

SUBCHAPTER 10. PILOT PROGRAMS

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SUBCHAPTER 1. GENERAL PROVISIONS

PART I—TITLE, AUTHORITY, PURPOSE, APPLICABILITY, FEES AND SEVERABILITY

7:50-1.1 Title

This chapter shall be known as the Implementation Element of Pinelands Comprehensive Management Plan.

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).

Regulations set forth the minimum standards for protection of the Pinelands. *Fine v. Galloway Twp. Committee*, 190 N.J.Super. 432, 463 A.2d 990 (Law Div.1983).

7:50-1.2 Authority

This chapter is adopted pursuant to the Pinelands Protection Act, N.J.S.A. 13:18A-1 to 29, as amended by Laws of 1980, Chapter 65, adopted on July 10, 1980.

7:50-1.3 General purpose and intent

This chapter is adopted in order to implement, and is an exercise of the powers granted to the Pinelands Commission by, the Pinelands Protection Act and the Federal Act. The regulations and standards it contains are designed to promote orderly development of the Pinelands so as to preserve

and protect the significant and unique natural, ecological, agricultural, archaeological, historical, scenic, cultural and recreational resources of the Pinelands.

7:50-1.4 Applicability

This chapter shall apply to all development within the Pinelands Area and shall supersede the interim rules and regulations adopted by the Pinelands Commission contained in N.J.A.C. 7:1G-1.1 et seq. and 2.1 et seq. and the Plan for the Preservation Area adopted by the Pinelands Commission on August 8, 1980. It shall be unlawful for any person to carry out any development in the Pinelands Area which does not conform to the minimum standards of this Plan.

Case Notes

Former N.J.A.C. 7:1G applied to any application for development between July 27, 1979 and January 14, 1981; regulations have no demonstrable effect on land values for property tax assessment purposes; regulatory history. *Riarano Inc. v. Weymouth Twp.*, 4 N.J.Tax 550 (Tax Ct.1982), affirmed 6 N.J.Tax 253.

7:50-1.5 Effective date

This chapter shall take effect as provided in Sections 5h and 7 of the Pinelands Protection Act, N.J.S.A. 13:18A-1 to 29, as amended by Laws of 1980, Chapter 65, adopted on July 10, 1980.

7:50-1.6 Fees

(a) All applications required or permitted by any provision of this Plan other than applications filed by a public agency, shall be accompanied by a nonrefundable application fee calculated according to the fee schedule set forth in (b) through (i) below. No application filed pursuant to this Plan shall be reviewed or considered complete unless all fees required by this Part have been paid.

(b) The fee for a residential development application submitted pursuant to N.J.A.C. 7:50-4.14 or 4.33 shall be calculated as follows:

1. There shall be no fee for a residential development consisting of only one dwelling unit; and
2. The fee for all other residential developments shall be calculated based on the number of proposed dwelling units or lots according to the following:
 - i. \$100.00 per dwelling unit or lot for the first 25 units or lots;
 - ii. \$75.00 per dwelling unit or lot for units/lots 26 through 100; and
 - iii. \$50.00 per dwelling unit or lot for all units/lots in excess of 100.

(c) The fee for a commercial, institutional, industrial or other non-residential development application submitted pursuant to N.J.A.C. 7:50-4.14 or 4.33 shall be \$200.00 or one percent of construction costs, which shall include all

costs associated with the development for which the application is being submitted, including, but not limited to, site improvement and building improvement costs, whichever is greater, except as provided in (c)1 through 7 below. For fees calculated based on one percent of construction costs, such costs shall be supported by the sworn statement of a licensed architect or engineer as to the expected construction costs or project financing documents submitted to a lending institution which reflect the anticipated cost.

