

# PINELANDS MANAGEMENT PLAN

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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 golf 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), 3117(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.

7:50-2.4 through 7:50-2.10 (Reserved)

## PART II—DEFINITIONS

### 7:50-2.11 Definitions

When used in this Plan, the following terms shall have the meanings ascribed to them.

“Accessory structure or use” means a structure or use which:

1. Is subordinate to and serves a principal building or a principal use, including but not limited to the production, harvesting, and storage as well as washing, grading and packaging of unprocessed produce grown on-site; and
2. Is subordinate in area, extent and purpose to the principal structure or principal building or a principal use served; and
3. Contributes primarily to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served; and
4. Is located on the same parcel as the principal structure or principal use served, except as otherwise expressly authorized by the provisions of this Plan.

“Agricultural commercial establishment” means a retail sales establishment primarily intended to sell agricultural products produced in the Pinelands. An agricultural commercial establishment may be seasonal or year round and may or may not be associated directly with a farm; however it does not include supermarkets, convenience stores, restaurants and other establishments which coincidentally sell agricultural products, nor does it include agricultural production facilities such as a farm itself, nor facilities which are solely processing facilities.

“Agricultural employee housing” means residential dwellings, for the seasonal use of employees of an agricultural or horticultural use, which because of their character or location are not to be used for permanent housekeeping units and which are otherwise accessory to a principal use of the parcel for agriculture.

“Agricultural or horticultural purpose or use” means any production of plants or animals useful to man, including, but not limited to: forages or sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, and including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; aquatic organisms as part of aquaculture; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or any land devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agency of the Federal Government.

## 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).

#### 7:50-2.2 Construction

This Plan, being necessary for the protection and preservation of the resources of the Pinelands, shall be construed liberally to effect the purposes of the Federal Act and the Pinelands Protection Act.

#### 7:50-2.3 Word usage

(a) In the interpretation of this Plan, the provisions and rules of this section shall be observed and applied, except where the context clearly requires otherwise:

1. Words used or defined in one tense or form shall include other tenses and derivative forms.
2. Words in the singular shall include plural and words in the plural shall include the singular.
3. The masculine gender shall include the feminine and the feminine gender shall include the masculine.
4. The word “shall” is mandatory.
5. The word “may” is permissive.
6. In case of any difference of meaning or implication between the text of this Plan and any caption, the text shall control.

(c) **Hearing:** Within 15 days following receipt of a notice filed pursuant to (a) or (b) above, or of any demand for a hearing at which an Administrative Law Judge is to preside which is provided for in this Plan, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.

(d) **Burden:** The person requesting the appeal or hearing shall have the burden of going forward and the burden of proof on all issues.

(e) **Commission review of record:** Within 45 days following receipt of the initial decision of the Administrative Law Judge, unless an extension has been approved pursuant to the Administrative Procedures Act, N.J.S.A. 52:15B-1 et seq. and the procedures adopted by the Office of Administrative Law, the Commission shall consider the hearing record and the initial decision only and issue a final order with respect to the matter in controversy.

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

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

Recodified from 4.81.

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

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

#### Case Notes

Discussion of reconsideration rights accorded under former N.J.A.C. 7:50-4.17 and 7:50-4.81. 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 vacated 103 N.J. 689, 512 A.2d 490 (1986).

#### 7:50-4.92 Judicial review

Judicial review may be had of any final determination or order of the Commission as provided by Section 19 of the Pinelands Protection Act or any other provision of State law. All appeals of determinations of the Executive Director shall be made to the Office of Administrative Law pursuant to N.J.A.C. 7:50-4.91. If an appeal of a determination of the Executive Director is sought by any person pursuant to N.J.A.C. 7:50-4.91, all limitation periods provided by State law for seeking judicial review of any decision of the Commission shall be deemed to commence upon entry of the Commission's order on the appeal or hearing pursuant to N.J.A.C. 7:50-4.91(d).

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

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

Recodified from 4.82.

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

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

## SUBCHAPTER 5. MINIMUM STANDARDS FOR LAND USES AND INTENSITIES

### INTRODUCTION

The Pinelands Protection Act provides in part that the Comprehensive Management Plan is to "encourage appropriate patterns of compatible residential, commercial and industrial development in or adjacent to areas already utilized for such purposes, in order to accommodate regional growth influences in an orderly way while protecting the Pinelands environment from the individual and cumulative adverse impacts thereof" and to "discourage piecemeal and scattered development" while protecting the Pinelands environment. Subchapter 5 contains minimum standards for the development and use of land which the Pinelands Commission has determined are necessary to protect and maintain the essential character of the Pinelands environment and to accomplish the purposes of the Pinelands Protection Act and the Federal Act.

