

CHAPTER 50

**PINELANDS COMPREHENSIVE
MANAGEMENT PLAN**

Authority

N.J.S.A. 13:18A-1 et seq.

Source and Effective Date

R.1981 d.13, effective January 14, 1981.
See: 12 N.J.R. 513(b), 13 N.J.R. 91(e).

Chapter Historical Note

Chapter 50, originally Pinelands Environmental Council, was repealed by R.1980 d.433, effective October 7, 1980. See: 12 N.J.R. 454(b), 12 N.J.R. 643(a). Chapter 50, Pinelands Comprehensive Management Plan, adopted as R.1981 d.13, superseded the interim rules at N.J.A.C. 7:1G, adopted by the Pinelands Commission as R.1980 d.370, effective September 23, 1980. See: 12 N.J.R. 309(a), 12 N.J.R. 575(c). See: Source and Effective Date. Chapter 50 was amended by R.1982 d.131, effective April 19, 1982; Emergency R.1985 d.399, effective July 15, 1985; R.1985 d.494, effective September 12, 1985, and R.1987 d.436, effective November 2, 1987. See: 13 N.J.R. 569(a), 14 N.J.R. 338(a), 17 N.J.R. 1918(a), 17 N.J.R. 2394(a), 18 N.J.R. 2239(a), 19 N.J.R. 2010(a). See, also, section annotations.

Public Notice: Pinelands Commission actions affected by Permit Extension Act, P.L. 1992, c.82. See: 24 N.J.R. 3560(c).

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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

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).

7:50-3.38 Effect on and responsibilities of municipality upon certification

Commission certification of a municipal master plan and land use ordinances shall authorize such municipality to grant, to the extent that it is so authorized by State law or municipal ordinance, any permits or approvals of development within its Pinelands Area jurisdiction subject to N.J.A.C. 7:50-4.31 through 4.42 or N.J.A.C. 7:50-3.81 through 3.85; provided, however, that all such permits or approvals granted, and any other action taken by such municipality with respect to the development or use of land within the Pinelands Area, shall be in strict conformance with the certified municipal master plan, land use ordinances and this Plan.

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).

7:50-3.39 Standards for certification of municipal master plans and land use ordinances

(a) Municipal master plans and land use ordinances, and any parts thereof, shall be certified only if:

1. They are based upon a current and comprehensive inventory and analysis of the natural resources of the municipality prepared by the municipality or any other source. A municipality may use the inventory provided by the Commission;

2. They include provisions which:

i. Regulate the character, location and magnitude of development within the Pinelands Area;

ii. Prescribe standards relating to lot layout, road design and construction, and public utility installation which conform to all similar standards contained in this Plan;

iii. Implement the overall development intensity standards contained in this Plan through minimum lot specifications or other appropriate means;

iv. Are adequate to ensure that all development of land in the Pinelands Area is in conformance with the development standards established by N.J.A.C. 7:50-5 and 6; and

v. Encourage coordinated development along roadways by concentrating commercial development at transportation nodes, providing shared access points, encouraging comprehensive commercial planning and design and use of other appropriate techniques.

3. They provide that no application for development within the Pinelands Area, except as provided in N.J.A.C. 7:50-3.81 through 3.85, shall be determined to be com-

plete by any municipal department, body or agency unless it is accompanied by a Certificate of Filing issued by the Commission pursuant to N.J.A.C. 7:50-4.34 and contains at least the information required by the Commission pursuant to N.J.A.C. 7:50-4.2(b);

4. They provide that municipal review and approval or denial are required for all development in the Pinelands Area except where pre-empted by State or Federal laws or regulations;

5. They include provisions relative to the review and action on applications for forestry operations which:

i. Are designed to implement a clear and straightforward process for the review of forestry applications that does not involve municipal site plan approval;

ii. Require that forestry permits be approved or denied within 45 days after submission of a complete application to a municipality, or within such further time as may be consented to by the applicant;

iii. Provide that failure of a municipality to act within the period prescribed in (a)5ii above shall constitute municipal approval of the permit; and

iv. At the option of the municipality, provide for the establishment of reasonable application fees for forestry permits in accordance with N.J.S.A. 40:55D-8(b) and the posting of financial sureties in accordance with N.J.A.C. 7:50-6.47;

6. They provide that no local permit shall be effective, except as provided in N.J.A.C. 7:50-3.81 through 3.85, until the review procedures in N.J.A.C. 7:50-4.31 through 4.42 have been completed;

7. They include a capital improvements program which demonstrates that adequate and necessary facilities will be available to serve permitted development;

8. They provide for sufficient residentially zoned property to be eligible for an increase in density to accommodate transferred Pinelands Development Credits as provided for in N.J.A.C. 7:50-5, Part IV;

9. If the municipality has established an environmental commission, they provide for referral of applications for development approval to the environmental commission for review and comment;

10. They otherwise are in conformance with and contain all provisions necessary to implement the objectives of this Plan;

11. They demonstrate conformance to the energy conservation requirements of L. 1980, ch. 146;

12. They demonstrate that they are in conformance with the provisions of the Federal Act; and

13. In the event that the distribution and density of land uses at the boundary of a municipality are in conflict with or otherwise inconsistent with the distribution and

density of land uses in adjacent municipalities, they include a description of steps which have been taken to resolve such conflicts including consultation with the county or counties in which the municipalities are located.

