voluntary, incentive-based land use programs to avoid adverse impacts to the Highlands ecosystem or to the fiscal integrity of the municipality.

**Objective 7H1a**                Establish an intra-municipal transfer of development rights program for landowners whose property is entitled to an exemption under Section 30 of the Highlands Act and who voluntarily apply for and receive transferable development rights under a municipal TDR program.

**Objective 7H1b**                Establish municipal clustering programs which allow landowners whose property is entitled to an exemption under the Highlands Act, for both contiguous and non-contiguous properties, to minimize the impact of such exempted development on the ecological integrity of the Highlands Region or the fiscal integrity of the municipality.

**Policy 7H2**                      To provide an opportunity for landowners whose property is entitled to an exemption under the Highlands Act to voluntarily apply for and receive an allocation of Highlands Development Credits in lieu of developing on-site under the provisions of Section 30.

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**Guidance for Municipal Plan Conformance with the Highlands Regional Master Plan  
Steep Slopes Protection Conformance Standards**

**New Jersey Highlands Water Protection and Planning Council**

COMPONENT	STATUS <sup>1</sup>	STANDARDS	COMMENTARY
<b>Environmental Resource Inventory</b>		<p><b>BASIC PLAN CONFORMANCE STANDARDS:</b></p> <ol style="list-style-type: none"> <li><b>General:</b> Incorporate the Highlands Council maps of Land Use Capability Zones, the Preservation and Planning Areas, and Steep Slopes (specify date of the version used), and incorporate by reference the definitions of Steep Slope Protection Areas and steep slopes in RMP Policies 1E2 through 1E5 and NJDEP Preservation Area rules at N.J.A.C. 7:38-1.4 and 3.8, respectively. Identify through an accompanying narrative at least the following classes of steep slopes: 10 to 15%; 15% to 20%; greater than 20%. Identify riparian areas that intersect with any of these steep slope categories.</li> <li><b>LUC Zones:</b> RMP provisions apply equally to all Zones.</li> <li><b>Preservation Area Special Provisions:</b> Incorporate by reference the USDA-NRCS Soil Survey soil capability classes.</li> </ol>	<p>NOTE: Ridgelines and viewsheds are not “steep slopes” and should be addressed separately. While these resources are all related, their regulation has different purposes and requires different treatment.</p> <p>The Highlands Council will be providing mapped information in digital form through its Municipal Mapping Tool, which can be used by a municipality to meet these requirements. The steep slope categories provide the basis for delineation of Steep Slope Protection Areas.</p>
		<p><b>PLAN CONFORMANCE STANDARDS:</b></p> <ol style="list-style-type: none"> <li><b>Mapping:</b> Identify steep slopes using most accurate available information, using the steep slope classes listed above. Use LiDAR data interpretations of steep slopes where available. Otherwise, use the Highlands Council 2007 Steep Slopes map (based on USGS 30 meter digital elevation modules in GIS), or locally developed digital elevation or topographic data where more accurate. Where the data quality is sufficient, the minimum mapping area for a Steep Slope Protection Area or steep slope should be 5,000 square feet.</li> <li><b>Narrative:</b> Explanation of the geology that creates the steep slopes in the municipality, and its relevance to environmental protection issues. The narrative can include issues regarding erodible soils, stormwater velocity increases related to development impacts, thin soils and their relationship to septic system and infrastructure development, location of springs and seeps, etc.</li> </ol>	<p>Most municipal data will not be sufficient to map all steep slopes. Highlands Council LiDAR-based topography is presently available upon request, with steep slope mapping to follow in 2008.</p> <p>This material is the scientific foundation of the regulation and is critical to the establishment of a legal defense. A municipality is required to develop an independent ERI for Plan Conformance; this information will be part of the ERI.</p>