The provisions of this subchapter are intended to serve as minimum standards for the preparation and adoption of county and municipal master plans and land use ordinances and State agency plans. The provisions of this subchapter are also intended to serve as guidelines for the preparation of Federal installation plans. It is recognized that specific provisions of this subchapter, including the management area delineations, can be refined by local agencies provided that the objectives and goals the minimum standards represent will be achieved. In determining whether to certify a municipal or county master plan or land use ordinance under the provisions of N.J.A.C. 7:50-3 of this Plan, approve a State agency plan under the provisions of N.J.A.C. 7:50-4.52(e) of this Plan, or find a Federal installation master plan in substantial conformance under the provisions of N.J.A.C. 7:50-3, Part V, the Pinelands Commission will consider the extent to which the plan or land use ordinance ensures that all development of land will be in conformance with the minimum standards of this subchapter.

It is also recognized that a municipality, county, State, or Federal agency may adopt more restrictive regulations, provided that such regulations are compatible with the goals and objectives of this Plan. In such cases, all development must adhere to the more restrictive regulations.

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

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

### PART I—STANDARDS OF GENERAL APPLICABILITY

#### 7:50-5.1 Development in accordance with this plan

(a) No development shall be carried out by any person unless that development conforms to the minimum requirements and standards of this Plan.

(b) The extraction or underground storage of natural gas or other minerals not expressly authorized in this Plan is prohibited.

(c) Unless expressly permitted in a certified municipal land use ordinance, no more than one principal use shall be located on one lot, except for forestry, agriculture, horticulture, fish and wildlife management, and, on agricultural lands, recreation development.

(d) A municipality may include in its master plan and land use ordinance provisions which permit mobile homes or other similarly manufactured dwelling units as part of a government-sponsored program which provides housing for the elderly. Such mobile homes or manufactured dwelling units shall be exempt from the density limitations of this Part, provided that:

1. They are associated with existing single family dwellings; and
2. They are intended only for temporary housing and occupancy for no longer than three years.

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

#### Case Notes

Comprehensive Management Plan imposes detailed restrictions on construction and other activities in the Pinelands. *Pfeiffer v. Pinelands Commission*, 8 N.J.A.R. 317 (1985).

Lands located in Forest Area not entitled to Pinelands Development Credits. *Riorano, Inc. v. Weymouth Twp.*, 209 N.J.Super. 280, 507 A.2d 311 (App.Div.1986).

#### 7:50-5.2 Expansion and changes of existing uses

(a) Notwithstanding the use restrictions contained in Part III of this subchapter, a municipality may permit the expansion or alteration of any use existing on January 14, 1981 that is currently non-conforming or any use which was constructed based upon an approval granted pursuant to this Plan which is currently non-conforming, other than intensive recreation facilities and those uses which are expressly limited in N.J.A.C. 7:50-6, provided that:

1. The use was not abandoned or terminated subsequent to January 14, 1981;
2. The expansion or alteration of the use is in accordance with all of the minimum standards of N.J.A.C. 7:50-6; and
3. The area of expansion does not exceed 50 percent of the floor area, the area of the use or the capacity of the use, whichever is applicable, on January 14, 1981 or which was approved pursuant to this Plan.

(b) A municipality may include in its ordinance a provision which, notwithstanding the use restrictions contained in Part III of this subchapter, permits a change in any use existing on January 14, 1981 that is currently non-conforming or any use which was constructed based upon an approval granted pursuant to this Plan that is currently non-conforming, other than those uses which are expressly limited in N.J.A.C. 7:50-6, provided that:

1. The use was not abandoned or terminated subsequent to January 14, 1981;
2. The new use is in accordance with all of the minimum standards of N.J.A.C. 7:50-6 including N.J.A.C. 7:50-6.84(a)4, unless a new septic system permit will not be required as a result of the change in use, in which case the standards of N.J.A.C. 7:50-6.83(b) and (c) must be met; and
3. The area, capacity, and intensity of the new use is comparable to that of the existing use.

(c) A municipality may limit the application of (a) and (b) above to those uses which conformed to its zoning ordinance as of January 14, 1981.

