

RESOLUTION 2015-23
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
AUTHORITY FOR HIGHLANDS PLAN CONFORMANCE AND
HIGHLANDS PROJECT REVIEW

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 created the Highlands Council as a regional planning and protection entity, to develop, adopt and periodically revise a Regional Master Plan, with a primary goal of protecting and enhancing the significant values of the resources of the Highlands Region; and

WHEREAS, the Highlands Council adopted the Regional Master Plan (RMP) on July 17, 2008 and, as a result of Executive Order 114 (2008), the RMP has an effective date of September 8, 2008; and

WHEREAS, Section 14 of the Highlands Act requires that within nine to 15 months after the effective date of the Regional Master Plan, each municipality located wholly or partially in the Preservation Area shall submit revisions to the municipal master plan, development regulations and other regulations, as applicable to the development and use of land in the Preservation Area, as may be necessary to conform them with the goals, requirements and provisions of the RMP (Plan Conformance); and

WHEREAS, Section 15 of the Highlands Act states that for any municipality located wholly in the Planning Area or for the portion of a municipality lying within the Planning Area, the municipality may, by ordinance, petition the Highlands Council of its intention to revise its master plan, development regulations and other regulations, as applicable to the development and use of land in the Planning Area, to conform them with the goals, requirements and provisions of the RMP; and

WHEREAS, the Highlands Council adopted and distributed to the Highlands municipalities and counties Plan Conformance Guidelines outlining the process and procedures for petitioning the Highlands Council for Plan Conformance; and

WHEREAS, Section 13 of the Highlands Act requires the Highlands Council to create a regional transfer of development rights (TDR) program for the Highlands Region which includes a program for voluntary TDR receiving zones for any municipality within the seven Highlands Counties and sending zones for the preservation of lands to protect Highlands resources; and

WHEREAS, Section 11.a.4 of the Highlands Act requires a coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the RMP; and

WHEREAS, Section 11.h and 9 of the Highlands Act requires the identification of areas appropriate for redevelopment and the setting of appropriate density standards for redevelopment; any area identified for possible redevelopment shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface (Highlands Redevelopment Areas); and

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WHEREAS, Section 30 of the Highlands Act includes seventeen exemptions from the provisions of the Act, the RMP, any rules or regulations adopted by NJDEP pursuant to the Act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the RMP; and

WHEREAS, Sections 38 through 82 of the Highlands Act amends numerous statutes of State agencies to specifically require coordinated action to implement the RMP and requires consultation between the Highlands Council and State agencies to ensure that the RMP is considered prior to State agency action; and

WHEREAS, Sections 16 and 17 of the Highlands Act respectively authorize the Highlands Council to review capital or other project proposed to be undertaken by any State entity or local government unit and to review a final local government unit approval, rejection, or approval with conditions; and

WHEREAS, the Highlands Council desires to establish a process to implement the Highlands Act and the RMP in an orderly fashion through Plan Conformance and Highlands Project Review and to ensure that the Highlands Council retains authority to review and approve certain matters and to delegate authority to the Executive Director to review and approve others matters such that delegated matters constitute final agency action subject to the Council's authority to reconsider any final agency action; and

WHEREAS, pursuant to N.J.S.A. 13:20-5.j, no action authorized by the Highlands Council shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Council has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council shall hereby take the following actions to implement the Highlands Regional Master Plan:

1. For municipal and county Plan Conformance, review and issue final determinations on all Petitions for Plan Conformance including, but not limited to, any related conditions, grant allocations, resource management plans, Map Adjustments and Highlands Center designations in accordance with the Regional Master Plan and the Plan Conformance Guidelines;
2. For the Highlands TDR Program, designate voluntary TDR Receiving Zones based upon municipal petitions and review and, where direct Council action is recommended by the Executive Director, issue HDC Allocation Determinations and execute any related documents and deeds of easement;
3. For Highlands Redevelopment Area Designations, designate areas appropriate for redevelopment;
4. For federal, State, and regional agency coordination, review and issue determinations on all requests for consultation, coordination, recommendation or consistency determinations where direct Council action is recommended by the Executive Director;

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5. For Highlands Act exemption determinations, review and issue exemption determinations where direct Council action is recommended by the Executive Director; and
6. For the adoption of any master plan, development regulation, or other regulation by a local government unit not in Plan Conformance, development applications submitted to and approved by local government units, the call-up of local government unit approvals, and capital and other projects of State entities and local government units, review and issue comments or determinations on these matters on a case-by-case basis where the Highlands Council determines that Council action is required.

THEREFORE, BE IT FURTHER RESOLVED by the Highlands Council that the Executive Director is hereby delegated the authority to take the following final agency actions on behalf of the Council:

1. For municipal and county Plan Conformance, provide recommendations and take actions pursuant to the Plan Conformance Guidelines or Council Resolution and review and issue determinations on all requests for an RMP Update to verify updated, relevant factual information;
2. For the Highlands TDR Program, review and issue HDC Allocation Determinations and execute any related documents and deeds of easement;
3. For federal, State, and regional agency coordination, review and issue determinations on all requests for consultation, coordination, recommendation or consistency determinations;
4. For Highlands Act exemption determinations, review and issue exemption determinations;
5. For the adoption of any master plan, development regulation, or other regulation by a local government unit not in Plan Conformance, development applications submitted to and approved by local government units, the call-up of local government unit approvals, and capital and other projects of State entities and local government units, review and issue comments or determinations on these matters unless Council review is required by the Council;
6. For all of the above, the Executive Director may make a recommendation, based upon the potential impact on Highlands resources, that final agency action be taken by the Highlands Council; and
7. For all of the above, the Executive Director shall provide reports to the Highlands Council of all actions and determinations on a regular basis.

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THEREFORE, BE IT FURTHER RESOLVED that any and all actions taken by the Executive Director pursuant to Resolution 2015-7 from April 16, 2015 through the effective date of this Resolution be and hereby are ratified by the Highlands Council; and

THEREFORE, BE IT FURTHER RESOLVED that the Highlands Council shall reassess this Resolution on or before the April, 2016 Council Meeting and every six months thereafter, or may, at any time, determine that a reassessment should take place; and

THEREFORE, BE IT FURTHER RESOLVED that this Resolution shall remain in full force and effect unless and until a future resolution is adopted by the Council and becomes effective.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its meeting held on the 3rd day of December, 2015.



 Jim Rilee, Chairman

**Vote on the Approval of
The Resolution**

| | Motion | Second | Yes | No | Abstain | Absent |
|-------------------------|--------|--------|-----|----|---------|--------|
| Councilmember Alstede | | | ✓ | | | |
| Councilmember Carluccio | | | | ✓ | | |
| Councilmember Dougherty | | | | | | ✓ |
| Councilmember Dressler | | | ✓ | | | |
| Councilmember Francis | | | ✓ | | | |
| Councilmember Holtaway | | | ✓ | | | |
| Councilmember James | ✓ | | ✓ | | | |
| Councilmember Richko | | | ✓ | | | |
| Councilmember Sebetich | | | ✓ | | | |
| Councilmember Tfanck | | | | | | ✓ |
| Councilmember Visioli | | | ✓ | | | |
| Councilmember Vohden | | | ✓ | | | |
| Councilmember Walton | | ✓ | ✓ | | | |
| Chairman Rilee | | | ✓ | | | |