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

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COMPONENT	STATUS <sup>1</sup>	STANDARDS	COMMENTARY
Municipal Master Plan and Conservation Plan Element		<p><b>BASIC PLAN CONFORMANCE STANDARDS:</b></p> <ol style="list-style-type: none"> <li><b>General (Background Statement):</b> Adopt by reference the Highlands Council maps of Land Use Capability Zones, Preservation and Planning Areas, and Steep Slopes; and the background statement of the RMP, Part 1. Natural Resources. Subpart c. Steep Slopes, on p. 115.</li> <li><b>Policy Statement:</b> Adopt by reference RMP Policies 1E2 through 1E5 into the Conservation Element, and Policies 1E8 and 1E9 (pp. 115-116) into the policies, goals, objectives section of the Master Plan. Relate the policies to MLUL purposes as appropriate.</li> <li><b>LUC Zones:</b> RMP provisions apply equally to all Zones.</li> <li><b>Preservation Area Special Provisions:</b> Specifically cite the NJDEP Preservation Area rules at N.J.A.C. 7:38-3.8 as a justification for regulation of steep slopes in this area.</li> </ol>	
		<p><b>PLAN CONFORMANCE STANDARDS:</b></p> <ol style="list-style-type: none"> <li><b>Master Plan Requirements:</b> Establish the protection of steep slopes in the Master Plan as a policy of the municipality, enumerating the purposes and benefits as cited in the Conservation Element.</li> <li><b>Conservation Plan Element Requirements:</b> Establish importance of protecting steep slopes. In addition to resource conservation, rural character and aesthetics, regulation of steep slopes should be associated with the protection of public health, safety and welfare. Use the Environmental Resource Inventory as the basis, and then discuss the values served by protecting steep slopes. Use these statements as the basis for Master Plan policy in keeping with the RMP. Establish the map of steep slopes as the initial identification of steep slopes in the municipality, to be supplemented and amended as needed, by on-site identification through the local development review process.</li> </ol>	Note that regional data do not provide complete detail on steep slopes; applicants will be required to provide site-specific information.
Institutional Capability		<p><b>PLAN CONFORMANCE STANDARDS:</b></p> <ol style="list-style-type: none"> <li><b>Planning:</b> The Council will provide assistance should planning board and zoning board of adjustment members and staff require assistance with this issue to ensure that the development review ordinance is properly implemented, that conformance with the RMP is maintained, and that exceptions and waivers to the steep slope ordinance are limited as provided herein (“Steep Slopes Regulations,” #13 below), and do not damage municipal values for steep slope protection.</li> </ol>	To assist board members and staff regarding this topic and the implementing ordinance, the Highlands Council will provide educational and training opportunities as requested. Council will work with the municipality’s professionals if requested.
		<ol style="list-style-type: none"> <li><b>Project Review:</b> Municipality must have capacity to interpret digital and surveyed data on steep slopes, and apply the ordinance requirements to the steep slopes identified on a property.</li> </ol>	Primarily performed by municipal engineer

