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not include any subsequent burial or land application of contaminated soil or other solids.

“Resource conservation plan” means a plan, prepared for review by the Soil Conservation District, which details the proposed use of agricultural recommended management practices.

“Resource extraction” means the dredging, digging, extraction, mining and quarrying of sand, gravel, clay, or ilmenite for commercial purposes, not including, however, the private or agricultural extraction and use of the extracted material on the same parcel by the landowner.

“Resource extraction, agricultural” means those resource extraction activities accessory to an existing agricultural or horticultural use which meet the standards contained in N.J.A.C. 7:50-6.55 or which do not require an application to the Pinelands Commission pursuant to N.J.A.C. 7:50-4.1(a) 19.

“Resource management system plan” means a plan, prepared in accordance with the United States Department of Agriculture, Natural Resources Conservation Service New Jersey Field Office Technical Guide, dated June 2005, incorporated herein by reference, as amended and supplemented and available at <http://www.nrcs.usda.gov/technical/efotg>. Such plans shall:

1. Prescribe needed land treatment and related conservation and natural resources management measures, including forest management practices, for the conservation, protection and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of non-point source pollution; and
2. Establish criteria for resource sustainability of soil, water, air, plants and animals.

“Root raking” means a silvicultural practice involving the drawing of a set of tines, mounted on the front or trailed behind a tractor, over an area to thoroughly disturb tree and vegetation roots and/or to collect stumps and slash.

“Scenic corridors”. See: N.J.A.C. 7:50-6.103.

“Seasonal high water table” means the level below the natural surface of the ground to which water seasonally rises in the soil in most years.

“Seed tree cut” means a silvicultural practice involving the removal of old forest stand in one cutting, except for a small number of trees left singly, in small groups or narrow strips, as a source of seed for natural regeneration.

“Sewage sludge” means the solid residue and associated liquid resulting from the physical, chemical or biological treatment of wastewater in a domestic treatment works.

“Shelterwood cut” means a silvicultural practice involving the establishment of a new, essentially even-aged forest stand from release, typically in a series of cuttings, of new trees started under the old forest stand. A shelterwood cut involves the establishment of the new forest stand before the old forest stand is removed.

“Sign” means any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state or city, or any fraternal, religious or civic organizations; merchandise, pictures or models of products or services incorporated in a window display; works of art which in no way identify a product; or scoreboards located on athletic fields.

“Structural alteration” means any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

“Structure” means a combination of materials to form a construction for occupancy, use or ornamentation having a fixed location on, above or below the surface of land or attached to something having a fixed location on, above or below the surface of land.

“Subdivision” means the division of a parcel of land into two or more lots, tracts, parcels or other divisions of land. The following shall not be considered subdivisions within the meaning of this Plan, if no development occurs or is proposed in connection therewith:

1. Divisions of property by testamentary or intestate provisions;
2. Divisions of property upon court order; and
3. Conveyances so as to combine existing lots by deed or other instrument.

The term “subdivision” shall also include the term “resubdivision”.

“Submerged land” means those lands which are inundated with water throughout the year.

“Suitable sewage sludge” means sewage sludge in which the concentrations of any metals, measured on a dry weight basis, do not exceed the following limits: 10 parts per million arsenic; 40 parts per million cadmium; 1,000 parts per million chromium; 1,200 parts per million copper; 4,800 parts per million lead; 10 parts per million mercury; 1,250 parts per million nickel; and 2,400 parts per million zinc. The metal concentration limits used to define suitable sewage sludge are identical to those set forth in the Department of Environ-

mental Protection's September 1993 draft Solid Waste Management State Plan Update for Class B sludge.

"Thinning" means a silvicultural practice involving the removal of competing trees to favor certain species, sizes and qualities of trees.

"Traditional onsite subsurface sewage disposal system" means an individual or non-individual subsurface sewage disposal system which functions to treat and dispose of sanitary sewage in a manner that is not intended to reduce the total nitrogen concentration in the effluent but is intended to retain most of the settleable solids in a septic tank and to discharge the liquid effluent to a subsurface disposal field. Traditional onsite subsurface sewage disposal systems include gravity flow, gravity dosing and pressure dosing septic systems and may utilize septic tanks, dosing tanks, distribution boxes, disposal beds, disposal trenches and seepage pits. Existing privies and cesspools which are determined to be functioning properly shall also be considered to be traditional onsite subsurface sewage disposal systems.

"Transfer station or facility" means a facility at which waste is transferred from one waste vehicle to another waste vehicle for transportation to a waste management facility.

"Uncertified municipality or county" means a municipality or county whose master plan and land use ordinances or regulations have not been certified by the Commission under N.J.A.C. 7:50-3.

"Utility distribution lines" means lines, conduits or pipes located in a street, road, alley or easement through which natural gas, electricity, telephone, cable television, water, sewage or storm water discharge is distributed to or from service lines extending from the main line to the distribution system of the building or premises served. Utility distribution lines do not include electric transmission lines.

"Vegetation" means any plant material including grasses, shrubs and trees.

"Vegetative waste" means leaves, grass clippings, twigs, shrubbery and residue from the raising of plants, such as stalks, hulls and leaves. It includes vegetative processing wastes which do not contain non-vegetative additives; and whole trees, branches, tree trunks and stumps processed through a wood chipper.

"Waste" means any hazardous waste, regulated medical waste, garbage, refuse, septage, sludge, discarded materials, and other by-products and substances which become unsuitable for their original purpose, resulting from industrial, commercial and agricultural operations and from domestic and community activities. They shall include solid and liquid waste materials. For purposes of this definition, liquids which are released from a sewage treatment plant or on-site septic waste water treatment system and solid animal and vegetable wastes collected by swine producers licensed by the New Jersey Department of Agriculture to collect, prepare and feed

such wastes to swine on their own farms shall not be considered waste.

"Waste derived material" means a waste which has been separated, collected or processed such that it is converted into an economically valuable raw material or product which is not hazardous.

"Waste management facility" means any property, site, system, equipment or structure which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, reclamation, recovery, reuse or disposal of waste. It includes, but is not necessarily limited to, landfills, composting facilities, recycling facilities and centers, incinerators, materials recovery facilities, reclamation facilities, resource recovery facilities, waste reuse facilities and transfer facilities.

"Waste water collection facility" means any part of a system used to carry waste water and includes laterals, mains, trunks, interceptors and other similar facilities.

"Wetlands". See N.J.A.C. 7:50-6.3.

"Wetlands, coastal". See N.J.A.C. 7:50-6.4.

"Wetlands, impaired" means any wetland that meets each of the following three tests:

1. The wetland meets at least one of the following two criteria:

- i. The entire wetland is less than one acre; or
- ii. The overall wetland area is larger than one acre but the portion of the wetland that is to be directly impacted is less than one acre and the impacted area is separated from the remainder of the wetland by a substantial hydrologic barrier; and

2. The wetland meets at least one of the following three criteria:

- i. The wetland is within an area that is predominantly developed, has direct access to a paved public road and is serviced by a municipal wastewater treatment system; or
- ii. The wetland was filled prior to February 8, 1979, the fill is at least one foot in depth, and the seasonal high water table is not within one foot of the altered land surface; or
- iii. The wetland is an actively cultivated non-berry agricultural field which was cleared and in production prior to February 8, 1979; and

3. The wetland is not:

- i. An Atlantic white cedar swamp;
- ii. A wetland which is frequently ponded or flooded for a period of at least seven days during the growing season;

iii. A herbaceous or shrub dominated wetland type found in naturally occurring circular or nearly circular depressions within upland or wetland complexes;

iv. Located within 300 feet of a lake, pond, river or permanent stream; or

v. A wetlands supporting plant species which are designated as endangered pursuant to N.J.S.A. 13:1B-15.151 et seq. or a supporting plant or wildlife species designated as threatened or endangered pursuant to N.J.A.C. 7:50-6.27 and N.J.A.C. 7:50-6.33.

“Wetlands management” means the establishment of a characteristic wetland or the removal of exotic species or Phragmites from a wetland in accordance with the standards of N.J.A.C. 7:50-6.10. For purposes of this definition, exotic species are those that are not indigenous to North America.

“Wetland soils” means those soils designated as very poorly drained or poorly drained by the Soil Conservation Service of the United States Department of Agriculture, including but not limited to Atsion, Bayboro, Berryland, Colemantown, Elkton, Keansbury, Leon, Muck, Othello, Pocomoke, St. Johns and Freshwater Marsh and Tidal Marsh soil types.

Emergency Amendment R.1985 d.399, effective July 15, 1985 (expired September 13, 1985).

See: 17 N.J.R. 1918(a).

“Certificate of Compliance” added. “Certificate of Conformity” deleted.

Amended by R.1985 d.494, effective September 12, 1985.

See: 17 N.J.R. 1918(a), 17 N.J.R. 2394(a).

Amended by R.1987 d.436, effective November 2, 1987.

See: 18 N.J.R. 2239(a), 19 N.J.R. 2010(a).

Substantially amended.

Amended by R.1988 d.405, effective September 19, 1988.

See: 20 N.J.R. 716(a), 20 N.J.R. 2384(a).

Substantially amended.

Amended by R.1990 d.170, effective March 19, 1990.

See: 21 N.J.R. 3381(a), 22 N.J.R. 948(a).

Corrected errors in “Parcel” and “Subdivision”.

Amended by R.1992 d.91, effective March 2, 1992.

See: 23 N.J.R. 2458(b), 24 N.J.R. 832(b).

Amended “Contiguous lands”; added “fair market value” and “wetland, impaired”.

Amended by R.1994 d.590, effective December 5, 1994.

See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Amended by R.1995 d.449, effective August 21, 1995.

See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

Amended “Agricultural employee housing”, “Certified county master plan or ordinance”, and “Uncertified municipality or county”; added “Local communications facility”; and deleted “Local review officer” and “Notice of filing”.

Amended by R.1996 d.225, effective May 20, 1996.

See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

Added “Collection facility”, “Domestic treatment works”, “Domestic wastewater”, “Hazardous or toxic substances”, “Hazardous waste”, “Household hazardous waste”, “Incinerator”, “Lawful use”, “Record tree”, “Recyclable material”, “Recycling center”, “Regulated medical waste”, “Remediation”, “Sewage sludge”, “Suitable sewage sludge”, “Transfer station or facility”, “Vegetative waste”, “Waste”, “Waste derived material”, and “Waste management facility”; deleted “Solid waste transfer station” and “Specimen tree”; and amended “Forestry”, “Landfill” and “Wetlands, impaired”.

Amended by R.2000 d.272, effective July 3, 2000.

See: 32 N.J.R. 145(a), 32 N.J.R. 2435(a).

Inserted “Assisted living facility” and “Continuing care retirement community”; in “Dwelling unit”, added a second sentence; and in “Institutional use”, deleted a reference to supervised residential institutions, and added a second sentence.

Amended by R.2001 d.103, effective April 2, 2001.

See: 32 N.J.R. 4037(a), 33 N.J.R. 1095(a).

In “Agricultural or horticultural purpose or use”, inserted “aquatic organisms as part of aquaculture;” following “fur animals;”; added “Aquaculture” and “Aquatic organisms”.

Amended by R.2001 d.454, effective December 3, 2001.

See: 33 N.J.R. 2005(a), 33 N.J.R. 4133(a).

Rewrote “Parcel”; in “Resource extraction” insert “on the same parcel” following “material”; added “Resource extraction, agricultural”.

Amended by R.2002 d.247, effective August 5, 2002.

See: 34 N.J.R. 722(a), 34 N.J.R. 2804(b).

Added “Alternate design pilot program treatment system”.

Amended by R.2005 d.171, effective June 6, 2005.

See: 36 N.J.R. 4401(a), 37 N.J.R. 172(a), 37 N.J.R. 2013(b).

Added “Consumer electronics”.

Amended by R.2007 d.372, effective December 3, 2007.

See: 39 N.J.R. 1970(a), 39 N.J.R. 5077(b).

Added definitions “Abandonment” and “Nonconforming use”; and in definition “Alternate design pilot program treatment system”, deleted paragraph 1 and recodified paragraphs 2 through 5 as paragraphs 1 through 4.

Amended by R.2009 d.108, effective April 6, 2009.

See: 40 N.J.R. 4874(a), 41 N.J.R. 1405(a).

