

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).

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.

xxii. In Pemberton Township: 2.0 dwelling units per acre.

xxiii. In Shamong Township: 1.0 dwelling unit per acre.

xxiv. In Southampton Township: 1.0 dwelling unit per acre.

xxv. In South Toms River Borough: 3.5 dwelling units per acre.

xxvi. In Stafford Township: 3.5 dwelling units per acre.

xxvii. In Tabernacle Township: 1.0 dwelling unit per acre.

xxviii. In Upper Township: 1.0 dwelling unit per acre.

xxix. In Waterford Township: 2.25 dwelling units per acre.

xxx. In Winslow Township: 1.125 dwelling units per acre.

2. For purposes of this section, developable lands are those privately held, non-wetland lands with a depth to seasonal high water table of greater than five feet. Where sewer systems are available, lands with a depth to seasonal high water table exceeding 1.5 feet shall also be considered developable. Developable land may exclude lands which are zoned exclusively for commercial or industrial use, predominantly developed as such, and which otherwise form a part of a reasonable balance between industrial or commercial zoned property and residential zoned lands.

3. The land use element of a municipal master plan and land use ordinance shall reasonably permit development to occur within a range of densities, provided that the total amount of residential development permitted in (a)1 above is exceeded by at least 50 percent through the use of Pinelands Development Credits; that a reasonable proportion of the density increase permits the development of single family detached residences; and that the residentially zoned districts in which the ranges are established are reasonably expected to be developed within the assigned density ranges.

i. The following guidelines may be used by municipalities in establishing these ranges:

- (1) Less than .5 dwelling units per acre;
- (2) One-half to one dwelling units per acre;
- (3) One to two dwelling units per acre;
- (4) Two to three dwelling units per acre;
- (5) Three to four dwelling units per acre;
- (6) Four to six dwelling units per acre;
- (7) Six to nine dwelling units per acre;
- (8) Nine to twelve dwelling units per acre; and
- (9) Twelve and greater dwelling units per acre.

ii. Municipal master plans or land use ordinances shall provide that development at a density which is greater than the lowest density in each range can be carried out if the increase in density is achieved through a density bonus for use of Pinelands Development Credits.

4. Any municipal variance approval which grants relief from density or lot area requirements shall require that Pinelands Development Credits be used for all dwelling units or lots in excess of that permitted without the variance.

5. Municipal use variances and other municipal approvals which authorize uses in zones where such uses are not permitted shall be subject to the following:

i. Municipal variances or other municipal approvals which authorize residential development in a zone in which residential development is not otherwise permitted or which authorize nonresidential development in a zone in which the approved nonresidential development is not otherwise permitted, and in which permitted residential density may be increased through the use of Pinelands Development Credits pursuant to (a)3ii above, shall be allowed to take effect pursuant to N.J.A.C. 7:50-4.31 through 4.50, provided the applicant is able to demonstrate that such a variance or approval will not be substantially detrimental to the purpose or character of the zone in which the development would be located or to the land use and development objectives of this Plan by:

- (1) Involving, on a parcel of at least 50 acres, the development of more than 50 units or more than two percent of the base units allocated pursuant to (a)1 above by a certified municipal land use ordinance to the Regional Growth Area of the municipality in which the development would be located, whichever is greater;

(2) Eliminating, on a parcel of at least 50 acres, more than 50 base units or more than two percent of the base units allocated pursuant to (a)1 above by a certified municipal land use ordinance to the Regional Growth Area of the municipality in which the development would be located, whichever is greater. In cases where different types of residential development are permitted at different base densities within the same zone, an average of the permitted base densities shall be used to determine whether the applicable base unit threshold would be exceeded;

(3) Exceeding the thresholds established in (a)5i(2) above by impacting surrounding parcels within the Regional Growth Area in such a way as to reduce their potential for residential development; or

(4) Exceeding the thresholds established in (a)5i(2) above when considered together with other use variances or similar approvals issued by the municipality during the preceding two years within the same zone.

ii. If the criteria in (a)5i above are satisfied, the municipal variance or other approval shall be allowed to take effect pursuant to N.J.A.C. 7:50-4.31 through 4.50, provided the applicant acquires and redeems Pinelands Development Credits as follows:

(1) For those municipal variances or approvals which authorize residential development in a zone in which residential development is not otherwise permitted, Pinelands Development Credits must be acquired and redeemed for 50 percent of the authorized units for parcels under 10 acres in size; for 75 percent of the authorized units for parcels between 10 and 20 acres in size and for 100 percent of the authorized units for parcels over 20 acres in size; and

(2) For those municipal variances or approvals which authorize nonresidential development in a zone in which the approved nonresidential development is not otherwise permitted, and in which density may be increased through the use of Pinelands Development Credits pursuant to (a)3ii above, Pinelands Development Credits must be acquired and redeemed at 50 percent of the maximum rate permitted for Pinelands Development Credit use in the zone which the nonresidential use will be located for parcels under 10 acres in size; at 75 percent of the maximum rate for parcels between 10 and 20 acres in size; and at 100 percent of the maximum rate for parcels over 20 acres in size.

iii. The requirements in (a)5ii above shall not apply to municipal variances or other approvals which authorize the expansion of or changes to existing nonresidential uses in accordance with N.J.A.C. 7:50-5.2.