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		3. <b>Site Visit Authority:</b> Municipality staff and development review boards must have ability to conduct site visits to visually verify steep slopes and related resources.	Primarily performed by municipal engineer, but may include a board committee or the Environmental Commission for site walks
		4. <b>Independent Projects:</b> The municipality must periodically and in a timely manner inform the Highlands Council of special or independent projects (e.g., hydrology studies) developed and implemented regarding steep slopes protection and regulation, as related to Plan Conformance or RMP implementation.	
Development Review Checklists		<p><b>PLAN CONFORMANCE STANDARDS:</b></p> <p>1. <b>General:</b> As a minimum condition of completeness, require the following for all applications to which Steep Slope Regulations apply (see #4, "Applicability").</p> <ul style="list-style-type: none"> <li>a. Highlands Council consistency determination.</li> <li>b. Information identifying steep slopes on site using the classes of Steep Slope Protection Area in RMP Policies 1E2 through 1E5.</li> <li>c. Narrative and mapped description of the extent to which the application exhibits compliance with RMP Policies 1E8 and 1E9.</li> <li>d. Where the applicant claims a Highlands Act exemption, require submittal of information necessary for municipal decision, or of a determination by NJDEP or the Highlands Council, as a condition for completeness. (See "Development Review Ordinance, #5 Exemptions" below.)</li> <li>e. Plans showing all steep slopes, with clear delineation of the slope classes and Steep Slope Protection Areas based on the RMP Policies 1E2 through 1E5 and the NJDEP Preservation Area rules at N.J.A.C. 7:38-3.8.</li> <li>f. Plans showing the proposed area of disturbance for all aspects of the development, including roads, utilities, building sites, driveways, landscaped areas, and all appurtenant structures.</li> <li>g. Plans showing the proposed grading, soil conservation plan, and sediment and soil erosion control plan.</li> <li>h. Plans showing conservation easements to be imposed through the development approval within Steep Slope Protection Areas for which no disturbance will be allowed (with clear and permanent on-site monuments, such as concrete posts, that minimize the need for land clearing or obstruction of wildlife movement). The easement must be depicted on the plan of record and described in the deed with metes and bounds, including GPS coordinates using the State Plane coordinate system, naming the municipality and the Highlands Council, at a minimum, with easement enforcement rights.</li> <li>i. Plans documenting baseline conditions in all areas designated for conservation easements, deed restrictions or other means of resource preservation.</li> <li>j. Architectural elevation renderings, if structures are proposed (preliminary for subdivision applications).</li> <li>k. A list of any encumbrances affecting the property (i.e., easements, deed restrictions, covenants).</li> </ul>	

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COMPONENT	STATUS <sup>1</sup>	STANDARDS	COMMENTARY
		<ol style="list-style-type: none"> <li>1. Copies of any related surveys, site plans, professional reports and environmental site assessments.</li> <li>2. <b>Major Disturbances:</b> Any application proposing to disturb 5,000 square feet or more within Steep Slope Protection Areas shall also provide:                             <ol style="list-style-type: none"> <li>a. Environmental Impact Statement or Review submitted to the Highlands Council in support of its consistency determination.</li> <li>b. Hydrology, drainage and flooding analysis report or reports prepared in support of conformance with the municipal stormwater management plan and regulations adopted pursuant to N.J.A.C. 7:8, or a Flood Hazard Area Control Act application pursuant to N.J.A.C. 7:13.</li> </ol> </li> <li>3. <b>LUC Zones:</b> RMP provisions apply equally to all Zones.</li> <li>4. <b>Preservation Area Major Highlands Developments:</b> Require submittal of Highlands Preservation Area Approval (HPAA) for any project that proposes the disturbance of steep slopes in accordance with the NJDEP Preservation Area rules at N.J.A.C. 7:38-3.8.</li> </ol>	
<b>Land Use Ordinance:</b> Steep Slope Regulations		<p><b>PLAN CONFORMANCE STANDARDS:</b></p> <ol style="list-style-type: none"> <li>1. <b>Statement of Purpose:</b> Specify at a minimum that the purpose of the ordinance is to implement RMP Policies 1E8 and 1E9, and (if Preservation Area is present in the municipality) the NJDEP Preservation Area rules at N.J.A.C. 7:38-3.8. Make a direct link between the ordinance and municipal policy as stated in the Master Plan.</li> </ol>	For Highlands Preservation Area municipalities, include purpose of complying with NJDEP Highlands Rules and the Regional Master Plan. RMP provisions apply equally to all Zones.
		<ol style="list-style-type: none"> <li>2. <b>Special Definitions:</b> Include definitions of Steep Slope Protection Areas and steep slopes (as set forth in RMP Policies 1E2 through 1E5 and at N.J.A.C. 7:38, respectively), riparian areas, best management practices, sedimentation, site disturbance, and stability based on the RMP. Adopt by reference Highlands Act definitions at N.J.S.A. 13:20-3. Provide references to the NJDEP Preservation Area rules at N.J.A.C. 7:38, and the NJ Erosion Control Standards at N.J.A.C. 2:90-1.</li> </ol>	
		<ol style="list-style-type: none"> <li>3. <b>Preservation Area Special Standards:</b> Require that mapping of steep slope areas shall be in accordance with the provisions of N.J.A.C. 7:38-3.8.</li> </ol>	
		<ol style="list-style-type: none"> <li>4. <b>Applicability:</b> The ordinance must apply to any project for which a permit from, or determination by, the municipality is required (including any application for development as defined under the MLUL at N.J.S.40:55D-3) and which involves the presence of a Steep Slope Protection Area or Preservation Area steep slope, other than exemptions as specified.                             <ol style="list-style-type: none"> <li>a. <b>Highlands Applicability Determinations:</b> <ol style="list-style-type: none"> <li>i. Major Highlands Developments – In the Preservation Area, require compliance with the NJDEP Preservation Area rules at N.J.A.C. 7:38 and with RMP Policies 1E8 and 1E9.</li> <li>ii. Other Developments – Require compliance with the RMP Policies 1E8 and 1E9.</li> </ol> </li> <li>b. <b>Municipal Requirements:</b> Additional requirements as determined by the municipality.</li> </ol> </li> </ol>	