1. For an off-road vehicle event conducted in accordance with N.J.A.C. 7:50-6.143(a)4, the fee shall be \$5.00 per mile of the route proposed or a minimum of \$250.00;

2. For a forestry application or renewal application, submitted pursuant to N.J.A.C. 7:50-6.43(b) or (c), for forestry activities involving 10 or more acres, the fee shall be \$5.00 per acre that is subject to the forestry activities;

3. For the development of a golf course, the fee shall be \$100.00 per acre devoted to the golf course facility, including, but not limited to, the gold course and associated forested areas, club house, putting greens, driving range, parking areas, locker rooms and accessory buildings, such as rest rooms, maintenance buildings, and other recreational areas depicted on the site plan submitted as part of the application. All areas associated with the planning, construction, operation or maintenance of a golf course facility, including those areas not directly associated with golfing or a recreational activity, must be included in the acreage used to calculate the applicable application fee for the development of a golf course;

4. For a proposed linear development, the fee shall be \$100.00 per acre to be disturbed as part of a linear development project or a minimum of \$250.00. "Linear development" means land uses such as roads, railroads, sewerage and stormwater management pipes, gas and water pipelines, electric, telephone and other transmission or distribution lines, which have the basic function of connecting two points, the rights-of-way therefor, and any accessory structures or uses directly associated therewith. Linear development shall not include residential, commercial, office or industrial buildings, improvements within a development such as utility lines or pipes, or internal circulation roads;

5. For a resource extraction permit application or permit renewal application, the fee shall be \$500.00 plus \$10.00 per acre to be mined within each permit period;

6. For a change of use with no additional development, the fee shall be \$200.00; and

7. For an application for a subdivision only, without development, the fee shall be calculated according to the formula in (b)2 above, based on the number of lots created.

(d) The fee for mixed residential and non-residential development shall be the sum of the residential and non-residential development fees as calculated according to the relevant fee schedules in (b) and (c) above.

(e) For a Letter of Interpretation or Amended Letter of Interpretation pursuant to N.J.A.C. 7:50-4, Part VI, which does not involve the allocation of Pinelands Development Credits, the fee shall be \$200.00.

(f) The application fee for the review and processing of a request for a letter certifying that a proposed activity is not considered development pursuant to N.J.A.C. 7:50-4.1(a) shall be \$100.00.

(g) The application fee for the review and processing of a request for a letter stating information that is available in a municipal land use ordinance or stating other information readily available to the public from a source other than the Pinelands Commission shall be \$100.00.

(h) The fee for an Amended Certificate of Filing shall be \$150.00 or 10 percent of the original permit fee, whichever is greater, with a maximum fee of \$2,000. If a request for an Amended Certificate of Filing is submitted more than five years following the issuance of the original Certificate of Filing, the fee shall be calculated as if a new application had been submitted.

(i) If the Executive Director determines that a development application, excluding an application for a minor residential development, involves complex issues which, because of the need for specialized expertise, necessitate the retention of consultants to assist in the review of such application:

1. The Executive Director shall notify the applicant of such determination and the escrow amount to be submitted;

2. Monies submitted pursuant to (i)1 above shall be held in an escrow account and shall be used by the Commission to reimburse any costs it incurs as a result of retaining any consultants for that application;

3. Should the funds held in escrow be insufficient to defray the costs of any consultants, the Executive Director will provide the applicant with a statement of the account and will request from the applicant the additional amount estimated to be required for the escrow account;

4. At the time that final municipal approval takes effect pursuant to N.J.A.C. 7:50-4, Part III, the Executive Director shall provide a statement of the account to the applicant and any funds remaining in the escrow account shall be returned to the applicant;

5. No additional review of the application will occur until the escrow amount requested pursuant to (i)1 or 3 has been submitted; and

6. An applicant who objects to the escrow amount requested pursuant to (i)1 or 3 above, shall notify the Executive Director, in writing, within 15 days of receipt of the Executive Director's determination, of such objection and shall include with this notification an estimate from a qualified professional, having the requisite knowledge and expertise required to address the issues raised by the application, to support the applicant's estimation of the appropriate amount to be assessed. The Executive Director shall review the applicant's submission and notify the applicant within 10 days thereof, of the amount to be provided.

Amended by R.2004 d.136, effective April 5, 2004.

See: 35 N.J.R. 4411(a), 36 N.J.R. 1804(a).

Rewrote the section.

Administrative correction.

See: 36 N.J.R. 2240(a).