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 "and not subsequently abandoned".  
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).

#### 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).

#### 7:50-5.3 Map status

(a) The following maps, the originals of which are maintained at the offices of the Commission, are hereby designated and established as a part of this Plan and shall be as much a part of this Plan as if they were set out in full in this Plan:

1. Pinelands Area Jurisdiction Boundaries, Plate 1, as amended as of August 21, 1995;
2. Surficial Geology, Plate 2, as amended as of August 21, 1995;
3. NW-SE Geologic Cross-Section, Plate 3;
4. Hydrogeologic Features, Plate 4, as amended as of August 21, 1995;
5. Surface Water Hydrology, Plate 5, as amended as of August 21, 1995;
6. Agricultural Soils, Plate 6, as amended as of August 21, 1995;

7. Depth to Seasonal High Water Table, Plate 7, as amended as of August 21, 1995;
8. Hydrologic Soil Group, Plate 8, as amended as of August 21, 1995;
9. Soil Factors Limiting Use for Septic Tank Absorption Fields, Plate 9, as amended as of August 21, 1995;
10. Vegetation, Plate 10, as amended as of August 21, 1995;
11. Wildland Fire Hazard Classification, Plate 11, as amended as of August 21, 1995;
12. Watersheds Supporting Characteristics Pinelands Aquatic Communities, Plate 12;
13. Prehistoric Archaeologic Resources, Plate 13, as amended as of August 21, 1995;
14. Historic, Archaeologic and Architectural Resources, Plate 14, as amended as of August 21, 1995;
15. Cultural Subregions, Plate 15, as amended as of August 21, 1995;
16. Land Use, Plate 16, as amended as of August 21, 1995;
17. Sewer Service Areas, Plate 17, as amended as of August 21, 1995;
18. Water Service Areas, Plate 18, as amended as of August 21, 1995;
19. Solid Waste Disposal Sites, Plate 19, as amended as of August 21, 1995;
20. Transportation Systems, Plate 20, as amended as of August 21, 1995;
21. Major Public Land Holdings, Plate 21, as amended as of August 21, 1995;
22. Resource Extraction Areas, Plate 22, as amended as of August 21, 1995;
23. Ecological Critical Area Importance Values, Plate 27, as amended as of August 21, 1995;
24. Land Capability, Plate 28, as amended as of June 6, 2005;
25. Zoning maps, master plans and land use ordinances certified by the Commission under the provisions of N.J.A.C. 7:50-3;
26. Special Areas Map, Figure 7.1.

Petition for Rulemaking: amend Berkeley Township portion of Land Capability Map.

See: 20 N.J.R. 936(a), 1486(a), 2325(d).

Petition for Rulemaking: amend Manchester Township portion of Land Capability Map.

See: 21 N.J.R. 345(a), 1025(a), 1460(b), 1913(a), 2403(b).

Petition for Rulemaking: Revise the Pinelands Land Capability Map referred to in (a)24.

See: 23 N.J.R. 2062(d), 23 N.J.R. 2882(c).

Withdrawal of Petition for Rulemaking: Withdrawal of petition which had been published at 23 N.J.R. 2062(d).

See: 23 N.J.R. 2062(d), 23 N.J.R. 2882(c), 23 N.J.R. 3825(d).

Petition for Rulemaking: Revise the Pinelands Land Capability Map referred to in (a)24.

See: 26 N.J.R. 3752(a), 26 N.J.R. 4834(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).

Amended by R.1996 d.170, effective April 1, 1996.

See: 27 N.J.R. 3532(a), 27 N.J.R. 3895(a), 28 N.J.R. 1848(a).

In (a)24 substituted April 1, 1996 for August 21, 1995.

Public Notice: Notice of Receipt of and Action on a Petition for Rulemaking.

See: 29 N.J.R. 383(a), 29 N.J.R. 1403(a).

Amended by R.2004 d.49, effective February 2, 2004.

See: 35 N.J.R. 3504(a), 36 N.J.R. 887(a).

In (a)24, substituted "February 2, 2004" for "April 1, 1996".

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).

In (a)24, substituted "June 6, 2005" for "February 2, 2004".

#### 7:50-5.4 Height limitations

(a) In all Pinelands Management Areas other than Regional Growth Areas and Pinelands Towns, no structure, including radio and television transmission and other communication facilities which are not accessory to an otherwise permitted use, shall exceed a height of 35 feet, except as provided in (b) below.