Rewrote definition “Impermeable surface”; and added definitions “Impervious surface”, “Permeability” and “Resource management system plan”.

Amended by R.2009 d.385, effective December 21, 2009.

See: 41 N.J.R. 2398(a), 41 N.J.R. 4786(a).

Added definition “Wetlands management”.

Amended by R.2010 d.029, effective March 1, 2010.

See: 41 N.J.R. 2402(a), 42 N.J.R. 629(a).

Added definitions “Artificial regeneration”, “Bedding”, “Broadcast scarification”, “Clearcutting”, “Coppicing”, “Disking”, “Drum chopping”, “Group selection”, “Individual selection”, “Natural regeneration”, “Root raking”, “Seed tree cut”, “Shelterwood cut” and “Thinning”; in the introductory paragraph of definition “Forestry”, inserted “, or for forest health” and “, including, but not limited to, artificial regeneration, bedding, broadcast scarification, clearcutting, coppicing, diskling, drum chopping, group selection, individual selection, natural regeneration, root raking, seed tree cut, shelterwood cut and thinning”; in definition “Forestry management plan”, updated the N.J.A.C. reference; and in definition “Forest stand”, inserted “composition,” and “and similar forest structure”, and deleted “and” preceding “age”.

Amended by R.2010 d.079, effective June 7, 2010.

See: 41 N.J.R. 2392(a), 42 N.J.R. 1044(a).

Added definitions “Individual onsite subsurface sewage disposal system”, “Non-individual onsite subsurface sewage disposal system”, “Pinelands alternate design wastewater treatment system”, “Qualified service technician” and “Traditional onsite subsurface sewage disposal system”.

Amended by R.2010 d.235, effective October 18, 2010.

See: 42 N.J.R. 987(a), 42 N.J.R. 2422(a).

In definition “Alternate design pilot program treatment system”, rewrote the introductory paragraph and paragraph 3, in paragraph 2, inserted “or” at the end, and deleted paragraph 4.

Public Notice: Agency Action: Pilot Program for Alternate Design Wastewater Treatment Systems.

See: 43 N.J.R. 1380(b).

Case Notes

New Jersey Pinelands Commission was entitled to a preliminary injunction preventing construction of a solid waste transfer facility in the Pinelands National Reserve based on failure by a railroad and the purported owners and operators of the facility site to obtain regulatory approvals under the National Parks and Recreation Act of 1978, 16 U.S.C.S. § 471i et seq., the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and the Commission’s Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.; the Commission was likely to succeed on its claim that regulation of the facility was not within the exclusive ju-

isdiction of the Surface Transportation Board pursuant to 49 U.S.C.S. § 10501(b). *J.P. Rail, Inc. v. New Jersey Pinelands Comm'n*, 404 F.Supp.2d 636, 2005 U.S. Dist. LEXIS 36411 (D.N.J. 2005).

Municipality without plan or ordinance has standing to challenge Commission's developmental approvals. In re *Application of John Madin/Lordland Development International*, 201 N.J.Super. 105, 492 A.2d 1034 (App.Div.1985), certiorari vacated as moot 103 N.J. 689, certification granted 102 N.J. 380, 508 A.2d 243, certification vacated 103 N.J. 689, 512 A.2d 490 (1986).

Plotted but unbuilt street did not render non-contiguous commonly owned adjoining parcels of land; no hardship waiver from wetlands requirement. *Bisignano v. Pinelands Commission*, 92 N.J.A.R.2d (EPC) 36.

SUBCHAPTER 3. CERTIFICATION OF COUNTY,
MUNICIPAL AND FEDERAL INSTALLATION
PLANS

PART I—PURPOSE

7:50-3.1 Purpose

(a) The Pinelands Protection Act is a legislative determination that management and protection of the essential character and ecological values of the Pinelands require a regional perspective in the formulation and implementation of

land use policies and regulations. The Act also recognizes, as does this Plan, that local government participation in the management process is fundamental to achieving the goals and objectives of the Act. The Act and this Plan contemplate that local governments will be the principal management entities implementing the Plan, with the Pinelands Commission providing technical assistance to local authorities, monitoring development review and updating the Plan.

(b) The Act also contemplates that the Commission will achieve local participation in the implementation program and oversee implementation of the Plan. The Act provides for certification of local master plans and land use ordinances by the Commission, after which the certified plans and ordinances act as the governing regulations for the municipalities. However, if a local government should choose not to participate in the implementation program, then the Act requires that the Commission adopt and enforce such rules and regulations as are necessary to implement the minimum standards of this Plan.

(c) This Plan is intended, therefore, to serve two functions: as a general guide for local authorities in preparing master plans and land use ordinances for certification by the Commission, and as a planning and regulatory mechanism that can be adopted and enforced by the Commission if a county or municipality fails to secure certification.

7:50-3.83 Certification standards

(a) The Commission may certify a county regulation or municipal ordinance which contains an alternative permitting program only if the following standards are met, taking into account the type, magnitude, location or complexity of development for which the program applies:

1. The county or municipality has demonstrated capability to implement the program in an efficient and effective manner;

2. The program, including the procedures to be followed, standing alone or in combination with activities continuing to be administered by the Commission, ensures that application requirements and permit decisions are adequate to determine compliance with the relevant criteria and standards of N.J.A.C. 7:50-5 and 6 and the provisions of the relevant certified local regulation or ordinance;

3. The program ensures that adequate, qualified and capable personnel will administer the program and that safeguards exist to ensure that (a)2 above is met in the event of personnel changes;

4. The program ensures that applicants receive any necessary waivers of strict compliance from the Pinelands Commission; and

5. Either the program allows for Commission review of local approvals pursuant to N.J.A.C. 7:50-4.31 et seq. or includes an alternative procedure to ensure that periodic review of permits by the Commission may be conducted to assess consistency of the program with the standards of N.J.A.C. 7:50-5 and 6 and the provisions of the relevant certified local regulation or ordinance. The alternative procedure shall also include a requirement for all local approvals to be subject to review by the Commission pursuant to N.J.A.C. 7:50-4.31 through 4.42 in the event that the Executive Director makes a recommendation to the Commission pursuant to N.J.A.C. 7:50-3.85. In that event, the procedures for the review of local approvals set forth in N.J.A.C. 7:50-4.31 through 4.42 shall remain in effect until such time as the procedures in N.J.A.C. 7:50-3.61 through 3.65 have been followed.

New Rule, R.1995 d.449, effective August 21, 1995.
See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

7:50-3.84 Assistance and monitoring

(a) The Executive Director is authorized to provide such assistance to counties and municipalities as he or she deems necessary and appropriate and within the means of the Commission to help implement and maintain an alternative permitting program.

(b) The Executive Director shall report on each alternative permitting program to the Commission and the appropriate county or municipality in accordance with a specific review program approved by the Commission concurrent with its certification of the alternative permitting program. Such

report shall describe the elements of the permitting program and evaluate their operation according to the standards of N.J.A.C. 7:50-3.83.

New Rule, R.1995 d.449, effective August 21, 1995.
See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

7:50-3.85 Failure to implement

Should the Executive Director recommend that the Commission revoke, suspend, or modify its certification of a county regulation or municipal ordinance which institutes an alternative permitting program because one or more of the certification standards is not being adequately fulfilled, the procedures set forth in N.J.A.C. 7:50-3.61 through 3.65 shall be followed. In such cases, the revocation, suspension or modification shall affect the alternative permitting program and procedures and not the certification status of the substantive provisions of the certified county regulation or municipal land use ordinance, unless such county or municipality willfully ignores or refuses to implement such revocation, suspension or modification order.

New Rule, R.1995 d.449, effective August 21, 1995.
See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

SUBCHAPTER 4. DEVELOPMENT REVIEW**INTRODUCTION**

The Pinelands Protection Act charges the Pinelands Commission with ensuring that the minimum standards, goals and objectives of this Plan are implemented and enforced. The procedures by which the Commission will discharge its development review responsibilities are set out in this subchapter, according to whether the applicant is a public or private entity and whether the proposed activity is located in a certified or uncertified municipality. Part I establishes a set of uniform application requirements which include a pre-application conference which is designed to afford an applicant the opportunity to informally resolve preliminary application problems and to determine the extent and form of the information and documentation which must be submitted in the application. Part I also establishes a uniform procedure for determining when an application for development approval is complete. N.J.A.C. 7:50-4 prescribes notice and public hearing requirements for development review as well as for the certification of municipal or county plans, regulations and ordinances (N.J.A.C. 7:50-3), the review of comprehensive plans submitted pursuant to N.J.A.C. 7:50-5.4, inter-governmental agreements (N.J.A.C. 7:50-4.52) and certain resource extraction issues (N.J.A.C. 7:50-6.64) or amendments to the Plan itself (N.J.A.C. 7:50-7).

Part II of this subchapter establishes the procedures for development review in uncertified jurisdictions. Part III of this subchapter sets forth the procedures for development review in certified areas, including the Commission's authority to review development approvals at the local level.

It is recognized that the specific provisions of this Part can be refined at the local level provided that the objective and goals the procedural requirements represent will be achieved. In addition, the procedures may be modified through the implementation of alternative permitting programs as provided in N.J.A.C. 7:50-3.81 through 3.85. Part IV contains those procedures applicable to review of public development in the Pinelands Area.

In addition, Part V of this subchapter contains provisions for the procedures to be employed in consideration of applications to waive strict compliance with the standards of the Plan. If a waiver is granted by the Commission, the applicant may proceed with the development review procedures in Part III, if in a certified area, or Part II, if in an uncertified area, or Part IV, if it is an application by a public agency.

Part VI sets forth a procedure whereby any person may secure a clarification or interpretation of the meaning or applicability of any provision of this Plan. Part VII provides for coordinated permitting with other state agencies.

Part VIII sets forth the procedures to follow if any applicant or other aggrieved person wishes to appeal a decision by the Executive Director or the Commission.

PART I—UNIFORM PROCEDURES

7:50-4.1 Applicability

(a) For the purposes of this subchapter only, the following shall not be considered development except for development of any historic resource designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154:

1. The improvement, expansion, or reconstruction within five years of destruction or demolition, of any single family dwelling unit or appurtenance thereto;
2. The improvement, expansion, construction or reconstruction of any structure accessory to a single family dwelling;
3. The improvement, expansion, construction or reconstruction of any structure used exclusively for agricultural or horticultural purposes;
4. The construction, repair or removal of any sign, except for the construction or replacement of any off-site commercial advertising sign;
5. The repair of existing utility distribution lines;
6. The installation of utility distribution lines, except for sewage lines, to serve areas which are effectively developed or development which has received all necessary approvals and permits;
7. The clearing of less than 1,500 square feet of land;

8. The construction of any addition or accessory structure for any non-residential use or any multi-family residential structure provided said addition or structure will be located on or below an existing impervious surface and the existing use is served by public sewers and said addition or structure will cover an area of no more than 1,000 square feet;

9. The demolition of any structure less than 50 years old;

10. The repair or replacement of any existing on-site waste water disposal system;

11. The repaving of existing paved roads, provided no increase in the paved width of said roads will occur;

12. The clearing of land solely for agricultural purposes;

13. Fences, provided no more than 1,500 square feet of land is to be cleared;

14. Above-ground telephone equipment cabinets;

15. Tree pruning;

16. The following forestry activities:
 - i. Normal and customary forestry practices on residentially improved parcels of land that are five acres or less in size;

- ii. Tree harvesting, provided that no more than one cord of wood per five acres of land is harvested in any one year and that no more than five cords of wood are harvested from the entire parcel in any one year;

- iii. Tree planting, provided that the area to be planted does not exceed five acres in any one year, no soil disturbance occurs other than that caused by the planting activity and no trees other than those authorized by N.J.A.C. 7:50-6.25 are to be planted; and

- iv. Forest stand improvement designed to selectively thin trees and brush, provided that no clearing or soil disturbance occurs and that the total land area on the parcel in which the activity occurs does not exceed five acres in any one year;

17. Prescribed burning and the clearing and maintaining of fire breaks;

18. Normal and customary landscape plantings, unless a landscaping plan is required pursuant to N.J.A.C. 7:50-6.24; or

19. Agricultural resource extraction, provided that:
 - i. All of the removed soil remains in agricultural or horticultural use within the Pinelands Area;

- ii. No more than 2,000 cubic yards of soil per calendar year are removed from any parcel; or

iii. No more than 20,000 cubic yards of soil per calendar year are removed from any parcel and a Farm Conservation Plan, designed in accordance with the United States Department of Agriculture, Natural Resources Conservation Service New Jersey Field Office Technical Guide, section 4, dated May 2001, incorporated herein by reference, as amended and supplemented, is approved by the Soil Conservation District and submitted to the Pinelands Commission by the owner of the parcel, demonstrating that the proposed resource extraction is for one of the following agricultural purposes:

(1) Agricultural irrigation ponds;

(2) Blueberry/cranberry agriculture site preparation and horticulture of other wetland species, provided the activity is located on wetland soils or soil types that are somewhat poorly drained or moderately well drained with a seasonal high water table within 24 inches of the natural surface of the ground, as defined in the applicable county soil survey, published by the United States Department of Agriculture, Natural Resources Conservation Service, as amended and or supplemented; or

(3) The offsite removal of overlying soils to access underlying sand for cranberry management practices, provided the quantity of overlying soil removed offsite does not exceed the quantity of underlying sand to be used for the management practices listed in N.J.A.C. 7:50-6.55(a)4 and the quantity of overlying soil removed offsite does not exceed that reasonably necessary to provide access to underlying sand to be utilized within a three year period.