7:50-1.7 Severability

If any section, part, phrase, or provision of this Plan or the application thereof to any person be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase, provision, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the validity of the remainder of this Plan or the application thereof to other persons.

7:50-1.8 through 7:50-1.10 (Reserved)

PART II—DUTIES AND POWERS OF THE COMMISSION

7:50-1.11 Duties and powers

The Commission bears the ultimate responsibility for implementing and enforcing the provisions of the Pinelands Protection Act and this Plan. In addition, it constitutes the planning entity provided for in the Federal Act and is responsible for achieving the purposes and provisions of the Federal Act. The Commission shall exercise the powers necessary to implement the objective of the Federal Act, the Pinelands Protection Act and this Plan.

7:50-1.12 Meetings, hearings and procedures

(a) The Commission shall fix the time and place for holding its regular meetings. Special meetings may be held at the call of the Chairman. All meetings of the Commission shall be held in accordance with the provisions of the "Open Public Meetings Act", N.J.S.A. 10:4-6.

(b) All hearings of the Commission shall be set, noticed and conducted in accordance with the provisions of N.J.A.C. 7:50-4.3.

(c) The Commission shall adopt its own procedures for the conduct of its business, meetings and hearings not inconsistent with the Pinelands Protection Act and this Plan.

Copies thereof shall be available to any person upon request.

(d) A true copy of the minutes of every meeting of the Commission shall be delivered to the Governor. No action taken by the Commission shall have force or effect until 10 days, exclusive of Saturdays, Sundays and public holidays, following delivery of the minutes to the Governor.

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

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

In (c) deleted requirement that adoptions be made pursuant to the Administrative Procedure Act and be filed with the Executive Director.

Case Notes

Appeal based on "extraordinary hardship" (see for historical purposes, decisions based on interim rules of the Pinelands Commission). In re Pinnacle International Corp., 3 N.J.A.R. 9 (1980); Brenner v. Pinelands Commission, 1 N.J.A.R. 273 (1979).

7:50-1.13 through 7:50-1.20 (Reserved)

PART III—DUTIES AND POWERS OF THE EXECUTIVE DIRECTOR

7:50-1.21 Duties and powers

(a) The Executive Director shall be the chief administrative officer of the Commission and, subject to the approval of his actions by the Commission as provided herein, shall be charged with the administration and enforcement of this Plan. He shall supervise, manage and be responsible for the affairs and activities of the Commission staff, including, but not limited to, the exercise of the following duties and powers:

1. Rules and Regulations: The Executive Director shall, consistent with the express standards, purposes and intent of this Plan, establish administrative procedures and forms as are in his opinion necessary to the effective administration and enforcement of the provisions of this Plan and the rules and regulations of the Commission.

2. Records: The Executive Director shall maintain:

i. Permanent and current records of this Plan including all maps, amendments, development approvals and denials, interpretations and decisions rendered by the Commission or by the Executive Director together with relevant background files and materials.

ii. A current file of all certificates and approvals issued pursuant to this Plan for such time as necessary to ensure continuous compliance with the provisions of this Plan and such certificates and approvals.

iii. A current file of all letters of interpretation issued pursuant to N.J.A.C. 7:50-4 of this Plan.

iv. Permanent and current records of all meetings, hearings and proceedings, and the minutes and transcripts taken therein, held by the Commission or the Executive Director pursuant to this Plan.

SUBCHAPTER 2. INTERPRETATIONS AND
DEFINITIONS

PART I—INTERPRETATION

7:50-2.1 Provisions are minimum requirements

In their interpretation and application, the provisions of this Plan shall be held to be the minimum standards for the preservation of the Pinelands, as set forth in the provisions of this element. Where the provisions of this Plan are more restrictive than those of any other statute, ordinance or regulation, the provisions of this Plan shall control.

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).

Pinelands regulations set forth the minimum standards for protection of the Pinelands; municipality may adopt and enforce more restrictive standards; compliance with local ordinances required unless in conflict with regulations; proposed development approved by Pinelands Commission must be submitted to local planning board for review not inconsistent with regulations. Fine v. Galloway Twp. Committee, 190 N.J.Super. 432, 463 A.2d 990 (Law Div.1983).