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		<p>5. <b>Exemptions:</b> Incorporate the Highlands Act exemptions as listed at N.J.A.C. 7:38-2.3.</p> <p>a. <b>Highlands Act Exemptions Addressed by N.J.A.C. 7:38-2.4(b)</b></p> <p>i. Local Action: Where a municipality can conclude that a proposed project qualifies for an exemption under the NJDEP Preservation Area rules at N.J.A.C. 7:38-2.4(b) (which relate to Highlands Act (N.J.S.A. 13:20-28) Exemptions 5, 7, 9, 10 and 15), the municipality may process the application without formal determination by the NJDEP or the Highlands Council. A decision to process an application under this provision does not constitute, and the applicant may not rely upon, municipal action under this provision as constituting a municipal decision regarding Highlands Applicability Determination.</p> <p>ii. NJDEP or Highlands Council Determination: A determination by NJDEP or the Highlands Council regarding applicability of these exemptions in the Preservation or Planning Area, respectively, may be relied upon regarding applicability of these exemptions.</p> <p>b. <b>Highlands Act Exemptions Not Addressed by N.J.A.C. 7:38-2.4(b)</b></p> <p>i. Local Action: The municipality shall not consider an application complete for review that proposes the use of any other Highlands Act exemptions, unless a NJDEP or Highlands Council Applicability Determination is provided with the application in the Preservation or Planning Area, respectively.</p> <p>ii. NJDEP or Highlands Council Applicability Determination: A determination by NJDEP or the Highlands Council regarding applicability of these exemptions in the Preservation or Planning Areas, respectively, must be provided prior to municipal consideration of the proposed activity.</p>	<p>The Highlands Rules exempt or have special provisions for many single-family dwellings and agriculture/horticulture activities. Municipality may want to consider including some of these actions within the municipal regulations. The RMP does not and cannot require that municipalities be more stringent than the RMP or the Highlands Act, including exemption provisions. Because eligibility for the “legal shield” under the Highlands Act is linked to conformance with the Regional Master Plan, and the RMP cannot address exempt projects, municipalities that include exempt development in their ordinance will not benefit from the legal shield for that portion of the ordinance. However, a municipal ordinance may, under the Highlands Act at N.J.S.A. 13:20-15a(5), be more stringent than the RMP standards for non-exempt development, and still will be eligible for the legal shield.</p>
		<p>6. <b>Steep Slopes Application:</b> Provide for a steep slopes application process applicable to all covered projects. Require submission of the materials required under the Development Review Checklist (above) for review by the municipal engineer or other qualified professional. If the application is consistent with all requirements pertinent to the Highlands RMP, the ordinance may authorize the reviewing professional to grant an approval. If the application is inconsistent with RMP policies, the reviewing professional must clearly identify the deviations. The ordinance must require that approval of such deviations be authorized only by grant of waivers or exceptions from the Planning Board or Zoning Board of Adjustment in accordance with the provisions at #13, Waivers and Exceptions, below.</p>	<p>Review by the municipal engineer may entail professional fees. The municipality should consider its fee and escrow ordinances. Review procedures may provide for completeness determination, timeframes for review and decision-making, and options for conditional approvals.</p>
		<p>7. <b>Completeness:</b> Stipulate that no application for development (as defined by the MLUL at N.J.S. 40:55D-3) may be scheduled for local Board review until after it has been deemed complete by the applicable Board or completeness designee.</p>	