(b) Municipalities with areas outside the Pinelands Area but within the Pinelands may request review by the Commission of their land use ordinances and master plans for these areas to determine substantial compliance with the provisions of N.J.A.C. 7:50-5 and 6 of this Plan. Equivalent protection of the resources of the Pinelands will be the overall standard used in such compliance review rather than strict adherence to every standard in N.J.A.C. 7:50-5 and 6. Buffer requirements to wetlands will be evaluated based on the provisions of the Freshwater Wetlands Protection Act rather than on the standards set forth in N.J.A.C. 7:50-6.14. To encourage voluntary compliance, if the Commission determines that the municipality is in substantial compliance with the provisions of N.J.A.C. 7:50-5 and 6, the Commission will rely upon the complying master plans and ordinances, rather than a strict interpretation of this Plan, to provide comment to relevant state and federal regulatory agencies in its role as the planning entity for the Pinelands.

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 (a) added requirement of provisions relative to review and action on applications for forestry operations.

7:50-3.40 Submission to county planning board for preliminary review

When a county has, pursuant to the provisions of N.J.A.C. 7:50-3, Part III, been delegated preliminary review authority with respect to any municipal plan or land use ordinance, the submission required by N.J.A.C. 7:50-3.32 in connection with such plan or ordinance shall be made to such county. Within five days following the submission of the plan and land use ordinances, the county shall forward a copy of such application to the Commission.

7:50-3.41 Setting of hearing and procedures therefor

Within 15 days following the submission of a plan and land use ordinances, the clerk of the county shall set and give notice of, the date, time and place for a hearing thereon. Such hearing shall be held within 30 days following the submission of a plan and land use ordinances.

7:50-3.42 Recommendation of county board

After the hearing held pursuant to N.J.A.C. 7:50-3.41 is completed, the county planning board shall review the plan and land use ordinances and the record of the hearing and shall, within 60 days following receipt of the plan and land use ordinances, submit a report to the Commission setting forth its findings and recommendation as to whether the municipal master plan and land use ordinances are in conformance with the minimum standards of this Plan.

7:50-3.43 Recommendation of Executive Director

Upon receipt of the report of the county planning board with respect to the certification of any municipal master plan and land use ordinances, the Executive Director shall review the findings, conclusions and recommendation of the county planning board and the record of the hearing and shall, within 100 days following receipt of the plan and land use ordinances by the county planning board, submit a report to the Commission setting forth his recommendation as to whether the municipal master plan and land use ordinances should be certified as being in conformance with the minimum standards of this Plan.

7:50-3.44 Action by Commission

Within 120 days following the receipt of the plan and land use ordinances by the county planning board, and following the receipt of the reports of the Executive Director and the county planning board with respect to the certification of such municipal master plan and land use ordinances, the Commission shall review the reports and enter an order as provided in N.J.A.C. 7:50-3.35.

7:50-3.45 Submission and review of amendments to certified municipal master plans and land use ordinances

(a) Submission: No amendments to any part of a certified municipal master plan or land use ordinance shall be effective until the municipality shall have submitted such amendment to the Commission and either the Commission has certified such amendment pursuant to N.J.A.C. 7:50-3.35, or the Executive Director has, pursuant to (b) below notified the municipality that such amendment does not affect the prior certification of the master plan or land use ordinance.

(b) Decision not to review: Within 30 days following receipt of any amendment to a certified master plan or land use ordinance, the Executive Director shall determine whether or not the amendment raises a substantial issue with respect to the conformance of the municipal master plan or land use ordinances with this Plan. If the Executive Director determines that no such substantial issue is raised, he shall certify such fact to the municipal clerk and such amendment shall thereupon take effect in accordance with its terms and applicable law.

(c) Decision to review: If the Executive Director determines that the amendment raises a substantial issue with respect to the conformance of the amended municipal master plan or land use ordinance to this Plan, the amended municipal master plan or land use ordinance shall be reviewed pursuant to N.J.A.C. 7:50-3.33 through 3.44 and the Executive Director shall so inform the municipal clerk.

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

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 a lot smaller than 3.2 acre 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. 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).

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 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.