(b) The height limitation in (a) above shall not apply to any of the following structures, provided that such structures are compatible with uses in the immediate vicinity and conform to the objectives of N.J.A.C. 7:50-6, Part X: antennas which do not exceed a height of 200 feet and which are accessory to an otherwise permitted use, silos, barns and other agricultural structures, church spires, cupolas, domes, monuments, water towers, fire observation towers, electric transmission lines and supporting structures, windmills, smokestacks, derricks, conveyors, flag poles and masts, or aerials, solar energy facilities, chimneys and similar structures required to be placed above the roof level and not intended for human occupancy.

(c) The height limitation in (a) above shall not apply to the antenna and any supporting structure of a local communication facility of greater than 35 feet, provided that:

1. There is a demonstrated need for the facility to serve the local communication needs of the Pinelands, including those related to public health and safety, as well as a demonstrated need to locate the facility in the Pinelands in order to provide adequate service to meet these needs;

2. The supporting structure is designed to accommodate the needs of any other local communications provider which has identified a need to locate a facility within an overlapping service area;

3. The antenna utilizes an existing communications or other suitable structure, to the extent practicable;

4. If an existing communications or other suitable structure cannot be utilized, the antenna and any necessary supporting structure is located such that it:

- i. Meets technical operating requirements;
- ii. Minimizes visual impacts as viewed from publicly dedicated roads and highways and from other areas frequented by the public by, in order of decreasing priority:
  - (1) Avoiding, to the maximum extent practicable, any direct line of sight from low intensive recreation facilities and campgrounds; and
  - (2) Minimizing the length of time that an antenna structure is visible from publicly dedicated roads and highways;
- iii. Avoids, to the maximum extent practicable, visual impacts as viewed from the wild and scenic rivers and special scenic corridors listed in N.J.A.C. 7:50-6.105(a), the Pine Plains and area necessary to maintain the ecological integrity of the Pine Plains, as depicted on the Special Areas Map, Figure 7.1;
- iv. Maintains a distance of at least five miles from the Forked River Mountains and otherwise minimizes visual impacts as viewed from the Forked River Mountains, as depicted on the Special Areas Map, Figure 7.1;
- v. Minimizes visual impacts as viewed from existing residential dwellings located on contiguous parcels through adherence to the buffer and setback requirements established in the certified land use ordinances of the municipality in which the facility is proposed to be located; and

vi. If proposed in the Preservation Area District, Forest Area, Special Agricultural Production Area, or Rural Development Area, is located in one of the following areas:

- (1) In a certified municipal commercial or industrial zone, including a mixed use zone which permits a variety of non-residential uses. If the facility is proposed in an industrial zone within the Forest or Preservation Area District where resource extraction is the primary permitted use, the facility shall be located on the parcel of an approved resource extraction operation in accordance with (c)4vi(3) below;
- (2) On developed publicly owned lands within 500 feet of an existing structure, provided that the facility will be located on previously disturbed lands that have not subsequently been restored and that no facility will be located on State, county, or municipal conservation lands, State recreation lands or county and municipal lands used for low intensity recreational purposes;
- (3) On the parcel of an approved resource extraction operation, provided that the facility will be located on previously disturbed lands that have not subsequently been restored;

(4) On the parcel of an existing first aid or fire station; or

(5) On the parcel of an existing landfill, provided that the facility will be located on previously disturbed lands that have not subsequently been restored;

5. The antenna and any supporting structure does not exceed 200 feet in height but, if of a lesser height, shall be designed so that its height can be increased to 200 feet if necessary to accommodate other local communications facilities in the future;

6. If the facility is proposed to be located in any Pinelands management area other than a Regional Growth Area or a Pinelands Town, a comprehensive plan for the entire Pinelands Area must be submitted to the Pinelands Commission for certification. If the facility is proposed to be located in a Military and Federal Installation Area, submission of such a plan shall only be required if the facility is to be located outside the substantially developed area of the installation. Said plan shall include five and 10 year horizons, a review of alternative technologies that may become available for use in the near future, and the approximate location of all proposed facilities. Said plan shall also demonstrate that the facilities to be located in the Preservation Area District, Forest Area, Special Agricultural Production Area and Pinelands Villages of Bamber Lake, Beckerville, Belcoville, Belleplain, Brookville, Chatsworth, Dorothy, Eldora, Elwood, Estell Manor, Green Bank, Jenkins, Lower Bank, North Dennis, Sweetwater, Warren Grove and Weekstown are the least number necessary to provide adequate service, taking into consideration the location of facilities outside the Pinelands that may influence the number and location of facilities needed within the Pinelands. Said plan shall also demonstrate consistency with (c)1 and 3 above and either demonstrate, or note the need to demonstrate, consistency with (c)2, 4 and 5 when the actual siting of facilities is proposed. Where more than one entity is providing the same type of service or has a franchise for the area in question, the plan shall be agreed to and submitted jointly by all such providers, where feasible, and shall provide for the joint construction and use of the least number of facilities that will provide adequate service by all providers for the local communication system intended. Shared service between entities, unless precluded by Federal law or regulation, shall be part of the plan when such shared services will reduce the number of facilities to be otherwise developed.