6. If the number of Pinelands Development Credits required pursuant to (a)3 through 5 above is not evenly divisible by 0.25, it shall be increased to the next highest increment of 0.25.

7. Nothing in (a) above is intended to prevent a municipality, as a part of a certified master plan or land use ordinance, from:

i. Employing additional density bonus or incentive programs, provided that such programs do not interfere with nor otherwise impair in any way the required municipal program for use of Pinelands Development Credits; or

ii. Increasing or decreasing by as much as ten percent the total number of dwelling units assigned pursuant to (a)1 above, provided that the Pinelands Development Credit program requirements set forth in (a)3 above are met relative to the adjusted dwelling unit total and provided further that the adjustment is consistent with land tenure patterns, the character of portions of the regional growth area, the provision of infrastructure and community services, and the natural resource characteristics of the area.

8. No hazardous waste facility, landfill or incinerator shall be permitted, 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 a centralized waste water treatment plant.

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)1vi, xxix and xxx, units per acre; deleted xxx(1). Revised (a)3ii, 4 and 5; added new (a)6 and renumbered 6 as 7.

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

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

Language added regarding nonresidential use; term "local" changed to "municipal".

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 "municipal variance" for "local variance" in (a)5.

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) prohibited hazardous waste facilities, landfills and incinerators.

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

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

In (a), rewrote 5 and 6.

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).

Extraordinary hardship; waiver of lot size requirement, seasonal high water table requirement, and ground water nitrate-nitrogen requirement. *Eni v. Pinelands Commission*, 92 N.J.A.R.2d (EPC) 31.

The Commission lacked jurisdiction to hear developer's appeal of his voluntary purchase of one-quarter Pinelands development credit. *Carrino v. Pinelands Commission*, 92 N.J.A.R.2d (EPC) 7.

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.

Approval condition requiring waterless toilets on less-than-one-acre residential lots upheld as neither arbitrary, capricious nor unreasonable. *Country Village Homes, Inc. v. Pinelands Commission*, 8 N.J.A.R. 205 (1985).

7:50-5.29 Minimum standards governing the distribution and intensity of development and land use in Military and Federal Installation Areas

(a) Any use associated with the function of the Federal Installation may be permitted in a Military and Federal Installation Area, provided that:

1. Where feasible, development shall be located in that portion of the installation located within the Pinelands Protection Area;

2. The use shall not require any development, including public service infrastructure, in the Preservation Area District or in a Forest Area;

3. No hazardous waste facility, landfill or incinerator shall be permitted, except as expressly authorized in N.J.A.C. 7:50-6.75 or 6.78; and

4. All development undertaken by the Federal government substantially meets the standards of N.J.A.C. 7:50-6 of this Plan or an intergovernmental agreement entered into pursuant to N.J.A.C. 7:50-4, Part IV.

(b) Any other public purpose use undertaken by or on behalf of another level of government may be permitted in a Military and Federal Installation Area, provided that:

1. The use is sanctioned by the installation;

2. The use is located within a substantially developed area which is served by a centralized sewer treatment and collection system;

3. No hazardous waste facility, landfill or incinerator shall be permitted, except as expressly authorized in N.J.A.C. 7:50-6.75 or 6.78; and

4. All development meets the standards of N.J.A.C. 7:50-6 or an intergovernmental agreement entered into pursuant to N.J.A.C. 7:50-4, Part IV.

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) and (b) prohibited hazardous waste facilities, landfills and incinerators.

7:50-5.30 Development transfer programs in Forest Areas and Rural Development Areas

(a) Each municipality with land in either a Forest Area or a Rural Development Area shall establish within said area

or areas a program which permits residential development on otherwise undersized lots if other land, equivalent to that needed to meet the assigned density, is protected through a permanent deed restriction.

(b) The density transfer programs shall adhere to the following minimum standards:

1. No lot less than one acre can be developed;
2. All parcels involved in the density transfer shall be located within the same Pinelands management area and within the same municipal zoning district;
3. The total acreage of the parcels involved in the density transfer shall at least equal the density required for that zoning district; and
4. Any parcel whose acreage is being utilized to meet the density requirement but which will not be developed shall be permanently dedicated as open space through recordation of a restriction on the deed to the parcel with no further development permitted except agriculture, forestry and low intensity recreational use.

(c) A municipality may adapt the program to its particular circumstances and vary the standards in (b) above provided that the program is otherwise consistent with the land use and density provisions of this subchapter. This may include, but is not limited to, identifying specific areas to receive the development transfers or excluding certain areas from the program considering:

1. Land ownership and subdivision patterns;
2. Infrastructure availability;
3. Environmental constraints; and
4. Protection of important natural resources.

(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).

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