(b) As of January 14, 1991, the provisions of this Plan shall apply to any proposed development or portion thereof which received approval from the Pinelands Commission pursuant to the Interim Rules and Regulations or which received approval from the Pinelands Development Review Board and said approvals expired as of that date or will expire subsequent to that date, without exception, unless the requirements in (b)1, 2 and either 3 or 4 below have been met and continue to be met:

1. All necessary municipal planning board or board of adjustment approvals were obtained by January 14, 1991;

2. No additional approval, extension, renewal or any other action whatsoever is required or received from either the municipal planning board or board of adjustment after January 14, 1991; and either

3. All necessary approvals, including all necessary construction permits, were obtained by January 3, 1995 or within 18 months of the expiration of any tolling pursuant to N.J.S.A. 40:55D-21 of the running of the period of the planning board or board of adjustment approval pursuant to N.J.S.A. 40:55D-47 or 40:55D-52, whichever is later; and

no construction permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after the latter of said dates; or

4. All necessary approvals, including all necessary construction permits, are obtained by December 31, 1996 and no construction permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after said date, provided that the lot for which the approvals and permits are issued either fronts on a road that prior to January 3, 1995 was improved at least to the extent of the installation of a subbase or had a foundation or septic system lawfully constructed on said lot prior to January 3, 1995.

(c) The Commission shall determine that an application for the improvement or reconstruction of a single family dwelling or appurtenance thereto five years or more after destruction or demolition of the single family dwelling is in conformance with this Plan, provided the applicant demonstrates that:

1. The improvement or reconstruction does not involve a historic resource designated by the Commission pursuant to N.J.A.C. 7:50-6.154;

2. The improvement or reconstruction is performed within 25 years of the destruction or demolition of a single family dwelling unit or appurtenance thereto;

3. The foundation of the demolished or destroyed single family dwelling unit is intact, will be used for the development and will constitute the footprint of the improvement or reconstruction; and

4. The destroyed or demolished building was a single family dwelling.

(d) Nothing herein shall preclude any local or state agency from reviewing, in accordance with the provisions of any applicable ordinance or regulation, any proposed development which does not require an application to the Pinelands Commission pursuant to (a) or (b) above or which is determined by the Commission to be in conformance with this Plan pursuant to (c) above.

Amended by R.1988 d.405, effective September 19, 1988.
See: 20 N.J.R. 716(a), 20 N.J.R. 2384(a).

In (a)7, added "or any multi-family residential structure" and "or below".

Amended by R.1993 d.211, effective May 17, 1993.
See: 25 N.J.R. 225(a), 25 N.J.R. 2119(a).

Established an expiration date coincident with P.L. 1993 c.82 (Permit Extension Act).

Amended by R.1994 d.590, effective December 5, 1994.
See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Amended by R.1995 d.449, effective August 21, 1995.
See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

In (b)3 changed the approval date; rewrote (b)4.
Amended by R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

In (a) added tree pruning, forestry activities and prescribed burning and fire breaks.

Amended by R.2001 d.103, effective April 2, 2001.
See: 32 N.J.R. 4037(a), 33 N.J.R. 1095(a).

Added new (c); recodified former (c) as (d) and inserted "or which is determined by the Commission to be in conformance with this Plan pursuant to (c) above" following "(a) or (b) above".

Amended by R.2001 d.454, effective December 3, 2001.

See: 33 N.J.R. 2005(a), 33 N.J.R. 4133(a).

In (a), added 19.

Amended by R.2009 d.108, effective April 6, 2009.

See: 40 N.J.R. 4874(a), 41 N.J.R. 1405(a).

In (a)8, substituted "impervious" for "impermeable".

7:50-4.2 Pre-application conference; application requirements

(a) Pre-application conference.

1. Request: Any applicant for any application provided for in this Plan may request an informal conference with the Executive Director prior to filing an application. However, an applicant seeking approval pursuant to the provisions of Part III of this subchapter is encouraged to discuss the application with the appropriate officials in the certified municipality prior to requesting a conference with the Executive Director. All requests for a pre-application conference shall include the name and address of the applicant, the legal description and street address, if any, of the parcel proposed for development, a brief description of the nature of any proposed development and the nature of the approval or waiver sought by the applicant.

2. Scheduling of conference: Within 15 days following receipt of any request for a pre-application conference, the Executive Director shall schedule a pre-application conference and notify the applicant of the time, date and location of the conference and specify any additional information which the Executive Director determines is necessary.

3. Conduct and purpose of conference: The Executive Director shall conduct the pre-application conference. The conference shall be informal and its purpose shall be to openly consider the proposals, views and concerns of the applicant and the Commission and to determine whether any of the application requirements of (b) below should be waived or any additional information should be required.

4. Pre-application conference orders: At the conclusion of the pre-application conference, the Executive Director shall inform the applicant in writing whether any of the application requirements contained in (b) below are to be waived or any additional information is to be submitted.

5. Representations of the Executive Director: No representation made by the Executive Director or any member of the staff designated by the Executive Director during the course of any pre-application conference shall be binding on the Commission or the Executive Director with respect to any application subsequently submitted.

(b) Application requirements.

1. General requirements. All applications shall be submitted to the Executive Director at the principal office of the Commission in such form and number as he shall from time to time establish. The filing of an application shall be deemed to be authorization for the Executive Director or

his staff to inspect the parcel which is the subject of the application. The application shall be accompanied by a sworn statement that the requirements of (b)2 below have been satisfied.

2. Notice: The applicant shall provide notice of all applications for development in uncertified municipalities, applications for waivers and applications for letters of interpretation filed with the Commission to the municipal and county clerk, and the environmental commission, if any, of the municipality.

3. Waiver of application requirements following pre-application conference: The Executive Director may waive or modify any of the application requirements contained in this subsection if, after a pre-application conference held pursuant to (a) above, he determines that any required information is either not relevant or not necessary to assure proper consideration of any application. Such waiver or modification shall be made in a pre-application order issued pursuant to (a)4 above.

4. Application for approval of minor development: Unless the submission requirements are modified or waived pursuant to (b)3 above, an application filed pursuant to N.J.A.C. 7:50-4.13 or 4.33 for approval of minor development shall include at least the following information:

i. The applicant's name and address and his interest in the subject parcel;

ii. The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application;

iii. The legal description, including block and lot designation and street address, if any, of the subject parcel;

iv. A description of all existing uses of the subject parcel;

v. A brief written statement generally describing the proposed development;

vi. A USGS Quadrangle map, or copy thereof, and a copy of the municipal tax map sheet on which the boundaries of the subject parcel and the Pinelands management area designation and the municipal zoning designation in a certified municipality are shown;

vii. A plat or plan showing the location of all boundaries of the subject parcel, the location of all proposed development, and existing or proposed facilities to provide water for the use and consumption of occupants of all buildings and sanitary facilities which will serve the proposed development. The following information shall be included with respect to existing or proposed sanitary facilities:

(1) On-Site Treatment Facilities: Location, size, type and capacity of any proposed on-site wastewater treatment facilities; and

(2) **Soil Borings and Percolation Tests:** If on-site sewage disposal is proposed, results of soil borings and percolation tests in accordance with N.J.S.A. 58:11-23 et seq. and the regulations adopted pursuant thereto shall be submitted at suitable location with a tract map showing location, logs, elevations of all test holes, indicating where ground water was encountered, estimating the seasonal high water table and demonstrating that such facility is adequate to meet the water quality standards contained in subchapter 6 of this Plan.

viii. A location map, including the area extending at least 300 feet beyond each boundary of the subject parcel, showing ownership boundary lines, the boundary of the proposed development, owners of holdings adjoining and adjacent to the subject parcel, existing facilities, buildings and structures on the site, all proposed development, wetlands, streams (including intermittent streams), rivers, lakes and other waterbodies and existing roads;

ix. A soils map including a county soils survey which conforms to the guidelines of the United States Department of Agriculture Soil Conservation Service, showing the location of all proposed development; and

x. A map showing existing vegetation, identifying predominant vegetation types in the area and showing proposed landscaping of the subject parcel, including the location of the tree line before and after development and all areas to be disturbed as a result of the proposed development.

5. **Application for approval of major development:** Unless the submission requirements are modified or waived pursuant to (b)3 above, an application filed pursuant to N.J.A.C. 7:50-4.13 or 4.33 for approval of major

development, except for forestry and resource extraction operations, shall include at least the following information:

i. All information required by (b)4i through iv;

ii. A brief written statement generally describing the proposed development; the number of total units; and the floor area of all units to be included in the proposed development;

iii. A written statement addressing each of the standards or guidelines set forth in subchapters 5 and 6 of this Plan; and stating specifically how the proposed development meets each such standard or guideline;

iv. A plat or plan showing the location of all boundaries of the subject parcel, the location of all proposed development, and existing or proposed facilities to provide water for the use and consumption of occupants of all buildings and sanitary facilities which will serve the proposed development. The following information shall be included with respect to existing or proposed wastewater treatment facilities:

(1) **Sanitary Sewer Distribution:** Location, size and direction of flow of all existing and proposed sanitary sewer lines and pumping stations serving the proposed development and all existing and proposed connections to existing facilities;

(2) **On-Site Treatment Facilities:** Location, size, type and capacity of any proposed on-site wastewater treatment facilities including, except with respect to discharges into an individual residential septic system, quantities, composition, proposed pretreatment and ultimate means of disposal;

3. Development within the residential cluster shall be designed as follows:

i. Residential lots should be one acre in size but may be larger if dictated by unusual site conditions. In no case shall the average size of residential lots within a cluster exceed 1.1 acres;

ii. Individual on-site septic waste water treatment systems in accordance with N.J.A.C. 7:50-6.84(a)4 may serve the lots within the cluster development area. However, in the event that existing agricultural uses will continue on the parcel in accordance with (d)5 below, individual on-site septic waste water treatment systems shall comply with the standards of N.J.A.C. 7:50-6.84(a)5 or 10.21 through 10.23. Community on-site waste water treatment systems serving two or more residential dwelling units which meet the standards of N.J.A.C. 7:50-6.84(a)5 or 10.21 through 10.23 shall also be permitted;

iii. The residential cluster development area shall include such land and facilities as are necessary to support the development, including wastewater facilities, streets, stormwater management facilities and recreation amenities; and

iv. Permitted recreation amenities shall be specified in the municipal ordinance but in no case may they occupy more than one-half acre of land or the equivalent of one acre of land for every 25 residential lots, whichever is greater.

4. Except as otherwise provided in (d)5 below, the balance of the parcel located outside of the residential cluster development shall be owned and managed by a duly constituted homeowners' association, a non profit conservation organization, the municipality or incorporated as part of one of the lots within the cluster development area.

i. All such land shall be permanently protected through recordation of a deed of conservation restriction. Such restriction shall be in favor of the residents of the cluster development and, if provided by municipal ordinance, the municipality or another public agency or non profit conservation organization. In all cases, such restriction shall be expressly enforceable by the Pinelands Commission; and

ii. Such deed of conservation restriction shall permit the land to be managed for low intensity recreation, ecological management and forestry, provided that no more than five percent of the land may be cleared, no more than one percent of the land may be covered with impervious surfaces and any such uses or activities are approved and conducted in accordance with the requirements of this Plan, including any municipal ordinance certified pursuant thereto.