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		<p>8. <b>Notification to Highlands Council:</b> Require that for any application for development (as defined by the MLUL at N.J.S. 40:55D-3) the applicant shall provide notice to the Highlands Council at least 10 days prior to the date on which the application is scheduled for consideration by the local Board. Require that a copy of the complete application accompany such notice regarding any application for development involving the potential disturbance of two (2) acres, or more, or a cumulative increase in impervious coverage of one (1) acre, or more. Require that the applicant provide copies of any subsequent revisions to such applications to the Highlands Council at the same time these are provided to the reviewing Board.</p>	<p>This is a general provision of Plan Conformance for all applicable local project reviews, under N.J.S.A. 13:20-17.c.</p>
		<p>9. <b>Requirements for Deed Restrictions:</b> Require that any proposed activity requiring municipal approval under this ordinance commit to and perfect a conservation easement and deed restriction on the undisturbed Constrained, Moderately Constrained and Severely Constrained steep slopes of the property.</p>	
		<p>10. <b>Disturbance Limitations:</b> The ordinance must include the following minimum requirements for disturbance of a steep slope or Steep Slope Protection Area:</p> <ul style="list-style-type: none"> <li>a. Any application proposing a disturbance of steep slopes as defined by the NJDEP Preservation Area rules at N.J.A.C. 7:38-3.8 by a “major Highlands development” in the Preservation Area shall not be approved by the municipality unless the applicant has received NJDEP approval of a Highlands Preservation Area Approval (HPAA) for the project.</li> <li>b. Disturbance of Severely Constrained and Moderately Constrained Slopes by any regulated development in the Planning Area, or of a regulated Preservation Area development not addressed by 10.a above, is prohibited (RMP Policy 1E8), except for linear development that meets the requirements of N.J.A.C. 7:38-3.8(c)1 through 4.</li> <li>c. Disturbance of Constrained or Limited Constrained Slopes by any regulated development in the Planning Area, or of a regulated Preservation Area development not addressed by 10.a above, may only be approved where the land disturbance or human development will incorporate low impact development best management practices (RMP Policy 1E9), except for linear development that meets the requirements of N.J.A.C. 7:38-3.8(c) 1 through 4.</li> <li>d. Prohibitions and requirements otherwise that are in direct keeping with the municipal values to be protected, as stated in the Master Plan and ordinance purpose, such as prohibitions and limitations on site disturbance, forest clearance, infrastructure development, and site development (including but not limited to setbacks from building to steep slopes, maximum post-construction slope, maximum retaining wall height).</li> </ul>	<p>These are the key standards for site development regarding steep slopes. Note that 10.b and 10.c allow for limited disturbance of steep slopes for linear development. The provisions of the NJDEP rules should be included in the municipal ordinance either by reference or in whole. However, the municipality will make the findings under 10.b and 10.c, not the NJDEP.</p> <p>The ordinance may include provisions in addition to and/or that are more restrictive than those required pertinent to the RMP. While RMP policies must be regulated as zoning requirements (requiring variance relief for any deviation), any additional provisions may, at the option of the municipality, be treated as design standards with allowances for waivers.</p>
		<p>11. <b>Reporting Requirements:</b> Require that prior to issuance of a final Certificate of Occupancy or Approval and/or to release of any performance bonding held in relation to the project, that the applicant provide an “as-built” survey depicting the final site conditions.</p>	