i. Upon receipt of the comprehensive plan, or amendments to a previously approved plan, the Executive Director shall give notice of and set the date, time, and place for a public hearing for consideration of the plan. The public hearing shall be held by the Executive Director within 60 days following receipt of the comprehensive plan in accordance with the provisions of N.J.A.C. 7:50-4.3.

ii. Upon completion of the public hearing, the Executive Director shall review the comprehensive plan and the record of the hearing and shall, within 90 days following receipt of the plan, submit a report to the Commission setting forth proposed findings and a recommended order as to whether the plan is in conformance with the minimum standards of this section.

iii. Upon receipt of the report of the Executive Director, the Commission shall review the findings, conclusions, and recommendation of the Executive Director and shall, within 120 days following receipt of the plan, approve, approve with conditions or disapprove the plan. If the plan is disapproved or conditionally approved, the Commission shall specify the changes necessary in order to secure Commission approval of the plan.

iv. Upon Commission approval of a comprehensive plan, the Commission shall review any proposed development in accordance with the standards of N.J.A.C. 7:50-5.4(c)1 through 3, 4i through v and 5, the approved plan, and the other standards of this Plan.

v. Applicants may propose amendments to an approved plan from time to time. Any such amendments shall be agreed to and submitted jointly by all of the local communications providers who provide the same type of service or have a franchise within the Pinelands Area. Operators with newly awarded franchises that did not participate in the development of the original plan shall be given the opportunity to participate in the proposal of amendments. In the event that any provider declines to participate in the amendment process, the Commission may proceed with its review of the amendment. All amendments shall be reviewed by the Commission according to the requirements set forth in (c)6 above and according to the procedures set forth in (c)6i through iii above;

7. A certification is submitted to the Commission and the appropriate municipality every five years that the facility is still in use and that its current height can not be decreased because of operational needs. Any facility shall be removed and restoration of the parcel shall be completed in accordance with N.J.A.C. 7:50-6.24 within 12 months of the original user or users ceasing operations, unless the Commission determines that the facility is necessary for additional users that otherwise would qualify for the construction of a new local communications facility pursuant to this section. Any oversized facility shall be reduced within 12 months of the certification.

(d) Computer simulation models, photographic juxtaposition and other similar techniques may be used by the Commission in determining compliance with the visual impact standards set forth in (c)4ii, iii and iv above.

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.1996 d.225, effective May 20, 1996.  
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).  
In (c)7 substituted 7:50-6.24 for 7:50-6.23(a)1 through 6.

#### 7:50-5.5 Setback standards

(a) All buildings within the Preservation Area District, Rural Development Area, and Forest Area shall be set back from public, paved roads in accordance with N.J.A.C. 7:50-6.103 and 104.

(b) All structures within 1,000 feet of rivers designated in N.J.A.C. 7:50-6.105(a) shall be screened in accordance with the requirements set forth therein.

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

#### 7:50-5.6 through 7:50-5.10 (Reserved)

### PART II—PINELANDS MANAGEMENT AREAS

#### 7:50-5.11 Purpose

(a) In order to ensure that the development and use of land in the Pinelands meet the minimum standards of this Plan, the Pinelands Commission hereby finds that it is necessary to establish eight management areas governing the general distribution of land uses and intensities in the Pinelands. Except for Special Agricultural Production Areas and the Pinelands Villages, the boundaries of the Management areas are set forth on the Land Capability Map identified in N.J.A.C. 7:50-5.3. Special Agricultural Production Areas and additional Agricultural Production Areas may be created as an element of a municipal master plan or land use ordinance under the provisions of N.J.A.C. 7:50-5.14 and 5.15. The boundaries of Pinelands Villages shall be delineated in accordance with the criteria in N.J.A.C. 7:50-5.16. The boundaries of the management areas may be refined and/or adjusted through the Commission's certification of municipal master plans and land use ordinances pursuant to N.J.A.C. 7:50-3, provided that the Commission determines that the goals and objectives this Plan will be implemented by the proposed municipal master plan or land use ordinance under the municipal plan certification procedures of N.J.A.C. 7:50-3.