5. Where agricultural use exists on a parcel proposed for cluster development, the following standards shall apply:

i. For those agricultural uses in existence as of April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses, and the expansion of the area of agricultural use by up to 50 percent;

ii. For those agricultural uses established after April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses, provided the agricultural use has been in existence for a period of at least five years prior to submission of an application for cluster development pursuant to N.J.A.C. 7:50-4;

iii. For those agricultural uses established after April 6, 2009 which do not meet the standards of (d)5ii above, the deed of restriction shall permit the land to be managed only in accordance with (d)4 above and shall not provide for continuation of any agricultural use on the parcel;

iv. In lieu of the provisions of (d)4 above, the deed of restriction to be recorded pursuant to (d)5i or ii above may be in favor of a county or the State Agriculture Development Committee. In all cases, such restriction shall be expressly enforceable by the Pinelands Commission;

v. The deed of restriction to be recorded pursuant to (d)5i or ii above shall authorize agricultural uses and provide that impervious surface may not exceed that which currently exists or three percent, whichever is greater, unless a Resource Management System Plan has been prepared. Before these impervious surface limits may be exceeded, the Resource Management System Plan must be approved by the Pinelands Commission and, if the deed of restriction is in favor of the county or the State Agriculture Development Committee, by such agency; and

vi. For parcels which meet the standards of (d)5i or ii above, a provision is recorded in the deed for each residential lot within the cluster development area which acknowledges agricultural use of the protected land outside the cluster development area and recognizes the legal protections afforded to that use through the deed of restriction and any applicable statutes.

New Rule, R.1994 d.590, effective December 5, 1994.

See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Amended by R.2009 d.108, effective April 6, 2009.

See: 40 N.J.R. 4874(a), 41 N.J.R. 1405(a).

In (a), deleted "and Rural Development Areas" preceding "Regional Growth Areas"; and added (c) and (d).

7:50-5.20 (Reserved)

PART III—MINIMUM STANDARDS FOR LAND
USE DISTRIBUTION AND INTENSITIES

7:50-5.21 Purpose

In order to ensure the long-term integrity of the Pinelands environment while accommodating regional growth influences, the Pinelands Commission finds that it is appropriate and necessary to establish minimum standard governing the character, location and magnitude of development and the use of land in the Pinelands.

7:50-5.22 Minimum standards governing the distribution and intensity of development and land use in the Preservation Area District

(a) The following uses shall be permitted in the Preservation Area District:

1. Residential dwelling units in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32.
2. Berry agriculture and horticulture of native plants and other agricultural activities compatible with the existing soil and water conditions that support traditional Pinelands berry agriculture.
3. Forestry.
4. Beekeeping.
5. Fish and wildlife management and wetlands management.
6. Low intensity recreational uses, provided that:
 - i. The parcel proposed for low intensity recreational use has an area of at least 50 acres;
 - ii. The recreational use does not involve the use of motorized vehicles except for necessary transportation;
 - iii. Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage;
 - iv. Clearing of vegetation, including ground cover and soil disturbance, does not exceed five percent of the parcel; and
 - v. No more than one percent of the parcel will be covered with impervious surfaces.
7. Pinelands Development Credits.

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in the Preservation Area District:

1. Agricultural employee housing as an element of, and accessory to, an active agricultural operation.
2. Expansion of intensive recreational uses, provided that:

- i. The intensive recreational use was in existence on February 7, 1979 and was not subsequently abandoned;

- ii. The capacity of the use will not exceed two times the capacity of the use on February 7, 1979;

- iii. The use is necessary to achieve recreational use of a particular element of the existing Pinelands environment; and

- iv. The use is environmentally and aesthetically compatible with the character of the Preservation Area District and the characteristics of the particular basin in which the use is to be located, taking into consideration the proportion of cleared and developed land, ambient water quality, ecologically sensitive areas and unique resources, and will not unduly burden available public services.

3. Campgrounds, in accordance with the standards of (a)6 above, provided that the parcel will contain no more than one campsite per two acres and that, if clustered, the campsites not exceed a net density of six per acre.

4. Public service infrastructure which is necessary to serve only the needs of the Preservation Area District uses. Centralized waste water treatment and collection facilities shall be permitted to service the Preservation Area District only in accordance with N.J.A.C. 7:50-6.84(a)2. Communication cables not primarily intended to serve the needs of the Preservation Area District may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.

5. Continuation of existing resource extraction operations in accordance with the standards of N.J.A.C. 7:50-6, Part VI.

6. Signs.

7. Infill areas: Residential dwellings and commercial uses on lots existing as of January 14, 1981 of at least one acre in size within an area designated by a municipality in its ordinance in accordance with the following criteria:

- i. The area must have direct access to an existing improved public road;

- ii. The area must exhibit a compact pattern of existing development, generally exhibited by more than 20 principal structures and the boundary shall generally conform to that of the existing developed area so that extensive amounts of adjoining vacant land are not included;

- iii. The area must contain vacant lots of at least one acre in size or smaller lots which could reasonably be assembled into one acre or greater lots; and

iv. Commercial uses shall be limited to those specific portions of the area which are predominantly occupied by existing commercial uses.

8. Accessory uses.

9. Home occupations.

10. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.

11. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:

i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);

ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);

iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);

iv. Recycling centers accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d), provided the existing resource extraction operation or manufacturing facility is located within one mile of a Regional Growth Area or Pinelands Town;

v. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and

vi. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).

(c) No residential dwelling shall be located on a lot of less than 3.2 acres, except as provided in N.J.A.C. 7:50-5.32.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)4 above, provided, however, that no such structure shall be located on a parcel of less than one acre.

Amended by R.1988 d.405, effective September 19, 1988.
See: 20 N.J.R. 716(a), 20 N.J.R. 2384(a).

Added text in (b)4, "Communication cables not ..."; added (c) and (d).
Amended by R.1994 d.590, effective December 5, 1994.

See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).
Amended by R.1995 d.449, effective August 21, 1995.
See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

Added (b)10.
Amended by R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

In (b) added waste management facilities.
Amended by R.2007 d.372, effective December 3, 2007.
See: 39 N.J.R. 1970(a), 39 N.J.R. 5077(b).

In (b)2i, inserted "was not subsequently abandoned;" and recodified "the capacity of the use will not exceed two times the capacity of the use on February 7, 1979;" as new (b)2ii; in (b)2ii, substituted "The" for "the"; recodified former (b)2ii and (b)2iii as (b)2iii and (b)2iv; and in (b)1iv, inserted "provided the existing resource extraction operation or manufacturing facility is located within one mile of a Regional Growth Area or Pinelands Town".

Amended by R.2009 d.108, effective April 6, 2009.

See: 40 N.J.R. 4874(a), 41 N.J.R. 1405(a).

In (a)6v, substituted "impervious" for "impermeable".

Amended by R.2009 d.385, effective December 21, 2009.

See: 41 N.J.R. 2398(a), 41 N.J.R. 4786(a).

In (a)5, inserted "and wetlands management".

Case Notes

Application for operation of roadside produce stand denied as the owner of the proposed stand did not intend to engage in agricultural production on grounds near or attached to the proposed stand site. Hanoverland Industries v. Pinelands Commission, 8 N.J.A.R. 529 (1985).

7:50-5.23 Minimum standards governing the distribution and intensity of development and land use in Forest Areas

(a) The following uses shall be permitted in a Forest Area:

1. Residential dwelling units in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32;

2. Residential cluster development in accordance with the provisions of N.J.A.C. 7:50-5.19(c) and (d). Non-clustered residential development shall also be permitted, provided that:

i. No more than one unit is proposed; or

ii. The standards of N.J.A.C. 7:50-5.19(c) cannot be met;

3. Residential dwelling units in accordance with the development transfer provisions of N.J.A.C. 7:50-5.30;

4. Agriculture;

5. Forestry;

6. Low intensity recreational uses, provided that:

i. The parcel proposed for low intensity recreational use has an area of at least 50 acres;

ii. The recreational use does not involve the use of motorized vehicles except for necessary transportation;

iii. Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage;

iv. Clearing of vegetation, including ground cover and soil disturbance, does not exceed five percent of the parcel; and

v. No more than one percent of the parcel will be covered with impervious surfaces.

(b) In addition to uses permitted under (a) above, a municipality may, at its option, permit the following uses in a Forest Area:

1. Institutional uses, provided that:

i. The use does not require or will not generate subsidiary or satellite development in the Forest Area;

- ii. The applicant has demonstrated that adequate public service infrastructure will be available to serve the use; and
 - iii. The use is primarily designed to serve the needs of the Forest Area in which the use is to be located.
2. Pinelands resource-related industrial or manufacturing uses, excluding resource extraction and uses that rely on sand or gravel as raw products, provided that:
- i. The parcel proposed for development has an area of at least five acres;
 - ii. The principal raw material for the proposed use is found or produced in the Pinelands; and
 - iii. The use does not require or will not generate subsidiary or satellite development in a Forest Area.
3. Light industrial uses within an area designated by a municipality in accordance with the following criteria:
- i. The area adjoins an existing airport, and the airport is either publicly owned or serves a Pinelands Town;
 - ii. The area is predominantly developable under the provisions of subchapter 6 of this Plan; and
 - iii. The area is limited in size to that which received approval to develop pursuant to the Pinelands Protection Act prior to January 14, 1981.
4. Campgrounds, not to exceed one campsite per gross acre, provided that the campsites may be clustered at a net density not to exceed 10 campsites per acre.
5. Agricultural commercial establishments, excluding supermarkets, restaurants and convenience stores provided that:
- i. The principal goods or products available for sale were produced in the Pinelands; and
 - ii. The sales area of the establishment does not exceed 5,000 square feet.
6. Roadside retail sales and service establishments, provided that:
- i. The parcel proposed for development has roadway frontage of at least 50 feet;
 - ii. No portion of any structure proposed for development will be more than 300 feet, measured along a line parallel to the roadway, from the closest part of a roadside retail sales and service establishment structure that was in existence on February 7, 1979; and
 - iii. The proposed use will not unduly burden public services, including but not limited to water, sewer and roads.
7. Continuation of existing resource extraction operations in accordance with the standards of N.J.A.C. 7:50-6, Part VI.
8. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:
- i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);
 - ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);
 - iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);
 - iv. Recycling centers accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d), provided the existing resource extraction operation or manufacturing facility is located within one mile of a Regional Growth Area or Pinelands Town;
 - v. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and
 - vi. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).
9. Fish and wildlife management and wetlands management.
10. Agricultural employee housing as an element of, and accessory to, an active agricultural operation.
11. Expansion of intensive recreational uses, provided that:
- i. The intensive recreational use was in existence on February 7, 1979 and was not subsequently abandoned;
 - ii. The capacity of the use will not exceed two times the capacity of the use on February 7, 1979;
 - iii. The use is necessary to achieve recreational use of a particular element of the existing Pinelands environment; and
 - iv. The use is environmentally and aesthetically compatible with the character of the Forest Area and the characteristics of the particular basin in which the use is to be located, taking into consideration the proportion of cleared and developed land, ambient water quality, ecologically sensitive areas and unique resources, and will not unduly burden available public services.
12. Public service infrastructure intended to primarily serve only the needs of the Pinelands. Centralized waste water treatment and collection facilities shall be permitted to service the Forest Area only in accordance with N.J.A.C. 7:50-6.84(a)2. Communication cables not primarily intended to serve the needs of the Forest Area may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.

13. Home occupations.
14. Signs.
15. Accessory Uses.
16. Airport facilities provided:
 - i. The airport is publicly owned or serves a Pinelands Town; and
 - ii. The airport was in existence on January 14, 1981; and
 - iii. The area of the airport is limited in size to that which existed on January 14, 1981; and
 - iv. The use will not generate subsidiary or satellite development not otherwise permitted in the Forest Area, Preservation Area District or Special Agricultural Production Area.
17. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.