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		<p><b>12. Municipal Approvals Conditioned On State Approvals:</b></p> <p>a. <b>General:</b> Require that the approved development demonstrate compliance where applicable with the NJ Erosion Control Standards at N.J.A.C. 2:90-1.</p> <p>b. <b>Applicable to Preliminary Approvals:</b> Preliminary approval shall be conditioned such that land modification affecting steep slopes or Steep Slope Protection Areas shall not occur until such time as the Highlands Council has either not called up the approval for review, or has reviewed the approval pursuant to N.J.S.A. 13:20-17(a)1 and either finds that the approval meets RMP requirements or finds that the approval must be modified and the municipality has so modified the approval. Preliminary approval shall also be conditioned upon review and approval by the municipal or board attorney of the language to be included in a deed restriction pertinent to any conservation easement that is a part of the approval.</p> <p>c. <b>Applicable to Final Approvals:</b> Final approval shall be conditioned such that land modification affecting steep slopes or Steep Slope Protection Areas shall not occur unless the Highlands Council has either not called up the approval for review, or has reviewed the approval pursuant to N.J.S.A. 13:20-17(a)1 and either finds that the approval meets RMP requirements or finds that the approval must be modified and the municipality has so modified the approval. Final approval shall also be conditioned upon the filing of a deed restriction, as approved by the municipal or board attorney pertinent to any conservation easement that is part of the approval.</p> <p>d. <b>Applicability of Highlands Council Review.</b> The ordinance must require that for any application for non-exempt development, the reviewing board shall provide a certified copy of the fully-executed resolution memorializing its final decision in the matter to the Highlands Council within ten (10) days of its adoption. The reviewing board must require the applicant to provide a copy of the final site plan and subdivision plats to the Highlands Council in digital format that meets the Highlands Council standards for digital submissions, where such plans and plats have been prepared in digital form. All resolutions memorializing a final decision shall include conditions requiring these submittals, and that no local decision shall be deemed final until the Highlands Council has received the information required in this paragraph.</p> <p>e. <b>Applicable to Building Permits:</b> The ordinance must require that no building permit shall be issued and no other land modification affecting steep slopes or Steep Slope Protection Areas shall commence until the municipal development approval is final. If the building permit is the only applicable municipal approval, the building permit shall not be approved unless the applicant has proved that the project is in compliance with the standards of this ordinance, that the project is eligible for a Highlands Act exemption, that the Highlands Council has determined that the building permit will not result in the disturbance of steep slopes, or that the project has received an HPAA</p>	<p>The purpose of this provision is to ensure that applicants do not assume approval prior to the legal fact of final approval, and that site disturbance based on preliminary findings does not harm resources that might be protected through a Highlands Project Review, Highlands Council “call up,” or HPAA permit process.</p> <p>The Highlands Council has “call up” rights under N.J.S.A. 13:20-17.c, allowing for a determination, “within 15 days after any final local government unit approval, rejection, or approval with conditions thereof,” on whether to review “any application for development in the preservation area.” Once a municipality comes into conformance in the Planning Area, the same approach applies. Because disturbance of steep slopes based on <u>preliminary</u> municipal approval would contradict the clear intent of the Act to allow Council review upon <u>final</u> approval, conditions on local preliminary and final approval are necessary. In addition to Council review authority for specific projects, the Council may determine that a municipal decision does not conform to the RMP as agreed to under Plan Conformance, and may act to determine that the municipality is no longer in conformance. Doing so would trigger provisions of the Act regarding loss of the legal shield, funding priorities and return of any prior funding provided by the Council.</p>