(b) The following shall be used by the Commission as guidelines in determining whether a proposed management area change is more appropriate to consider through the Plan amendment procedures of N.J.A.C. 7:50-7 rather than through the certification procedures of N.J.A.C. 7:50-3 and shall be given proper consideration by the Commission when evaluating the need for an amendment to this Plan:

1. A free standing management area is to be created, unless it is an Agricultural Production Area designated by a municipality pursuant to N.J.A.C. 7:50-5.15 or a Special Agricultural Production Area designated by a municipality pursuant to N.J.A.C. 7:50-5.14;

2. A Pinelands Village is to be created that is not otherwise listed in N.J.A.C. 7:50-5.13(f)1;

3. A single management area change would:

i. Increase development potential for an area which predominantly includes land that:

(1) Is not appropriate for increased development levels because of known environmental limitations or because of the known presence of important natural or cultural resources;

(2) Is permanently protected as open space or included in a defined Pinelands acquisition area; or

(3) Is included in an Agricultural Development Area identified by a county agriculture development board pursuant to N.J.A.C. 2:76; or

ii. Decrease development potential for an area which predominantly includes land that is not appropriate for decreased development levels because of land tenure and use patterns, the community and environmental character of the area, known accessibility to existing or planned infrastructure and community services, or the role of the land in the Pinelands Development Credit program;

4. The management area change(s) would substantially alter the character of a municipality's overall zoning plan for the Pinelands Area as it relates to the standards and objectives of this Plan, considering the size and character of the area(s) proposed for redesignation and the extent to which increases in development potential are balanced by decreases in development potential through offsetting management area changes;

5. The rationale for the management area change(s) represents such a material and significant departure from past Commission practice or policy that it requires an amendment to this Plan pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.);

6. The rationale for the management area change(s) is not consistent with the goals and objectives for each management area as set forth in N.J.A.C. 7:50-5.13; or

7. A management area change does not meet the certification standards set forth in N.J.A.C. 7:50-3.39(a).

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

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

Designated former text of section as (a) and therein inserted a reference to the Commission's certification and additional references to N.J.A.C. 7:50-3; and added (b).

#### Case Notes

Management areas established; regulation not shown to reduce land prices for property tax valuation. Riorano, Inc. v. Weymouth Twp., 4 N.J.Tax 550 (Tax Ct.1982), affirmed 6 N.J.Tax 253.

#### 7:50-5.12 Pinelands Management Areas established

(a) The following Pinelands Management Areas are hereby established:

1. Preservation Area District;
2. Forest Areas;
3. Agricultural Production Areas;
4. Special Agricultural Production Areas;
5. Rural Development Areas;
6. Pinelands Villages and Pinelands Towns;
7. Regional Growth Areas;
8. Military and Federal Installation Areas.

#### Case Notes

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

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

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).

#### 7:50-5.13 Goals and objectives of Pinelands Management Areas

(a) The Preservation Area District is the heart of the Pinelands environment and represents the most critical ecological region in the Pinelands. It is an area of significant environmental and economic values that are especially vulnerable to degradation. This large, contiguous, wilderness-like area of forest, transected by a network of pristine wetlands, streams and rivers, supports diverse plant and animal communities and is home to many of the Pinelands' threatened and endangered species. The area must be protected from development and land use that would adversely affect its long-term ecological integrity.

(b) Forest Areas are similar to the Preservation Area in terms of their ecological value and, along with the Preservation Area, serve to provide a suitable ecological reserve for the maintenance of the Pinelands environment. These undisturbed, forested portions of the Protection Area support characteristic Pinelands plant and animal species and provide suitable habitat for many threatened and endangered species. These largely undeveloped areas are an essential element of the Pinelands environment, contain high quality water resources and wetlands, and are very sensitive to random and uncontrolled development. Although the overall type and level of development must be strictly limited, some parts of the Forest Areas are more suitable for development than others provided that such development is subject to strict environmental performance standards.