(c) Minimum lot area and density requirements for residential development: No residential dwelling unit shall be located on a lot of less than 3.2 acres, except as provided in N.J.A.C. 7:50-5.19, 5.30, 5.31 and 5.32. The total number of dwelling units authorized by a municipality shall not exceed a density of one dwelling unit for every 15.8 acres of privately owned, undeveloped land which is not defined in this Plan as wetlands, except as provided in N.J.A.C. 7:50-5.19(d)1. The Executive Director shall maintain a current record of residential units zoned in each certified municipality pursuant to this section.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)12 above, provided, however, that no such structure shall be located on a parcel of less than one acre.

Amended by R.1988 d.405, effective September 19, 1988.
See: 20 N.J.R. 716(a), 20 N.J.R. 2384(a).

Added text to (b)12, "Communications cables not ..."; and added (d).
Amended by R.1990 d.170, effective March 19, 1990.
See: 21 N.J.R. 3381(a), 22 N.J.R. 948(a).

Added (b)16.
Amended by R.1992 d.91, effective March 2, 1992.
See: 23 N.J.R. 2458(b), 24 N.J.R. 832(b).

Exception added at (c).
Amended by R.1994 d.590, effective December 5, 1994.
See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Amended by R.1995 d.449, effective August 21, 1995.
See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

Added (b)17.
Amended by R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

In (b) substituted waste management facilities for landfills.
Amended by R.2007 d.372, effective December 3, 2007.
See: 39 N.J.R. 1970(a), 39 N.J.R. 5077(b).

In (b)8iv, inserted "provided the existing resource extraction operation or manufacturing facility is located within one mile of a Regional Growth Area or Pinelands Town"; in (b)11i, inserted "was not subsequently abandoned" and recodified "the capacity of the use will not

exceed two times the capacity of the use on February 7, 1979;" as new (b)11ii; in (b)11ii, substituted "The" for "the"; and recodified former (b)11ii and (b)11iii as (b)11iii and (b)11iv.
Amended by R.2009 d.108, effective April 6, 2009.
See: 40 N.J.R. 4874(a), 41 N.J.R. 1405(a).

In (a)1, substituted a semicolon for a period at the end; rewrote (a)2; added new (a)3; recodified former (a)3 through (a)5 as (a)4 through (a)6; in (a)6v, substituted "impervious" for "impermeable"; and rewrote (c).
Amended by R.2009 d.385, effective December 21, 2009.
See: 41 N.J.R. 2398(a), 41 N.J.R. 4786(a).

In (b)9, inserted "and wetlands management".

Case Notes

Certification and approval of master plan which designated forest area as municipal reserve area was improper where municipal reserve area created was immediately adjacent to forest area. In Re: Certification of Master Plan and Land Use Ordinances of Berkeley Twp., 214 N.J.Super. 390, 519 A.2d 901 (App.Div.1986).

Sale of adjoining lot precluded existence of extraordinary hardship, even though property owner was elderly individual suffering from heart problems and diabetes and sought to sell or develop property in order to help support herself and two handicapped sons residing with her. Stark v. Pinelands Commission, 92 N.J.A.R.2d (EPC) 34.

Residents living in former gun club were entitled to waiver of strict compliance from minimum lot size and water quality requirements. Swezeny v. Fulford, 92 N.J.A.R.2d (EPC) 1.

7:50-5.24 Minimum standards governing the distribution and intensity of development and land use in Agricultural Production Areas

(a) The following uses shall be permitted in an Agricultural Production Area:

1. Residential dwelling units in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32.

2. Residential dwelling units not to exceed a gross density of one unit per 10 acres provided that:
 - i. The dwelling is accessory to an active agricultural operation;

- ii. The dwelling is for an operator or employee of the farm who is actively engaged in and essential to the agricultural operation;

- iii. The dwelling is located on a lot which is under or qualified for agricultural assessment;

- iv. The dwelling is located on a lot which has an active production history or where a farm management plan has been prepared which demonstrates that the property will be farmed as a unit unto itself or as part of another farm operation in the area;

- v. A residential lot has not been subdivided from the property within the previous five years unless the lot has been subdivided pursuant to N.J.A.C. 7:50-5.32; and

- vi. No more than one lot may be created for a dwelling accessory to an active agricultural operation pursuant to this provision at any one time.

3. Residential dwelling units at a gross density of one unit per 40 acres, provided that:

i. The unit(s) shall be clustered on one acre lots, unless the municipality determines that residential development is not compatible and interferes with the use of the remaining parcel and adjoining lands for agricultural use;

ii. The remainder of the parcel, including all contiguous lands in common ownership, which is not assigned to individual residential lots shall be permanently dedicated for agricultural uses through recordation of a restriction on the deed to the parcel; and

iii. The restriction on the deed to the parcel, including any rights to be redeemed for future residential development, shall be done in accordance with N.J.A.C. 7:50-5, Part IV, so as to sever any Pinelands Development Credits allocated to the parcel.

4. Agriculture.

5. Forestry.

6. Low intensity recreational uses, provided that:

i. The parcel proposed for low intensity recreational use has an area of at least 50 acres;

ii. The recreational use does not involve the use of motorized vehicles except for necessary transportation;

iii. Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage;

iv. Clearing of vegetation, including ground cover and soil disturbance, does not exceed five percent of the parcel; and

v. No more than one percent of the parcel will be covered with impervious surfaces.

7. Agricultural commercial establishments excluding supermarkets, restaurants and convenience stores, provided that:

i. The principal goods or products available for sale were produced in the Pinelands; and

ii. The sales area of the establishment does not exceed 5,000 square feet.

8. Agricultural products processing facilities.

9. Pinelands Development Credits.

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in an Agricultural Production Area:

1. Roadside retail sales and service establishments, provided that:

i. The parcel proposed for development has roadway frontage of at least 50 feet;

ii. No portion of any structure proposed for development will be more than 300 feet, measured along a line parallel to the roadway, from the closest part of a

roadside retail sales and service establishment structure that was in existence on February 7, 1979; and

iii. The proposed use will not unduly burden public services, including but not limited to water, sewer and roads.

2. Pinelands resource-related industries, excluding resource extraction and uses that rely on sand or gravel as raw products, provided that:

i. The parcel proposed for development has an area of at least five acres;

ii. The principal raw material for the proposed use is found or produced in the Pinelands; and

iii. The use does not require or will not generate subsidiary or satellite development in an Agricultural Production Area.

3. Airports and heliports which are accessory to agricultural uses and are used exclusively for the storage, fueling, loading and operation of aircraft as a part of an ongoing agricultural operation.

4. Light industrial uses within an area designated by a municipality in accordance with the following criteria:

i. The area adjoins a publicly owned airport;

ii. The area is predominantly developable under the provisions of subchapter 6; and

iii. The area is limited in size to that which is no greater in size than the airport.

5. Fish and wildlife management and wetlands management.

6. Agricultural employee housing as an element of, and accessory to, an active agricultural operation.

7. Expansion of intensive recreational uses, provided that:

i. The intensive recreational use was in existence on February 7, 1979 and the capacity of the use will not exceed two times the capacity of the use on February 7, 1979;

ii. The use is necessary to achieve recreational use of a particular element of the existing Pinelands environment; and

iii. The use is environmentally and aesthetically compatible with the character of the Agricultural Production Area and the characteristics of the particular basin in which the use is to be located, taking into consideration the proportion of cleared and developed land, ambient water quality, ecologically sensitive areas and unique resources, and will not unduly burden available public services.

8. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:

i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);

ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);

iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);

iv. Recycling centers accessory to an existing lawful asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d);

v. Vegetative waste landfills in accordance with N.J.A.C. 7:50-6.75(a);

vi. Vegetative waste composting facilities in accordance with N.J.A.C. 7:50-6.77(a);

vii. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and

viii. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).

9. Public service infrastructure except that centralized waste water treatment and collection facilities shall be permitted to service the Agricultural Production Area only in accordance with N.J.A.C. 7:50-6.84(a) 2. Communication cables not primarily intended to serve the needs of Agricultural Production Areas may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.

10. Home occupations.

11. Signs.

12. Accessory Uses.

13. Airport facilities provided:

i. The airport is publicly owned or serves a Pinelands Town; and

ii. The airport was in existence on January 14, 1981; and

iii. The area of the airport is limited in size to that which existed on January 14, 1981; and

iv. The use will not generate subsidiary or satellite development not otherwise permitted in the Forest Area, Preservation Area District, Special Agricultural Production Area or Agricultural Production Area.

14. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.

(c) No residential dwelling unit shall be located on a lot of less than one acre.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)9 above, provided, however, that no such structure shall be located on a parcel of less than one acre.

Amended by R.1988 d.405, effective September 19, 1988.
See: 20 N.J.R. 716(a), 20 N.J.R. 2384(a).

Added text to (b)9, "Communications cables not ..."; and added (d).
Amended by R.1990 d.170, effective March 19, 1990.
See: 21 N.J.R. 3381(a), 22 N.J.R. 948(a).

In (a)2v, added subdivision reference; added 2vi and (b)13.
Amended by R.1994 d.590, effective December 5, 1994.
See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Amended by R.1995 d.449, effective August 21, 1995.
See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

Added (b)14.
Amended by R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

In (b) substituted waste management facilities for landfills.
Administrative correction.

See: 28 N.J.R. 4479(a).
Amended by R.2009 d.108, effective April 6, 2009.
See: 40 N.J.R. 4874(a), 41 N.J.R. 1405(a).

In (a)6v, substituted "impervious" for "impermeable".
Amended by R.2009 d.385, effective December 21, 2009.
See: 41 N.J.R. 2398(a), 41 N.J.R. 4786(a).

In (b)5, inserted "and wetlands management".

Case Notes

Pinelands Protection Act and implementing regulations do not violate takings clause. *Gardner v. New Jersey Pinelands Com'n*, 125 N.J. 193, 593 A.2d 251 (1991).

Pinelands comprehensive management plan is not an illegal exaction. *Gardner v. New Jersey Pinelands Com'n*, 125 N.J. 193, 593 A.2d 251 (1991).

Nonfarm housing limitations are not a taking or partial taking of property. *Gardner v. New Jersey Pinelands Com'n*, 227 N.J. Super. 396, 547 A.2d 725 (Ch.1988), affirmed 235 N.J. Super. 382, 562 A.2d 812, certification granted 117 N.J. 663, 569 A.2d 1355, affirmed 125 N.J. 193, 593 A.2d 251.

7:50-5.25 Minimum standards governing the distribution and intensity of development and land use in Special Agricultural Production Areas

(a) The following uses shall be permitted in a Special Agricultural Production Area:

1. Residential dwelling units in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32.

2. Berry agriculture and horticulture of native plants and other agricultural activities compatible with the existing soil and water conditions that support traditional Pinelands berry agriculture;

3. Beekeeping;

4. Forestry;

5. Fish and wildlife management and wetlands management;

6. Pinelands Development Credits.

(b) In addition to the uses permitted under (a) above, a municipality may permit, at its option, the following uses in a Special Agricultural Production Area:

1. Residential dwelling units provided that the dwelling is:
 - i. Accessory to an active agricultural operation;
 - ii. For an operator or employee of the farm who is actively engaged in and essential to the agricultural operation;
 - iii. To be located on a parcel of land of at least 40 acres in size which is under or qualified for agricultural assessment; and
 - iv. Located on a property which has an active production history or where a farm management plan has been prepared which demonstrates that the property will be farmed as a unit unto itself or as part of another farm operation in the area.
2. Agricultural employee housing as an element of, and accessory to, an active agricultural operation;
3. Public service infrastructure which is necessary to serve only the needs of the Special Agricultural Production Area uses. Centralized waste water treatment and collection facilities shall be permitted to service the Special Agricultural Production Area only in accordance with N.J.A.C. 7:50-6.84(a)2. Communication cables not primarily intended to serve the needs of Special Agricultural Production Areas may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.
4. Home occupations;
5. Accessory uses;
6. Signs;
7. Local communications facilities; and
8. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:
 - i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);
 - ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);
 - iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);
 - iv. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and

v. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).

(c) No residential dwelling unit shall be located on a lot of less than 3.2 acres, except as provided in N.J.A.C. 7:50-5.32.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)3 above, provided, however, that no such structure shall be located on a parcel of less than one acre.

Amended by R.1988 d.405, effective September 19, 1988.

See: 20 N.J.R. 716(a), 20 N.J.R. 2384(a).