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		or HPAA with waiver from the NJDEP.	
		<p>13. <b>Waivers and Exceptions:</b> The ordinance must provide clear guidance to the reviewing Board, specifying that any waivers may be granted only in cases where the following review standards are met:</p> <p>a. <b>Highlands Act Waiver Provisions:</b> For applications other than major Highlands developments in the Preservation Area, and for any applicable approval in the Planning Area, no development involving a waiver may be approved by the development review board for disturbance of a Steep Slope Protection Area the applicant has received approval by the Highlands Council of a Highlands Act Waiver under the RMP.</p> <p>b. <b>Exception Provisions:</b> For applications other than major Highlands developments in the Preservation Area, exceptions may be approved by the development review board for disturbance of a Steep Slope Protection Area only where the applicant can demonstrate that: (a) the deviation is unavoidable and represents the minimum feasible under the particular circumstances surrounding the project proposal, and the grant of relief is reasonable, necessary, and supports the general purpose and intent of the applicable development regulations; or (b) the literal enforcement of the provision(s) of the ordinance at issue is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question. The approval of an exception must be accompanied by a detailed justification, and is subject to review by the Highlands Council. The justification must include at a minimum an explanation of how and to what extent the following conditions are addressed:</p> <ol style="list-style-type: none"> <li>i. no alternative exists that will allow for at least a minimum practical use of the property;</li> <li>ii. the exception is for road or utility access to another part of the site where the actual development would occur (if applicable);</li> <li>iii. the exception provides relief only to the minimum extent necessary;</li> <li>iv. other environmental features are not damaged in the process of protecting steep slopes; and</li> <li>v. the exception results in no disturbance of any Severely Constrained Slope.</li> </ol> <p>c. <b>Additional Provisions:</b> No exception may be approved that violates the NJ Erosion Control Standards at N.J.A.C. 2:90-1. All exceptions granted by the review board must be reported to the Highlands Council upon local approval.</p>	<p>NJDEP Highlands Rules provide for limited disturbance of steep slopes for “linear development” – the municipality may wish to further define the limits of exceptions to the steep slope provisions, such as a maximum slope that can be disturbed and minimum buffer from other sensitive features.</p>

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<b>Enforcement</b>		<p><b>PLAN CONFORMANCE STANDARDS:</b></p> <p>1. <b>Site Inspections:</b> Provide a responsibility to specific municipal officials to periodically inspect the site throughout construction for compliance with the development approval, including provisions for:</p> <ul style="list-style-type: none"> <li>a. Verification of baseline conditions in all areas designated for conservation easements, deed restrictions or other means of resource preservation.</li> <li>b. Sequencing of compliance inspections to ensure the protection of on-site and off-site resources, achievement of site construction and environmental impact requirements, placement of conservation easement monuments, etc.</li> <li>c. Verification of “as built” conditions including compliance with conservation easements, deed restrictions or other means of resource preservation.</li> </ul>	<p>Specific provision for site inspections is critical to the protection of steep slopes and all other sensitive environmental features.</p>
		<p>2. <b>Administrative Compliance:</b> Provide for issuance of a stop-work order, revocation of building permits, refusal to approve further work, or denial of certificates of occupancy, plus mandatory remedial and corrective measures including full restoration of any resources that are improperly disturbed.</p>	<p>Standard MLUL authorities for administrative compliance will apply to enforcement of this ordinance.</p>
		<p>3. <b>Penalties:</b> Provide for civil and criminal penalties for violations.</p>	<p>In most cases, standard penalty provisions under the MLUL will be sufficient.</p>
<b>Recommended Model or Example Ordinances</b>		<p>1. Hunterdon County Environmental Toolbox Committee model ordinance for “Steep Slopes” available from: <a href="http://www.co.hunterdon.nj.us/planning/toolbox.htm#ordinances">http://www.co.hunterdon.nj.us/planning/toolbox.htm#ordinances</a></p>	<p>Model and draft ordinances are listed for informational purposes only. Specific language from each ordinance must be reviewed by competent legal and planning experts to determine what is most appropriate for use in complying with the Highlands Council standards for Plan Conformance.</p>