(c) Agricultural Production Areas are areas of active agricultural use, together with adjacent areas of prime and unique agricultural soils or soils of statewide significance, which are suitable for expansion of agricultural operations. In order to maintain agriculture as an essential element of the Pinelands region, the level and type of development must be controlled to prevent incompatible land uses from infringing upon these important land resources.

(d) Special Agricultural Production Areas are discrete areas within the Preservation Area District which are primarily used for berry agriculture or horticulture of native Pinelands plants. They represent a unique and essential element of the Pinelands economy and, because they are generally compatible with the ecological values of the Preservation area, are a part of the essential character of the Pinelands. In order to maintain these agricultural uses in a manner which recognizes their integral relationship to the Preservation Area, very strict limits on non-agricultural land uses are necessary.

(e) Rural Development Areas are areas which are, on an overall basis, slightly modified and may be suitable for limited future development subject to strict adherence to the environmental performance standards of N.J.A.C. 7:50-6. They represent a balance of environmental and development values that is intermediate between the pristine Forest Areas and existing growth areas; however, some parts are more suitable for development than others due to existing development and an absence of critical ecological resources.

(f) Pinelands Villages and Towns are existing spatially discrete settlements in the Pinelands. These traditional communities are appropriate for infill residential, commercial and industrial development that is compatible with their existing character.

1. Pinelands Area Villages are:

- i. Bamber Lake;
- ii. Beckerville;
- iii. Belcoville;
- iv. Belleplain;
- v. Blue Anchor;
- vi. Brookville;
- vii. Cassville;
- viii. Chatsworth;
- ix. Collings Lake;
- x. Cologne-Germania;
- xi. Cumberland-Hesstown;
- xii. Delmont;
- xiii. Dennisville;

- xiv. Dorchester-Leesburg;
- xv. Dorothy;
- xvi. Eldora;
- xvii. Elm;
- xviii. Elwood;
- xix. Estell Manor;
- xx. Folsom;
- xxi. Green Bank;
- xxii. Indian Mills;
- xxiii. Jenkins;
- xxiv. Lake Pine;
- xxv. Landisville;
- xxvi. Laureldale;
- xxvii. Legler;
- xxviii. Lower Bank;
- xxix. Milmay;
- xxx. Mizpah;
- xxxi. Nesco-Westcoatville;
- xxxii. New Gretna;
- xxxiii. New Lisbon;
- xxxiv. Newtonville;
- xxxv. North Dennis;
- xxxvi. Petersburg;
- xxxvii. Pomona;
- xxxviii. Port Elizabeth-Bricksboro;
- xxxix. Port Republic;
- xl. Richland;
- xli. Sweetwater;
- xl.ii. Tabernacle;
- xl.iii. Tansboro;
- xl. iv. Taunton Lake;
- xl. v. Tuckahoe;
- xl. vi. Vanhiseville;
- xl. vii. Vincentown;
- xl. viii. Warren Grove;
- xl. ix. Waterford Works;
- l. Weekstown; and
- li. Winslow.

2. Villages located within the Pinelands National Reserve but outside of the Pinelands Area are:

- i. Clermont;
- ii. Corbin City;
- iii. Goshen;
- iv. Heislerville;
- v. Oceanville;
- vi. Smithville;
- vii. South Dennis;
- viii. Swainton; and
- ix. West Creek.

3. Pinelands Area Towns are:

- i. Buena;
- ii. Egg Harbor City;
- iii. Hammonton;
- iv. Lakehurst;
- v. Whiting;
- vi. Woodbine; and
- vii. Wrightstown.

4. Towns located within the Pinelands National Reserve but outside of the Pinelands Area are:

- i. Tuckerton.

(g) Regional Growth Areas are areas of existing growth or lands immediately adjacent thereto which are capable of accommodating regional growth influences while protecting the essential character and environment of the Pinelands, provided that the environmental objectives of Subchapter 6 are implemented through municipal master plans and land use ordinances.

(h) Military and Federal Installation Areas are federal enclaves within the Pinelands. They represent a unique element of the Pinelands landscape and are a substantial resource to the region and the state, provided that their activities preserve and protect the unique natural, ecological, agricultural, archaeological, historic, scenic, cultural and recreational resources of the Pinelands.

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

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

In (f), added Vincentown.

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.2004 d.49, effective February 2, 2004.

See: 35 N.J.R. 3504(a), 36 N.J.R. 887(a).