Added text in (b)3, "Communications cables not ..."; and added (d).

Amended by R.1994 d.590, effective December 5, 1994.

See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Amended by R. 1995 d.449, effective August 21, 1995.

See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

Added (b)7.

Amended by R.1996 d.225, effective May 20, 1996.

See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

In (b) added waste management facilities.

Amended by R.2009 d.385, effective December 21, 2009.

See: 41 N.J.R. 2398(a), 41 N.J.R. 4786(a).

In (a)5, inserted "and wetlands management".

7:50-5.26 Minimum standards governing the distribution and intensity of development and land use in Rural Development Areas

(a) The following uses shall be permitted in a Rural Development Area:

1. Residential cluster development in accordance with the provisions of N.J.A.C. 7:50-5.19. Nonclustered residential development shall also be permitted, provided that:
 - i. No more than one unit is proposed; or
 - ii. The standards of N.J.A.C. 7:50-5.19(c) cannot be met; and
2. Residential dwelling units in accordance with the development transfer provisions of N.J.A.C. 7:50-5.30.

(b) In addition to the residential uses permitted under (a) above, a municipality may permit any use which is compatible with the essential character of the Pinelands environment and is similar in character, intensity and impact to the following uses:

1. Agriculture;
2. Agricultural employee housing as an element of, and accessory to, an active agricultural operation;
3. Forestry;
4. Recreational facilities, other than amusement parks;

- 5. Agricultural products sales establishments;
- 6. Agricultural processing facilities and other light industrial uses;
- 7. Roadside retail sales and service establishments;
- 8. Resource extraction operations;
- 9. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:
 - i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);
 - ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);
 - iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);
 - iv. Recycling centers accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d);
 - v. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and
 - vi. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).
- 10. Public service infrastructure except that centralized waste water treatment and collection facilities shall be permitted to service the Rural Development Area only in accordance with N.J.A.C. 7:50-6.84(a)2;
- 11. Institutional uses;
- 12. Community commercial uses;
- 13. Signs;
- 14. Accessory uses; and
- 15. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.

(c) Minimum lot area and density requirements for residential development: No residential dwelling unit shall be located on a lot of less than 3.2 acres, except as provided in N.J.A.C. 7:50-5.19, 5.30, 5.31 and 5.32. The total number of dwelling units authorized by a municipality shall not exceed a density of one dwelling unit for every 3.2 acres of privately owned, undeveloped land which is not defined in this Plan as wetlands, except as provided in N.J.A.C. 7:50-5.19(d)1.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)10 above, provided, however, that no such structure shall be located on a parcel of less than one acre.

Amended by R.1988 d.405, effective September 19, 1988. See: 20 N.J.R. 716(a), 20 N.J.R. 2384(a).

Added (d).
Amended by R.1994 d.590, effective December 5, 1994. See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).
Amended by R.1995 d.449, effective August 21, 1995. See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

Added (b)15.
Amended by R.1996 d.225, effective May 20, 1996. See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).
In (b) substituted waste management facilities for landfills. Amended by R.2009 d.108, effective April 6, 2009.

See: 40 N.J.R. 4874(a), 41 N.J.R. 1405(a).
Section was "Minimum standards governing the distribution and intensity of land use in Rural Development Areas". Rewrote (a) and (c).

Case Notes

Parcel not have beneficial use; extraordinary hardship existed entitling property owner to waiver of Pinelands Comprehensive Management Plan requirements; conditions imposed. *Christensen v. New Jersey Pinelands Commission*, 93 N.J.A.R.2d (EPC) 5.

No extraordinary hardship existed entitling property owner to waiver of strict compliance with density requirements, seasonal high water table requirement, and wetlands protection requirements. *Summonte v. Pinelands Commission*, 92 N.J.A.R.2d (EPC) 9.

No extraordinary hardship existed entitling property owner to waiver of strict compliance with lot size requirements. *Egenstaffer v. Pinelands Commission*, 92 N.J.A.R.2d (EPC) 3.

7:50-5.27 Minimum standards governing the distribution and intensity of development and land use in Pinelands Villages and Towns

(a) Any use not otherwise limited pursuant to N.J.A.C. 7:50-6 may be authorized in a Pinelands Village or Town, provided that:

- 1. Public service infrastructure necessary to support the use is available, or can be provided without any development in the Preservation Area District, Special Agricultural Production Area, or a Forest Area;
- 2. The character and magnitude of the use is compatible with existing structures and uses in the Village or Town;
- 3. Only the following waste management facilities shall be permitted in a Pinelands Village in accordance with N.J.A.C. 7:50-6, Part VII:
 - i. Transfer stations, collection facilities and recycling centers in accordance with N.J.A.C. 7:50-6.76(a);
 - ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);
 - iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);
 - iv. Recycling centers accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d);

v. Composting facilities in accordance with N.J.A.C. 7:50-6.77(b); and

vi. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).

4. No hazardous waste facility, landfill or incinerator shall be permitted in a Pinelands Town, except as expressly authorized in N.J.A.C. 7:50-6.75 or 6.78.

(b) No residential dwelling unit or nonresidential use shall be located on a parcel of less than one acre unless served by either:

1. A centralized waste water treatment plant; or

2. A community on-site waste water treatment system serving two or more residential dwelling units which meets the standards of N.J.A.C. 7:50-6.84(a)5 or 10.21 through 10.23, provided that the overall residential density on the parcel does not exceed one dwelling unit per acre.

(c) Any local approval, including variances, which grants relief from density or lot area requirements for a residential or principal non-residential use shall require that Pinelands Development Credits be used for all dwelling units or lots in excess of that otherwise permitted, unless a Waiver of Strict Compliance for the dwelling unit or lot has been approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, Part V. The requirement for use of Pinelands Development Credits shall not apply to use variances which authorize development on lots which conform to the area requirements for principal uses normally permitted in the zone.

Amended by R.1992 d.91, effective March 2, 1992.
See: 23 N.J.R. 2458(b), 24 N.J.R. 832(b).

New (c) added.

Amended by R.1994 d.590, effective December 5, 1994.
See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Amended by R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

In (a) added provisions for waste management facilities and prohibited hazardous waste facilities, landfills and incinerators.

Administrative correction.

See: 28 N.J.R. 4479(a).

Amended by R.2002 d.247, effective August 5, 2002.

See: 34 N.J.R. 722(a), 34 N.J.R. 2804(b).

Rewrote (b).

Amended by R.2006 d.159, effective May 1, 2006.

See: 37 N.J.R. 4133(a), 38 N.J.R. 1829(b).

Rewrote (c).

7:50-5.28 Minimum standards governing the distribution and intensity of development and land use in Regional Growth Areas

(a) Any use not otherwise limited pursuant to N.J.A.C. 7:50-6 may be permitted in a Regional Growth Area, provided that:

1. Except as provided in (a)2, 3, 4, 5, 6 and 7 below and Part IV of this subchapter, the total number of dwelling units authorized by a municipality for a Regional Growth Area shall be equal to and not exceed the following density per acre of developable land:

i. In Barnegat Township: 2.0 dwelling units per acre.

ii. In Beachwood Borough: 3.5 dwelling units per acre.

iii. In Berkeley Township: 2.0 dwelling units per acre.

iv. In Berlin Borough: 2.0 dwelling units per acre.

v. In Berlin Township: 2.0 dwelling units per acre.

vi. In Chesilhurst Borough: 1.125 dwelling units per acre.

vii. In Dennis Township: 1.0 dwelling unit per acre.

viii. In Dover Township: 3.5 dwelling units per acre.

ix. In Eagleswood Township: 2.0 dwelling units per acre.

x. In Egg Harbor Township: 3.5 dwelling units per acre.

xi. In Evesham Township: 2.0 dwelling units per acre.

xii. In Galloway Township: 2.5 dwelling units per acre.

xiii. In Hamilton Township: 3.5 dwelling units per acre.

xiv. In Jackson Township: 3.0 dwelling units per acre.

xv. In Lacey Township: 3.5 dwelling units per acre.

xvi. In Little Egg Harbor Township: 3.5 dwelling units per acre.

xvii. In Manchester Township: 3.5 dwelling units per acre.

xviii. In Medford Township: 1.0 dwelling unit per acre.

xix. In Medford Lakes Borough: 3.0 dwelling units per acre.

xx. In Monroe Township: 2.0 dwelling units per acre.

xxi. In Ocean Township: 3.5 dwelling units per acre.

(d) The Pinelands Commission shall not approve any transfer program which:

1. Has extremely limited applicability because of ownership and subdivision patterns or environmental constraints; or
2. Negatively impacts important natural resources including critical subbasins or publicly managed conservation lands.

Amended by R.1988 d.405, effective September 19, 1988.
See: 20 N.J.R. 716(a), 20 N.J.R. 2384(a).

In (a), changed reference from 4.65 to 4.66.

Repeal and New Rule, R.1992 d.91, effective March 2, 1992.

See: 23 N.J.R. 2458(b), 24 N.J.R. 832(b).

Amended by R.1994 d.590, effective December 5, 1994.

See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Amended by R.1995 d.449, effective August 21, 1995.

See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

Amended by R.2009 d.108, effective April 6, 2009.

See: 40 N.J.R. 4874(a), 41 N.J.R. 1405(a).

In (b)2, deleted "and within the same municipal zoning district" from the end; rewrote (b)4; added (b)5; and rewrote (c).

7:50-5.31 Minimum standards for substandard lots

(a) A municipality may, as a part of its master plan and land use ordinance prepared and certified under the provisions of N.J.A.C. 7:50-3, exempt the owners of parcels of land within the Protection Area from the density limitations of this Part, provided that:

1. The dwelling unit will be the principal residence of the property owner or a member of the immediate family of the property owner;
2. The parcel has been in the continuous ownership since February 7, 1979 of the person whose principal residence the dwelling unit will be, a member of that person's immediate family, or a partnership or corporation in which members of that person's immediate family collectively own more than a majority interest in such partnership or corporation;
3. No lot that was in common ownership with any contiguous land on or after February 8, 1979 that contains substantial improvements is exempt from the density provisions of this Part;
4. No lot that does not include all vacant contiguous lands in common ownership on or after February 8, 1979 is exempt from the density provisions of this Part; and
5. No lot of less than one acre will be exempt from the density provisions of this Part.

(b) A municipality may, as a part of its master plan and land use ordinances prepared and certified under the provisions of N.J.A.C. 7:50-3, modify or eliminate one or more of the standards set forth in (a)1 through 3 above, provided that any resulting increase in projected development is offset by a decrease in the densities otherwise permitted in the applicable management area.

Amended by R.1994 d.590, effective December 5, 1994.

See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Amended by R.1996 d.225, effective May 20, 1996.

See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

7:50-5.32 Special provisions for cultural housing

(a) Residential dwellings on 3.2 acre lots may be permitted within any management area provided that:

1. The dwelling unit will be the principal residence of the property owner or a member of the immediate family of the property owner;
2. The individual whose principal residence the dwelling unit will be has not developed a dwelling unit under this section within the previous five years;
3. The parcel of land on which the dwelling is to be located has been in the continuous ownership since February 7, 1979 of the person whose principal residence the dwelling unit will be, a member of that person's immediate family or a partnership or corporation in which members of that person's immediate family collectively own more than a majority interest in such partnership or corporation; and
4. The person whose principal residence the dwelling unit will be has resided in the Pinelands for at least five years and that person or one or more members of that person's immediate family has resided in the Pinelands for a total of at least 20 different years.

(b) Residential dwelling units on lots smaller than 3.2 acres existing as of February 8, 1979 or created as a result of an approval granted by the Pinelands Development Review Board or by the Pinelands Commission pursuant to the Interim Rules and Regulations prior to January 14, 1981 which otherwise meets the standards of (a) above may be permitted by a municipality within any management area provided that:

1. The lot contains at least one acre;
2. The applicant qualifies for and receives a variance from the 3.2 acre lot size requirement from the municipality in which the lot is located;
3. Unless a Waiver of Strict Compliance for the dwelling unit or lot has been approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, Part V, the applicant acquires and redeems 0.25 Pinelands Development Credits in addition to the reduction in the Pinelands Development Credit allocation that will result from the development of the dwelling unit pursuant to N.J.A.C. 7:50-5.43(b)3; and
4. Any Pinelands Development Credits allocated to the lot are reduced pursuant to N.J.A.C. 7:50-5.43(b)3.