Added (f)3vii.

#### 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).

Regional Growth Area definition cited. In re Application of John Madin/Lordland Development International, 201 N.J.Super. 105, 492 A.2d 1034 (App.Div.1985), certification vacated as moot 103 N.J. 689, 512 A.2d 490 (1986).

#### 7:50-5.14 Minimum standards for municipal designation of Special Agricultural Production Areas

(a) Special Agricultural Production Areas may be designated at the option of a municipality, or upon nomination to the Commission by an individual prior to certification, in the Preservation Area District in accordance with the following criteria:

1. The area to be designated is primarily agricultural in use, is of a size capable of sustaining active agricultural operation taking into account adjacent and surrounding uses and the availability of agricultural support uses, and includes surrounding actively used agricultural lands in so far as necessary to ensure that a viable, long term agricultural area exists; and

2. The area may include land in an adjacent municipality also designated under this section; and

3. The area is primarily comprised of lands used for active berry agricultural or active native horticultural use and lands which are essential to and held for the protection of active berry agricultural or active native horticultural uses; and

4. Where a nomination is made by an individual prior to certification, the Commission shall conduct a hearing pursuant to N.J.A.C. 7:50-4.3.

#### 7:50-5.15 Minimum standards for municipal designation of Agricultural Production Areas

(a) Agricultural Production Areas may be designated in the Protection Area at the option of a municipality or upon nomination to the Commission by an individual prior to certification, in accordance with the following criteria:

1. The area to be designated is primarily agricultural in use, is of a size capable of sustaining active agricultural operation taking into account adjacent and surrounding uses and the availability of agricultural support uses, and includes surrounding actively used agricultural lands in so far as necessary to ensure that a viable, long term agricultural area exists; and

2. The area may include land in an adjacent municipality also designated under this section; and

3. The area is primarily comprised of lands used for active agricultural use including lands which are held as buffers, water conservation areas or for other protection of active agricultural uses; and

4. Where a nomination is made by an individual prior to certification, the Commission shall conduct a hearing pursuant to N.J.A.C. 7:50-4.3.

**7:50-5.16 Guidelines for delineation of boundaries of Pinelands Villages**

(a) In the preparation of municipal master plans and land use ordinances, municipalities shall designate the boundaries of Pinelands Villages; provided that the designated village area shall maintain its existing character and does not contain more vacant land than built land, nor provide for an additional increment of development which is greater than the number of non-accessory structures that currently exist in the village. For the purposes of this requirement, built land for residential structures shall be calculated as the existing lot size or 3.2 acres, whichever is less, and built land for non-residential structures shall be calculated as the lot size required by existing zoning at the time of adoption of this Plan. Municipalities should also consider the following guidelines in designating village boundaries to the greatest extent practicable:

1. The village area should include the center of the village, typically located at or near the intersection of two roads, the developed lands contiguous to the village center, and other cleared lands not in active agricultural use.
2. In the Preservation Area District and Forest Areas the village area should not contain more than 50 percent forested land.
3. In Agricultural Production Areas and Forest Areas the village area should not include active agricultural lands except for isolated areas of less than 10 acres.
4. Village boundaries along roads leading to and from the village center should not be extended more than  $\frac{1}{2}$  mile from the village center.
5. Village delineations should not intrude into wetlands vegetation associations.

6. Villages should include areas of high septic suitability contiguous to developed lands.

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

**7:50-5.17 Incorporation of Pinelands Management Areas into municipal master plans and land use ordinances**

In order to be certified under the provisions of N.J.A.C. 7:50-3, Part IV, a municipal master plan or land use ordinance must incorporate and implement the minimum standards of this subchapter governing the distribution and intensity of land uses.

**7:50-5.18 Minimum residential allocation of density in wetlands**

Each municipality shall allocate a minimum residential density to all wetlands that is at least one-fifth of the average gross residential density of uplands located in the same management area as the wetlands.

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

**7:50-5.19 Cluster development**

(a) Clustering of residential development on parcels located within the Regional Growth Areas and Rural Development Areas is encouraged, provided that the densities established in the certified municipal ordinance are not exceeded and that the development otherwise conforms to the standards of this Plan.

(b) Clustering of residential development on parcels located within more than one Pinelands management area may be permitted, provided that:

1. The parcel in question is contiguous;
2. The portion of the parcel to be developed is located within the management area with the highest assigned residential density;

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).

**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 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