Amended by R.1992 d.91, effective March 2, 1992.

See: 23 N.J.R. 2458(b), 24 N.J.R. 832(b).

New (b) added.

Amended by R.1994 d.590, effective December 5, 1994.

See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Amended by R.1996 d.225, effective May 20, 1996.

See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

Amended by R.2006 d.159, effective May 1, 2006.

See: 37 N.J.R. 4133(a), 38 N.J.R. 1829(b).

In (b), substituted "on lots" for "on a lot" and in (b)(3), substituted "Unless a Waiver of Strict Compliance for the dwelling unit or lot has been approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, Part V, the" for "The".

Case Notes

Waiver to subdivide a parcel of land denied by Pinelands Commission; petitioner failed to establish ownership of the land in compliance with N.J.A.C. 7:50-5.32(a)3i. *Gerber v. Pinelands Commission*, 11 N.J.A.R. 12 (1988).

7:50-5.33 (Reserved)

Repealed by, R.2000 d.232, effective June 5, 2000.

See: 32 N.J.R. 151(a), 32 N.J.R. 2082(a).

Section was "Special provisions for public educational facilities".

7:50-5.34 Assisted living facilities and continuing care retirement communities

(a) A municipality may include in its master plan and land use ordinance provisions which permit assisted living facilities and continuing care retirement communities, provided that:

1. Such uses shall be permitted only in Regional Growth Areas, Pinelands Villages and Pinelands Towns;

2. Within Regional Growth Areas, assisted living facilities and continuing care retirement communities may be permitted at densities consistent with the standards of N.J.A.C. 7:50-5.28(a); provided, however, that the maximum permitted density for an assisted living facility, including the assisted living component of a continuing care retirement community, shall be permitted to exceed eight units per acre only through the use of Pinelands Development Credits;

3. Within Pinelands Villages and Pinelands Towns, assisted living facilities and continuing care retirement communities may be permitted consistent with the standards of N.J.A.C. 7:50-5.27;

4. Calculations of residential density shall include all dwelling units in a continuing care retirement community and all dwelling units within an assisted living facility. Long term care beds within nursing facilities that have been licensed as such by the Department of Health and Senior Services shall not be included in calculations of density, whether or not said facility is part of a continuing care retirement community; and

5. Residential density for continuing care retirement communities and for any assisted living facilities which are part of a mixed use development shall be calculated by determining the amount of land associated with each use to be located on the parcel proposed for development. When the residential and nonresidential uses are located in the

same building or share other facilities, the determination of land area occupied by the residential use may take into consideration the size, intensity and capacity of the proposed residential and nonresidential uses on said parcel.

New Rule, R.2000 d.272, effective July 3, 2000.

See: 32 N.J.R. 145(a), 32 N.J.R. 2435(a).

7:50-5.35 Minimum standards governing the distribution and intensity of development and land use in the Parkway Overlay District

(a) The following uses shall be permitted in the Parkway Overlay District, provided they are located within the existing highway right of way:

1. Construction, improvement, expansion, repair, reconstruction and maintenance of roadways, bridges and outlying and accessory facilities associated with operation and maintenance of the highway;

2. Improvement, expansion, repair, reconstruction and maintenance of existing interchanges;

3. Construction, improvement, expansion, repair, reconstruction and maintenance of public service infrastructure, both underground and above-ground, including communications and data transfer utilities and Intelligent Transportation Systems; and

4. Local communications facilities, provided that the standards set forth in N.J.A.C. 7:50-5.4(c)4ii through v are met.

(b) The uses listed in (a)1 through 3 above shall be permitted provided they will not induce changes in the location, pattern or intensity of land use which would be inconsistent with the Pinelands land use program as implemented through the Commission's certification, pursuant to N.J.A.C. 7:50-3, of the master plans and land use ordinances of Pinelands municipalities.

(c) In order to support the continued use and development of the Garden State Parkway and to ensure that only those uses specified in (a) above are allowed to be developed within the Parkway Overlay District, the provisions of (a) and (b) above shall control in the event of a conflict with any other standards set forth elsewhere in this Part for the underlying Pinelands management area designations.

New Rule, R.2006 d.221, effective June 19, 2006.

See: 38 N.J.R. 49(a), 38 N.J.R. 2711(a).

7:50-5.36 through 7:50-5.40 (Reserved)

PART IV—PINELANDS DEVELOPMENT CREDIT PROGRAM

7:50-5.41 Purpose

If land use and development of the Pinelands is concentrated in Regional Growth Areas, the Pinelands as a region

can tolerate additional development without damaging the Pinelands environment. It is the purpose of this Part to facilitate such patterns of growth and development by providing land-owners in the Preservation Area District, Special Agricultural Production Areas, and Agricultural Production Areas with an opportunity to secure an additional beneficial use of their land without the risk of damaging the essential ecological character of the Pinelands.

7:50-5.42 Pinelands Development Credit Program required

In order to be certified under the provisions of N.J.A.C. 7:50-3, Part IV, the master plan and land use ordinances of a municipality which has land in the Preservation Area District, an Agricultural Production Area, a Special Agricultural Production Area, or a Regional Growth Area shall include provisions implementing the Pinelands Development Credit Program.

7:50-5.43 Pinelands Development Credits established

(a) Except for land which is owned by a public agency on January 14, 1981, land which is thereafter purchased by the State for conservation purposes, land which is subject to an easement limiting the use of land to nonresidential uses or land otherwise excluded from entitlement pursuant to (b) below, every parcel of land in the Preservation Area District, an Agricultural Production Area or a Special Agricultural Production Area shall have a use right known as "Pinelands Development Credits" that can be used to secure a density bonus for lands located in Regional Growth Areas.

(b) Pinelands Development Credits are hereby established at the following ratios:

1. In the Preservation Area District, including those areas designated pursuant to N.J.A.C. 7:50-5.22(b)7:

- i. Uplands which are undisturbed but currently or previously approved for resource extraction pursuant to this Plan: two Pinelands Development Credits per 39 acres;
- ii. Uplands which are mined as a result of a resource extraction permit approved pursuant to this Plan: zero Pinelands Development Credits per 39 acres;
- iii. Other uplands: one Pinelands Development Credit per 39 acres; and
- iv. Wetlands: two-tenths Pinelands Development Credits per 39 acres.

2. In the Agricultural Production Area and Special Agricultural Production Area:

- i. Uplands which are undisturbed but approved for resource extraction pursuant to this Plan: two Pinelands Development Credits per 39 acres;

- ii. Uplands which are mined as a result of a resource extraction permit approved pursuant to this Plan: zero Pinelands Development Credits per 39 acres;

- iii. Other uplands and areas of active berry agricultural bogs and fields: two Pinelands Development Credits per 39 acres;

- iv. Wetlands in active field agricultural use currently and as of February 7, 1979: two Pinelands Development Credits per 39 acres; and

- v. Other wetlands: two-tenths Pinelands Development Credits per 39 acres.

3. The allocations established in (b)1 and 2 above shall be reduced as follows:

- i. Any parcel of 10 acres or less which is developed for a commercial, industrial, resource extraction, intensive recreation, institutional, campground or landfill use shall not receive Pinelands Development Credit entitlement. For such an improved parcel of more than 10 acres, the area actively used for such use or 10 acres, whichever is greater, shall not receive Pinelands Development Credit entitlement.

- ii. The Pinelands Development Credit entitlement for a parcel of land shall be reduced by .25 PDC for each existing dwelling unit on the parcel;

- iii. The Pinelands Development Credit entitlement for a parcel of land shall be reduced by .25 PDC for each reserved right to build a dwelling unit on the parcel retained by the owner of the parcel pursuant to N.J.A.C. 7:50-5.44(b).

4. If the allocations established in (b)1 and 2 above are less than one-quarter of a Pinelands Development Credit, the allocation shall be increased to one-quarter of a Pinelands Development Credit if the owner of record of one-tenth or greater acres of land in the Preservation Area District, Agricultural Production Areas and Special Agricultural Production Areas, as of February 7, 1979 owns a vacant parcel of land that was not in common ownership with any contiguous land on or after February 7, 1979, and the parcel has not been sold or transferred except to a member of the owner's immediate family.

5. The provisions of (b)4 above shall also apply to owners of record of less than one-tenth acres of land in the Preservation Area District, Agricultural Production Areas and Special Agricultural Production Areas, as of February 7, 1979, provided that said owners acquire vacant, contiguous lands to which Pinelands Development Credits are allocated pursuant to (a) and (b) above which lands, when combined with the acreage of the parcel owned prior to February 7, 1979, total at least one-tenth of an acre.

6. The total allocations made pursuant to (b)4 and 5 above to any owner of record shall not exceed one-half of a Pinelands Development Credit. At such time as the ap-

plication of (b)4 and 5 above would exceed a total allocation of one-half of a Pinelands Development Credit to an owner, all remaining lands of that owner in excess of that needed to yield the one-half Pinelands Development Credit allocation shall be entitled to an allocation of Pinelands Development Credits according to the allocation formulas specified in (b)1, 2 and 3 above.

(c) The owners of parcels of land which are smaller than 39 acres shall have fractional Pinelands Development Credits at the same ratio established in (b) above for the management area in which the parcel is located.

Amended by R.1988 d.405, effective September 19, 1988.
See: 20 N.J.R. 716(a), 20 N.J.R. 2384(a).

Added "District" to (b)1.

Amended by R.1990 d.170, effective March 19, 1990.
See: 21 N.J.R. 3381(a), 22 N.J.R. 948(a).

In (b)3, replaced old i and ii with new i through iii; in (b)4, added "less than one-quarter" of a PDC requirement.

Amended by R.1994 d.590, effective December 5, 1994.

See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Amended by R.1995 d.449, effective August 21, 1995.

See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

Substituted "parcel" for "property" throughout section and amended (b)5.

Amended by R.2000 d.43, effective February 7, 2000.

See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

Inserted (b)6.

Case Notes

Reduction of development credits in Pinelands Preservation Area District was justified due to existence of two dwellings on parcel. *Fas-Mac Associates v. Pinelands Commission*, 96 N.J.A.R.2d (EPC) 21.

7:50-5.44 Limitations on use of Pinelands Development Credits

(a) No Pinelands Development Credit may be conveyed, sold, encumbered or transferred unless the owner of the land from which the credit has been obtained has received a Pinelands Development Credit Certificate from the New Jersey Pinelands Development Credit Bank pursuant to N.J.A.C. 3:42-3, and has deed restricted the use of the land in perpetuity to those uses set forth in N.J.A.C. 7:50-5.47(b) by recorded deed restriction which is in favor of a public agency or not for profit incorporated organization and specifically and expressly enforceable by the Commission.

(b) Notwithstanding the provisions of (a) above, an owner of a parcel from which Pinelands Development Credits are sold may retain a right for residential development on that parcel, provided that the recorded deed restriction expressly provides for same and that the total allocation of Pinelands Development Credits for that parcel is reduced by .25 Pinelands Development Credits for each reserved right to build a dwelling unit. Subdivision of the parcel shall not be required until such time as the residential development right is exercised.

(c) The bonus density of a parcel of land on which Pinelands Development Credits are used shall not exceed the

upper limits of the density range of the municipal zone or district in which the parcel is located.

Amended by R.1990 d.170, effective March 19, 1990.

See: 21 N.J.R. 3381(a), 22 N.J.R. 948(a).

In (b), added .25 PDC reduction for reserved rights.

Amended by R.1994 d.590, effective December 5, 1994.

See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Amended by R.1995 d.449, effective August 21, 1995.

See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

Substituted "parcel" for "property" throughout section.

7:50-5.45 Pinelands Development Credit bonus multipliers

Pinelands Development Credits which are used for securing a density bonus for parcels of land located in a Regional Growth Area shall yield a bonus of four dwelling units per credit.

7:50-5.46 Aggregation of Pinelands Development Credits

Pinelands Development Credits may be aggregated from different parcels for use in securing a bonus for a single parcel of land in a Regional Growth Area, provided that the density does not exceed the limits of the density range specified in the municipal district in which the parcel is located.

Amended by R.1995 d.449, effective August 21, 1995.

See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

Substituted "parcel" for "property" throughout section.

7:50-5.47 Recordation of deed restriction

(a) No conveyance, sale or transfer of Pinelands Development Credits shall occur until the municipality with jurisdiction over the parcel of land from which the Pinelands Development Credits were obtained, the agency or organization to which the restriction is in favor, and the Commission have been provided with evidence of recordation of a restriction on the deed to the land from which the development credits were obtained.

(b) Such deed restriction shall specify the number of Pinelands Development Credits sold and that the parcel may only be used in perpetuity for the following uses:

1. In the Preservation Area District:

i. Berry agriculture; horticulture of native Pinelands plants; forestry; beekeeping; fish and wildlife management; wetlands management; and low intensity recreational uses in which the use of motorized vehicles is not permitted except for necessary transportation, access to water bodies is limited to no more than 15 feet of frontage per 1,000 feet of frontage on the water body, clearing of vegetation does not exceed five percent of the parcel, and no more than one percent of the parcel will be covered with impermeable surfaces.

ii. Where permitted by a certified municipal land use ordinance or when the property is located in an

uncertified municipality, agricultural employee housing as an accessory use may also be specifically permitted in such deed restriction.

2. In Special Agricultural Production Areas:

i. Berry agriculture; horticulture of native Pinelands plants; forestry; beekeeping; fish and wildlife management; and wetlands management;

ii. Where permitted by a certified municipal land use ordinance or when the property is located in an uncertified municipality, agricultural employee housing as an accessory use may also be specifically permitted in such deed restriction.

3. In Agricultural Production Areas:

i. Agriculture; forestry; low intensity recreational uses in which the use of motorized vehicles is not permitted except for necessary transportation, access to water bodies is limited to no more than 15 feet of frontage per 1,000 feet of frontage on the water body, clearing of vegetation does not exceed five percent of the parcel, and no more than one percent of the parcel will be covered with impervious surfaces; agricultural commercial establishments, excluding supermarkets and restaurants and convenience stores, where the principal goods or products available for sale were produced in the Pinelands and the sales area does not exceed 5,000 square feet; and agricultural products processing facilities.

ii. Where permitted by a certified municipal land use ordinance or when the property is located in an uncertified municipality, the following additional uses may be specifically permitted in such deed restriction: airports and heliports accessory to agricultural uses and which are used exclusively for the storage, fueling, loading, and operation of aircraft as part of an ongoing agricultural operation; fish and wildlife management; wetlands management; and agricultural employee housing as an accessory use.

4. In all other Pinelands management areas where Pinelands Development Credits have been allocated pursuant to N.J.A.C. 7:50-4.62(d)2:

i. Agriculture; forestry; and low intensity recreational uses.

(c) No development involving the use of Pinelands Development Credits shall be approved by a local permitting agency until the developer has provided the Commission and the municipality in which the parcel of land to be developed is located with evidence of his ownership and redemption of the requisite Pinelands Development Credits; provided, however, that a municipality may grant general development plan, preliminary subdivision or preliminary site plan approval conditioned upon such evidence being presented as a prerequisite to final subdivision or site plan approval. For such a final subdivision or site plan, the developer shall provide evidence of Pinelands Development Credit ownership

and redemption to secure the same proportion of lots or residential units as was approved for Pinelands Development Credit use in the preliminary approval or, as appropriate, the general development plan. Notification of a local permitting agency development approval shall be made to the Pinelands Commission pursuant to N.J.A.C. 7:50-4 and to the New Jersey Pinelands Development Credit Bank in accordance with N.J.A.C. 3:42-3. Redemption of the requisite Pinelands Development Credits shall occur in accordance with N.J.A.C. 3:42-3.6 prior to the memorialization of the resolution granting final subdivision or final site plan approval, or if no such approval is required, prior to the issuance of any construction permits.

Amended by R.1988 d.405, effective September 19, 1988.
See: 20 N.J.R. 716(a), 20 N.J.R. 2384(a).

Substituted "developer" for "developed" in (c).
Amended by R.1990 d.170, effective March 19, 1990.
See: 21 N.J.R. 3381(a), 22 N.J.R. 948(a).

In (b)3i, deleted "farm related housing" reference.
Amended by R.1994 d.590, effective December 5, 1994.
See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).
Amended by R.2000 d.43, effective February 7, 2000.
See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

Rewrote (c).
Amended by R.2009 d.108, effective April 6, 2009.
See: 40 N.J.R. 4874(a), 41 N.J.R. 1405(a).

In (b)1i and (b)3i substituted "impervious" for "impermeable".
Amended by R.2009 d.385, effective December 21, 2009.
See: 41 N.J.R. 2398(a), 41 N.J.R. 4786(a).

In (b)1i and (b)3ii, inserted "wetlands management;"; and in (b)2i, deleted "and" preceding "fish" and inserted "; and wetlands management".

Case Notes

Pinelands Protection Act and implementing regulations do not violate takings clause. *Gardner v. New Jersey Pinelands Com'n*, 125 N.J. 193, 593 A.2d 251 (1991).

Pinelands comprehensive management plan is not an illegal exaction. *Gardner v. New Jersey Pinelands Com'n*, 125 N.J. 193, 593 A.2d 251 (1991).

7:50-5.48 through 7:50-5.50 (Reserved)

PART V—SPECIAL PINELANDS DEVELOPMENT CREDIT PURCHASE PROGRAM

7:50-5.51 Purpose

This Part establishes a special program for the State's purchase of Pinelands Development Credits, utilizing funds appropriated by the State for this purpose. The program is administered in cooperation with the New Jersey Department of Environmental Protection and the New Jersey Pinelands Development Credit Bank and is intended to increase the amount of important agricultural and forested lands permanently protected in the Preservation Area District, the Agricultural Production Areas and the Special Agricultural Production Areas. All Pinelands Development Credits purchased through this special program shall also be retired so that the development rights purchased by the State are not used for density bonuses in Regional Growth Areas or for other development activities authorized in this Plan.

New Rule, R.2000 d.43, effective February 7, 2000.

See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

Former N.J.A.C. 7:50-5.51, Purpose, recodified to N.J.A.C. 7:50-5.61.

7:50-5.52 Program administration

(a) The Pinelands Commission shall enter into a memorandum of agreement with the New Jersey Department of Environmental Protection and the New Jersey Pinelands Development Credit Bank to provide for the orderly administration of the special program authorized in this Part. The agreement shall, among other financial and administrative matters, provide for the Pinelands Commission's determination, through letters of interpretation issued pursuant to N.J.A.C. 7:50-4, Part VI, of the number of Pinelands Development Credits attributed to a parcel, the Pinelands Development Credit Bank's purchase of the Pinelands Development Credits on behalf of the Pinelands Commission and the administration of the appropriated funds. The memorandum of agreement may also authorize joint implementation of the program with any County Development Credit Bank.

(b) Nothing in this Part shall be construed to limit the authority of the Pinelands Development Credit Bank to otherwise purchase, extend loan guarantees for, sell, exchange, convey or retire Pinelands Development Credits pursuant to the authorities granted to the Bank in N.J.S.A. 13:18A-30 through 49.

New Rule, R.2000 d.43, effective February 7, 2000.

See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

Former N.J.A.C. 7:50-5.52, Designation of Municipal Reserve Areas, recodified to N.J.A.C. 7:50-5.62.

7:50-5.53 Pinelands Development Credit purchases

(a) The memorandum of agreement shall authorize the Pinelands Development Credit Bank to purchase Pinelands Development Credits through this special program on behalf of the Pinelands Commission only when sufficient funds are available for such purchases and when all of the requirements of (b) and (c) below are met.

(b) All purchases of Pinelands Development Credits under this program shall meet the following criteria:

1. The deed restriction required pursuant to N.J.A.C. 7:50-5.47 was recorded on or after July 1, 1999 for the parcel to which the Pinelands Development Credits are allocated;

2. The Pinelands Development Credits are owned by the person or entity who owns the parcel to which the Pinelands Development Credits are allocated;

3. The Pinelands Development Credits are not owned by a public agency;

4. If a person or entity owns more than one parcel, each of which is one acre or less in size and each of which receives a PDC allocation pursuant to N.J.A.C. 7:50-5.43(b)4 or 5, no more than a total of 0.50 Pinelands

Development Credits allocated to such parcels shall be purchased from that person or entity; and

5. No more than 25 Pinelands Development Credits shall be purchased from any person or entity prior to July 1, 2000 unless the full amount of the appropriation by the State for such purposes is not obligated by June 30, 2000.

(c) Upon receipt of a written request from a property owner and the transfer of sufficient funds to the Pinelands Development Credit Bank by the Pinelands Commission, the Bank shall purchase the Pinelands Development Credits if the requirements of (a) and (b) above and the requirements of N.J.A.C. 3:42-3 are met.

(d) The requirements of (a), (b) and (c) above apply to the Pinelands Development Credit Bank's purchase of Pinelands Development Credits pursuant to this special program and shall not otherwise be construed to limit any person's ability to sell Pinelands Development Credits to the Pinelands Development Credit Bank pursuant to N.J.A.C. 3:42-5 or to any other person.

New Rule, R.2000 d.43, effective February 7, 2000.

See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

Former N.J.A.C. 7:50-5.53, Development in Municipal Reserve Areas, recodified to N.J.A.C. 7:50-5.63.

7:50-5.54 Purchase price

(a) The purchase price of a Pinelands Development Credit shall be the higher of the following values:

1. The 1985 market value of \$12,500 established in the Pinelands Development Credit Bank Act, P.L. 1985, c.310 (N.J.S.A. 13:18A-30-49), adjusted to current dollar value. The adjustment shall be directly proportional to the percent change in the Consumer Price Index from the 1985 annual average index to the annual average index for the calendar year immediately preceding the purchase. The adjustment shall use the Consumer Price Index for All Urban Consumers, Philadelphia-Wilmington-Atlantic City Area, Owners Equivalent Rent of Primary Residence, as compiled by the United States Department of Labor Bureau of Labor Statistics; or

2. The value derived from the more recent of the following:

i. The purchase price for Pinelands Development Credits established by the Pinelands Development Credit Bank pursuant to the Pinelands Development Credit Bank Act, P.L. 1985, c.310 (N.J.S.A. 13:18A-30-49) which is promulgated at N.J.A.C. 3:42-5.6; or

ii. Eighty percent of the highest per unit bid received in conjunction with the most recent sale of Pinelands Development Credits by the Pinelands Development Credit Bank pursuant to N.J.A.C. 3:42-7.

New Rule, R.2000 d.43, effective February 7, 2000.

See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

Amended by R.2001 d.103, effective April 2, 2001.

See: 32 N.J.R. 4037(a), 33 N.J.R. 1095(a).

Rewrote the section.

7:50-5.55 Retirement of Pinelands Development Credits purchased through this program

All Pinelands Development Credits purchased by the Pinelands Development Credit Bank pursuant to the special program authorized in this Part shall be retired and may never be transferred, sold, conveyed, redeemed or otherwise used in any way. The Pinelands Development Credit Bank shall record the retirement of these Pinelands Development Credits in the registry maintained pursuant to N.J.A.C. 3:42-4.

New Rule, R.2000 d.43, effective February 7, 2000.
See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

7:50-5.56 through 7:50-5.60 (Reserved)**PART VI—MINIMUM STANDARDS FOR
MUNICIPAL RESERVE AREAS****7:50-5.61 Purpose**

In order to enable counties and municipalities with jurisdiction over land in Rural Development Areas and Regional Growth Areas to plan for an orderly rate and pattern of

growth within both areas, the Pinelands Commission hereby establishes a municipal option that may be incorporated in a municipal master plan or land use ordinance which allows a municipality to designate areas in a Rural Development Area or Regional Growth Area as Municipal Reserve Areas. These areas would be eligible for development under the minimum standards established for development and land use in Regional Growth Areas, including use of Pinelands Development Credits at a future date.

Amended by R.1994 d.590, effective December 5, 1994.
See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).
Recodified from N.J.A.C. 7:50-5.51 by R.2000 d.43, effective February 7, 2000.
See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

7:50-5.62 Designation of Municipal Reserve Areas

(a) A municipality may, in its master plan and land use ordinance, designate lands in Rural Development Areas that are adjacent to or contiguous with a Regional Growth Area or areas of existing growth and development located outside of the Pinelands as Municipal Reserve Areas, provided that the area designated: