

## NEW JERSEY STATE LIBRARY

## 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Chapter 50, originally Pinelands Environmental Council, was repealed by R.1980 d.433, effective October 7, 1980.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 Chapter 50, Pinelands Comprehensive Management Plan, adopted as R.1981 d.13, superseded the interim rules at N.J.A.C. 7:1G, adopted by the Pinelands Commission as R.1980 d.370, effective September 23, 1980.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).

## CHAPTER TABLE OF CONTENTS

## SUBCHAPTER 1. GENERAL PROVISIONS

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

- 7:50-1.1 Title
- 7:50-1.2 Authority
- 7:50-1.3 General purpose and intent
- 7:50-1.4 Applicability
- 7:50-1.5 Effective date
- 7:50-1.6 Fees
- 7:50-1.7 Severability
- 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
- 7:50-1.12 Meetings, hearings and procedures
- 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

SUBCHAPTER 2. INTERPRETATIONS AND  
DEFINITIONS

## PART I—INTERPRETATION

- 7:50-2.1 Provisions are minimum requirements
- 7:50-2.2 Construction
- 7:50-2.3 Word usage
- 7:50-2.4 through 7:50-2.10 (Reserved)

## PART II—DEFINITIONS

- 7:50-2.11 Definitions

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

## PART I—PURPOSE

- 7:50-3.1 Purpose
- 7:50-3.2 through 7:50-3.10 (Reserved)

## PART II—CERTIFICATION OF COUNTY PLANS

- 7:50-3.11 Conformance of county master plans and regulations required
- 7:50-3.12 Submission of plan and regulations
- 7:50-3.13 Setting of hearing
- 7:50-3.14 Recommendation of Executive Director
- 7:50-3.15 Certification of county master plans and regulations
- 7:50-3.16 Responsibility of county upon conditional certification or disapproval
- 7:50-3.17 Effect of failure of county to obtain Commission approval of master plan and regulations
- 7:50-3.18 Effect on and responsibilities of county upon certification
- 7:50-3.19 Standards for certification of county master plans and ordinances
- 7:50-3.20 Submission and review of amendments to certified county master plans and ordinances

PART III—DELEGATION TO COUNTY PLANNING  
BOARDS OF PRELIMINARY REVIEW OF  
MUNICIPAL PLANS AND ORDINANCES

- 7:50-3.21 Application by county for delegation
- 7:50-3.22 Delegation by Commission
- 7:50-3.23 List of reviewing counties and notice to municipalities
- 7:50-3.24 Revocation of delegation and notice thereof
- 7:50-3.25 through 7:50-3.30 (Reserved)

## PART IV—CERTIFICATION OF MUNICIPAL PLANS

- 7:50-3.31 Conformance of municipal master plan and land use ordinances required
- 7:50-3.32 Submission of plan and land use ordinances
- 7:50-3.33 Setting of hearing
- 7:50-3.34 Recommendation of Executive Director
- 7:50-3.35 Certification of municipal master plans and land use ordinances
- 7:50-3.36 Responsibility of municipality upon conditional certification or disapproval
- 7:50-3.37 Effect of municipality's failure to obtain Commission certification of master plan and land use ordinances
- 7:50-3.38 Effect on and responsibilities of municipality upon certification
- 7:50-3.39 Standards for certification of municipal master plans and land use ordinances
- 7:50-3.40 Submission to county planning board for preliminary review
- 7:50-3.41 Setting of hearing and procedures therefor
- 7:50-3.42 Recommendation of county board
- 7:50-3.43 Recommendation of Executive Director
- 7:50-3.44 Action by Commission
- 7:50-3.45 Submission and review of amendments to certified municipal master plans and land use ordinances
- 7:50-3.46 through 7:50-3.50 (Reserved)

## PART V—FEDERAL INSTALLATION PLANS

- 7:50-3.51 Conformance of Federal installation master plans
- 7:50-3.52 Elements of Federal installation master plan
- 7:50-3.53 Preparation of the plan for review
- 7:50-3.54 Recommendation of Executive Director

- 7:50-3.55 Review of Federal installation master plans
- 7:50-3.56 Amendments to Federal installation plans
- 7:50-3.57 through 7:50-3.60 (Reserved)

### **PART VI—MODIFICATION OR REVOCATION OF CERTIFICATION OF COUNTY AND MUNICIPAL PLANS AND ORDINANCES**

- 7:50-3.61 Initiation by Executive Director
- 7:50-3.62 Notice and hearing
- 7:50-3.63 Recommendation of Executive Director
- 7:50-3.64 Action by Commission
- 7:50-3.65 Effect of modification, suspension or revocation of Commission certification
- 7:50-3.66 through 7:50-3.70 (Reserved)

### **PART VII—ADOPTION OF RULES AND REGULATIONS FOR UNCERTIFIED AREAS**

- 7:50-3.71 Commission adoption of rules and regulations for uncertified areas
- 7:50-3.72 Preparation and review of rules and regulations
- 7:50-3.73 Public hearing
- 7:50-3.74 Adoption of rules and regulations

### **PART VIII—ALTERNATIVE LOCAL PERMITTING PROGRAMS**

- 7:50-3.81 Purpose of alternative local permitting programs
- 7:50-3.82 Description of alternative permitting programs
- 7:50-3.83 Certification standards
- 7:50-3.84 Assistance and monitoring
- 7:50-3.85 Failure to implement

## **SUBCHAPTER 4. DEVELOPMENT REVIEW**

### **INTRODUCTION**

#### **PART I—UNIFORM PROCEDURES**

- 7:50-4.1 Applicability
- 7:50-4.2 Pre-application conference; application requirements
- 7:50-4.3 Commission hearing procedures
- 7:50-4.4 Waiver of time limits
- 7:50-4.5 Emergency provision
- 7:50-4.6 through 7:50-4.10 (Reserved)

#### **PART II—DEVELOPMENT IN AREAS WITHOUT CERTIFIED LOCAL PLANS**

- 7:50-4.11 Purpose
- 7:50-4.12 Applicability
- 7:50-4.13 Compliance with this part required for development in uncertified areas
- 7:50-4.14 Application for development approval in uncertified municipalities
- 7:50-4.15 Action by Executive Director on application
- 7:50-4.16 Standards for uncertified areas
- 7:50-4.17 Certificate of Completeness required for determination of completeness and action
- 7:50-4.18 Report requirements of local permitting agency with respect to applications for development
- 7:50-4.19 Commission review following preliminary approval
- 7:50-4.20 Decision on review
- 7:50-4.21 Notice of changes made subsequent to local preliminary approval
- 7:50-4.22 Commission review following final local approval
- 7:50-4.23 Public hearing
- 7:50-4.24 Decision on review
- 7:50-4.25 Commission review following local denial
- 7:50-4.26 Decision on review
- 7:50-4.27 Effect of Pinelands Development Approval
- 7:50-4.28 through 7:50-4.30 (Reserved)

### **PART III—REVIEW OF LOCAL PERMITS IN CERTIFIED MUNICIPALITIES**

- 7:50-4.31 Purpose
- 7:50-4.32 Applicability
- 7:50-4.33 Applicant to submit copies of local applications to Commission
- 7:50-4.34 Certificate of Filing; required for determination of completeness
- 7:50-4.35 Report requirements of local permitting agency with respect to applications for development
- 7:50-4.36 Commission staff participation in local review process
- 7:50-4.37 Commission review following preliminary approval
- 7:50-4.38 Decision on review
- 7:50-4.39 Notice of changes made subsequent to local preliminary approval
- 7:50-4.40 Commission review following final local approval
- 7:50-4.41 Public hearing
- 7:50-4.42 Decision on review
- 7:50-4.43 through 7:50-4.50 (Reserved)

### **PART IV—PUBLIC DEVELOPMENT**

- 7:50-4.51 Purpose
- 7:50-4.52 General requirements
- 7:50-4.53 Pre-application conference and submission requirements
- 7:50-4.54 Review of submission by Executive Director
- 7:50-4.55 Rights of appeal
- 7:50-4.56 Action by Commission
- 7:50-4.57 Standards for public development
- 7:50-4.58 Limits on public agency actions
- 7:50-4.59 through 7:50-4.60 (Reserved)

### **PART V—WAIVER OF STRICT COMPLIANCE WITH PROVISIONS OF THE COMPREHENSIVE MANAGEMENT PLAN**

- 7:50-4.61 Purpose
- 7:50-4.62 General standards
- 7:50-4.63 Standards for establishing extraordinary hardship
- 7:50-4.64 Standards for establishing compelling public need
- 7:50-4.65 Substantial impairment and consistency
- 7:50-4.66 Application
- 7:50-4.67 Action by Executive Director on application
- 7:50-4.68 Rights of appeal
- 7:50-4.69 Action by Commission
- 7:50-4.70 Effect of grant of waiver; expiration; recodification; effective date

### **PART VI—LETTERS OF INTERPRETATION**

- 7:50-4.71 Purpose
- 7:50-4.72 Authority
- 7:50-4.73 Request for interpretation
- 7:50-4.74 Interpretation by Executive Director
- 7:50-4.75 Limitations on issuance of use interpretations
- 7:50-4.76 Effect of and limitation on favorable interpretation
- 7:50-4.77 Binding effect of interpretations
- 7:50-4.78 Monthly report
- 7:50-4.79 Appeal
- 7:50-4.80 (Reserved)

### **PART VII—COORDINATED PERMITTING WITH STATE AGENCIES**

- 7:50-4.81 General requirements; applicant to submit application to Executive Director
- 7:50-4.82 Determination of Commission interests; Commission staff participation in State review process
- 7:50-4.83 Notice from State agencies with respect to applications for development
- 7:50-4.84 Referral of matters to state agency
- 7:50-4.85 Referral of matters to Commission by state agency
- 7:50-4.86 through 7:50-4.90 (Reserved)

**PART VIII—RECONSIDERATION  
AND JUDICIAL REVIEW**

- 7:50-4.91 Appeal
- 7:50-4.92 Judicial review

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

**INTRODUCTION**

**PART I—STANDARDS OF GENERAL APPLICABILITY**

- 7:50-5.1 Development in accordance with this plan
- 7:50-5.2 Expansion and changes of existing uses
- 7:50-5.3 Map status
- 7:50-5.4 Height limitations
- 7:50-5.5 Setback standards
- 7:50-5.6 through 5.10 (Reserved)

**PART II—PINELANDS MANAGEMENT AREAS**

- 7:50-5.11 Purpose
- 7:50-5.12 Pinelands Management Areas established
- 7:50-5.13 Goals and objectives of Pinelands Management Areas
- 7:50-5.14 Minimum standards for municipal designation of Special Agricultural Production Areas
- 7:50-5.15 Minimum standards for municipal designation of Agricultural Production Areas
- 7:50-5.16 Guidelines for delineation of boundaries of Pinelands Villages
- 7:50-5.17 Incorporation of Pinelands Management Areas into municipal master plans and land use ordinances
- 7:50-5.18 Minimum residential allocation of density in wetlands
- 7:50-5.19 Cluster development
- 7:50-5.20 (Reserved)

**PART III—MINIMUM STANDARDS FOR LAND  
USE DISTRIBUTION AND INTENSITIES**

- 7:50-5.21 Purpose
- 7:50-5.22 Minimum standards governing the distribution and intensity of development and land use in the Preservation Area District
- 7:50-5.23 Minimum standards governing the distribution and intensity of development and land use in Forest Areas
- 7:50-5.24 Minimum standards governing the distribution and intensity of development and land use in Agricultural Production Areas
- 7:50-5.25 Minimum standards governing the distribution and intensity of development and land use in Special Agricultural Production Areas
- 7:50-5.26 Minimum standards governing the distribution and intensity of land use in Rural Development Areas
- 7:50-5.27 Minimum standards governing the distribution and intensity of development and land use in Pinelands Villages and Towns
- 7:50-5.28 Minimum standards governing the distribution and intensity of development and land use in Regional Growth Areas
- 7:50-5.29 Minimum standards governing the distribution and intensity of development and land use in Military and Federal Installation Areas
- 7:50-5.30 Development transfer programs in Forest Areas and Rural Development Areas
- 7:50-5.31 Minimum standards for substandard lots
- 7:50-5.32 Special provisions for cultural housing
- 7:50-5.33 (Reserved)
- 7:50-5.34 through 7:50-5.40 (Reserved)

**PART IV—PINELANDS DEVELOPMENT  
CREDIT PROGRAM**

- 7:50-5.41 Purpose
- 7:50-5.42 Pinelands Development Credit Program required
- 7:50-5.43 Pinelands Development Credits established

- 7:50-5.44 Limitations on use of Pinelands Development Credits
- 7:50-5.45 Pinelands Development Credit bonus multipliers
- 7:50-5.46 Aggregation of Pinelands Development Credits
- 7:50-5.47 Recordation of deed restriction
- 7:50-5.48 through 7:50-5.50 (Reserved)

**PART V—SPECIAL PINELANDS DEVELOPMENT  
CREDIT PURCHASE PROGRAM**

- 7:50-5.51 Purpose
- 7:50-5.52 Program administration
- 7:50-5.53 Pinelands Development Credit purchases
- 7:50-5.54 Purchase price
- 7:50-5.55 Retirement of Pinelands Development Credits purchased through this program
- 7:50-5.56 through 7:50-5.60 (Reserved)

**PART VI—MINIMUM STANDARDS FOR  
MUNICIPAL RESERVE AREAS**

- 7:50-5.61 Purpose
- 7:50-5.62 Designation of Municipal Reserve Areas
- 7:50-5.63 Development in Municipal Reserve Areas

**SUBCHAPTER 6. MANAGEMENT PROGRAMS AND  
MINIMUM STANDARDS**

**INTRODUCTION**

**PART I—WETLANDS**

- 7:50-6.1 Purpose
- 7:50-6.2 Wetlands management program
- 7:50-6.3 Wetlands
- 7:50-6.4 Coastal wetlands
- 7:50-6.5 Inland wetlands
- 7:50-6.6 Development prohibited
- 7:50-6.7 Significant adverse impact
- 7:50-6.8 Agriculture and horticulture
- 7:50-6.9 Forestry
- 7:50-6.10 Fish and wildlife management
- 7:50-6.11 Low intensity uses
- 7:50-6.12 Water-dependent recreational facilities
- 7:50-6.13 Linear improvements
- 7:50-6.14 Wetland transition areas
- 7:50-6.15 through 7:50-6.20 (Reserved)

**PART II—VEGETATION**

- 7:50-6.21 Purpose
- 7:50-6.22 Vegetation Management Program
- 7:50-6.23 Clearing and soil disturbance
- 7:50-6.24 Revegetation and landscaping plans
- 7:50-6.25 Native shrubs and trees
- 7:50-6.26 Landscaping and revegetation guidelines
- 7:50-6.27 Development prohibited in the vicinity of threatened or endangered plants
- 7:50-6.28 through 7:50-6.30 (Reserved)

**PART III—FISH AND WILDLIFE**

- 7:50-6.31 Purpose
- 7:50-6.32 Fish and wildlife management program
- 7:50-6.33 Protection of threatened or endangered wildlife required
- 7:50-6.34 Protection of wildlife habitat
- 7:50-6.35 through 7:50-6.40 (Reserved)

**PART IV—FORESTRY**

- 7:50-6.41 Purpose
- 7:50-6.42 Forestry management program
- 7:50-6.43 Application requirements
- 7:50-6.44 Time limit on forestry permits and approvals
- 7:50-6.45 Forestry standards
- 7:50-6.46 Additional standards for State forestry practices
- 7:50-6.47 Guidelines and requirements for financial sureties
- 7:50-6.48 through 7:50-6.50 (Reserved)

## PART V—AGRICULTURE

- 7:50-6.51 Purpose
- 7:50-6.52 Agricultural management program
- 7:50-6.53 General agricultural standards
- 7:50-6.54 Exemption from nuisance ordinances ("Right-to-Farm")
- 7:50-6.55 through 7:50-6.60 (Reserved)

## PART VI—RESOURCE EXTRACTION

- 7:50-6.61 Purpose
- 7:50-6.62 Resource extraction management program
- 7:50-6.63 General limitations
- 7:50-6.64 Time limit and scope of resource extraction permits
- 7:50-6.65 Specific limitations in the Preservation Area
- 7:50-6.66 Specific limitations in the Forest Area
- 7:50-6.67 Specific limitations in the Agricultural Production Area
- 7:50-6.68 Resource extraction standards
- 7:50-6.69 Restoration standards
- 7:50-6.70 (Reserved)

## PART VII—WASTE MANAGEMENT

- 7:50-6.71 Purpose
- 7:50-6.72 Waste management program
- 7:50-6.73 General prohibitions
- 7:50-6.74 Recyclables and other special materials
- 7:50-6.75 Landfills
- 7:50-6.76 Transfer stations, collection facilities and recycling centers
- 7:50-6.77 Composting facilities
- 7:50-6.78 Regulated medical waste
- 7:50-6.79 Land application of waste or waste derived materials
- 7:50-6.80 Memoranda of agreement may permit deviations

## PART VIII—WATER QUALITY

- 7:50-6.81 Purpose
- 7:50-6.82 Water quality management program required
- 7:50-6.83 Minimum standards necessary to protect and preserve water quality
- 7:50-6.84 Minimum standards for point and non-point source discharges
- 7:50-6.85 Individual wastewater treatment facility and petroleum tank maintenance
- 7:50-6.86 Water management
- 7:50-6.87 Prohibited chemicals and materials
- 7:50-6.88 through 7:50-6.90 (Reserved)

## PART IX—AIR QUALITY

- 7:50-6.91 Purpose
- 7:50-6.92 Air quality program
- 7:50-6.93 General standard
- 7:50-6.94 Standards for specified development
- 7:50-6.95 through 7:50-6.100 (Reserved)

## PART X—SCENIC

- 7:50-6.101 Purpose
- 7:50-6.102 Scenic management program
- 7:50-6.103 Scenic corridors
- 7:50-6.104 Requirements for scenic corridors
- 7:50-6.105 Requirements for special scenic corridors
- 7:50-6.106 Signs
- 7:50-6.107 Mandatory sign provisions
- 7:50-6.108 Mandatory sign provisions in the Preservation Area District and Special Agricultural Production Areas
- 7:50-6.109 Guidelines for sign provisions outside the Preservation Area District and Special Agricultural Production Areas
- 7:50-6.110 Motor vehicle screening and storage
- 7:50-6.111 Location of utilities

## PART XI—RESERVED

- 7:50-6.112 through 7:50-6.120 (Reserved)

## PART XII—FIRE MANAGEMENT

- 7:50-6.121 Purpose
- 7:50-6.122 Fire management program
- 7:50-6.123 Fire hazard classification
- 7:50-6.124 Fire hazard mitigation standards
- 7:50-6.125 Guidelines for construction
- 7:50-6.126 through 7:50-6.130 (Reserved)

## PART XIII—HOUSING

- 7:50-6.131 through 7:50-6.140 (Reserved)

## PART XIV—RECREATION

- 7:50-6.141 Purpose
- 7:50-6.142 Recreational management plan
- 7:50-6.143 General requirements
- 7:50-6.144 Guidelines for recreational land and facilities
- 7:50-6.145 through 7:50-6.150 (Reserved)

## PART XV—HISTORICAL, ARCHAEOLOGICAL, AND CULTURAL PRESERVATION

- 7:50-6.151 Purpose
- 7:50-6.152 Historic resource management program
- 7:50-6.153 Authorities of municipal officials and agencies
- 7:50-6.154 Designation of historic resources and districts
- 7:50-6.155 Evaluation of development proposals
- 7:50-6.156 Treatment of resources
- 7:50-6.157 Documentation required for sites with sufficient remains
- 7:50-6.158 Emergency provisions

## APPENDIX A PINELANDS SEPTIC DILUTION MODEL

### SUBCHAPTER 7. AMENDMENTS TO THE COMPREHENSIVE MANAGEMENT PLAN

- 7:50-7.1 Purpose
- 7:50-7.2 Authority for amendments
- 7:50-7.3 Petitions for amendment
- 7:50-7.4 Action by Executive Director
- 7:50-7.5 Action by Commission
- 7:50-7.6 Submission to Pinelands Municipal Council
- 7:50-7.7 Submission to Governor and Legislature
- 7:50-7.8 Filing with Secretary of State
- 7:50-7.9 Submission to Secretary of the United States Department of the Interior
- 7:50-7.10 Effective date of amendments
- 7:50-7.11 Comprehensive review of plan by Commission

### SUBCHAPTER 8. ENFORCEMENT

- 7:50-8.1 Civil enforcement

### SUBCHAPTER 9. ACQUISITION OF PROPERTIES WITH LIMITED PRACTICAL USE

- 7:50-9.1 Purpose
- 7:50-9.2 General standards
- 7:50-9.3 Standards for present and potential uses and ownership
- 7:50-9.4 Submission of questionnaires
- 7:50-9.5 Notice of intent to acquire lands
- 7:50-9.6 Determination and record of eligible parcels
- 7:50-9.7 Rights of appeal
- 7:50-9.8 Priorities for acquisition
- 7:50-9.9 Access
- 7:50-9.10 Acquisition funding
- 7:50-9.11 Purchase and conditions
- 7:50-9.12 Landowner right of refusal

### SUBCHAPTER 10. PILOT PROGRAMS

#### PART I—PURPOSE

- 7:50-10.1 Purpose
- 7:50-10.2 through 7:50-10.10 (Reserved)

PART II—TOWNSHIP OF GALLOWAY AND CITY  
OF EGG HARBOR CITY PILOT OFF—SITE  
CLUSTERING PROGRAM

- 7:50-10.11 Authorized Pinelands Management Area adjustments  
7:50-10.12 Zoning provisions for redesignated area  
7:50-10.13 Pinelands Commission approval and evaluation

PART III—TOWNSHIP OF TABERNACLE AND TOWN-  
SHIP OF PEMBERTON PUBLIC EDUCATIONAL  
FACILITIES PILOT PROGRAM

- 7:50-10.14 Authorized Pinelands Management Area adjustments  
7:50-10.15 Zoning provisions for redesignated areas  
7:50-10.16 Pinelands Commission approval and evaluation

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**

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, in such amount as shall from time to time be established by the Commission, to defray the actual costs of processing such application. No application filed pursuant to this Plan shall be considered complete unless all fees required by this Part have been paid. The Commission shall maintain a schedule of such fees and make such schedule available to all persons

upon request. Such schedule shall, in addition to application fees, establish such other fees for Commission services or documents as are required by this Plan or determined by the Commission to be necessary or appropriate to equitably apportion the costs of such services or documents to the users thereof.

**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.

## 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.

## 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 herein 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

## 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.



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; 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.

"Agricultural products processing facility" means a facility designed, constructed, and operated for the express purpose of processing agricultural products grown in the Pinelands, including washing, grading, and packaging of those products.

"Amendment" is a means for making changes in this Plan as expressly authorized by the provisions of N.J.A.C. 7:50-7 or any change to a certified local master plan or land use ordinance.

"Ancillary" means a structure or use which:

1. Is located on the same parcel but is not necessarily related to a principal structure or use; and

2. Is subordinate in area, extent and purpose to the principal structure or principal building.

"Animals, threatened or endangered". See: N.J.A.C. 7:50-6.32.

"Application for development" means any application, filed with any permitting agency, for any approval, authorization or permit which is a prerequisite to initiating development in the Pinelands Area, except as provided in N.J.A.C. 7:50-4.1(a).

"Approval, final" means any approval to develop issued by a local permitting agency which represents the final action to be taken on the application for development by that agency, including but not limited to final approval of major subdivisions and site plans, approval of minor subdivisions, and the issuance of zoning or construction permits.

"Approval, preliminary" means any approval to develop issued by a local permitting agency which is a prerequisite to the issuance of a final approval by that agency, including but not limited to preliminary approvals of major subdivisions and site plans.

"Building" means any structure, either temporary or permanent, having a roof and designed, intended or used for the sheltering or protection of persons, animals, chattel or property of any kind.

"Camper" means a portable structure, which is self propelled or mounted on or towed by another vehicle, designed and used for temporary living for travel, recreation, vacation or other short-term uses. Camper does not include mobile homes or other dwellings.

"Campsite" means a place used or suitable for camping, on which temporary shelter such as a tent or camper may be placed and occupied on a temporary and seasonal basis.

"Certificate of appropriateness". See N.J.A.C. 7:50-6.156.

"Certificate of Completeness". See N.J.A.C. 7:50-4.11 through 4.27.

"Certificate of filing". See N.J.A.C. 7:50-4.34 and 4.82.

"Certified county master plan or regulation" means any county master plan or regulation certified by the Commission pursuant to N.J.A.C. 7:50-3, Part II as being in conformance with the minimum standards of this Plan.

"Certified municipal master plan or land use ordinance" means any municipal master plan or land use ordinance certified by the Commission pursuant to N.J.A.C. 7:50-3, Part IV as being in conformance with the minimum standards of this Plan.

"Collection facility" means a facility where source-separated or commingled waste is dropped off in a container and temporarily stored before transportation to another waste management facility.

"Commencement of construction" means actual construction on a parcel of land in accordance with a permit issued



by the applicable jurisdiction if the cost of the physical improvements completed constitutes at least 25 percent of the projected total cost of the development or the completion of all required foundations, of a form and character such that the foundations are not usable for any other form of development except that authorized by the issued permit.

"Commission" means the Pinelands Commission created pursuant to Section 5 of the Pinelands Protection Act, as amended.

"Composting facility" means a waste management facility which utilizes a controlled biological process of degrading non-hazardous solid waste or sewage sludge. For purposes of this definition, composting facility shall include co-composting facility which utilizes a controlled biological process of degrading mixtures of non-hazardous solid waste, including sewage sludge.

"Comprehensive Management Plan" means the plan adopted by the Commission pursuant to Section 7 of the Pinelands Protection Act, as amended.

"Construction" means the construction, erection, reconstruction, alteration, conversion, demolition, removal or equipping of buildings or structures.

"Construction debris" means non-hazardous solid waste building material and refuse resulting from construction, remodeling, and repair operations on residences, commercial buildings, pavements and other structures.

"Contiguous lands" means land which is connected or adjacent to other land so as to permit the land to be used as a functional unit; provided that separation by lot line, streams, dedicated public roads which are not paved, rights-of-way, and easements shall not affect the contiguity of land unless a substantial physical barrier is created which prevents the land from being used as a functional unit.

"County" means the New Jersey counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Ocean.

"County master plan" means a composite of the master plan for the physical development of a New Jersey county with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the county planning board pursuant to N.J.S.A. 40:27-2 and 40:27-4 or their successor statutes.

"County planning board" means the governing authority responsible for the county planning and organized pursuant to N.J.S.A. 40:27-6.1, and defined therein.

"Day" means, for purposes of computing time limits, a calendar day; provided, however, that should the last day of a specified time limit be a Saturday, Sunday or holiday, then the time limit shall extend until the next working day following said Saturday, Sunday or holiday.

"Density" means the average number of housing units per unit of land.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a development including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the change of or enlargement of any use or disturbance of any land, the performance of any building or mining operation, the division of land into two or more parcels, and the creation or termination of rights of access or riparian rights including, but not limited to:

1. A change in type of use of a structure or land;
2. A reconstruction, alteration of the size, or material change in the external appearance of a structure or land;
3. A material increase in the intensity of use of land, such as an increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land;
4. Commencement of resource extraction or drilling or excavation on a parcel of land;
5. Demolition of a structure or removal of trees;
6. Commencement of forestry activities;
7. Deposit of refuse, solid or liquid waste or fill on a parcel of land;
8. In connection with the use of land, the making of any material change in noise levels, thermal conditions, or emissions of waste material; and
9. Alteration, either physically or chemically, of a shore, bank, or flood plain, seacoast, river, stream, lake, pond, wetlands or artificial body of water.

"Development approval" means any approval granted by the Commission pursuant to N.J.A.C. 7:50-4, Part II, Part III or Part IV.

"Development, major" means any division of land into five or more lots; any construction or expansion of any housing development of five or more dwelling units; any construction or expansion of any commercial or industrial use or structure on a site of more than three acres; or any grading, clearing or disturbance of an area in excess of 5,000 square feet.

"Development, minor" means all development other than major development.

"Development, public" means any development by a public agency.

"District" means a portion of the territory of the Pine-lands Area within which certain regulations and requirements or various combinations thereof apply pursuant to the provisions of this Plan.

"Domestic treatment works" means a public or privately owned treatment works that processes primarily domestic wastewater and pollutants.

"Domestic wastewater" means wastewater which results from the discharge of household, commercial or other wastes from bathrooms, toilet facilities, home laundries and kitchens.

"Drainage" means the removal of surface water or ground water from land by drains, grading or other means including control of runoff to minimize erosion and sedimentation during and after construction or development and means necessary for water supply preservation or prevention or alleviation of flooding.

"Dwelling" means any structure or portion thereof which is designed or used for residential purposes.

"Dwelling unit" means any room or group of rooms located within a structure forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, eating and sanitation by one family.

"Electric distribution lines" means all electric lines other than electric transmission lines.

"Electric transmission lines" means electric lines which are part of an electric company's transmission and sub-transmission system, which provide a direct connection between a generating station or substation of the utility company and: (a) another substation of the utility company; (b) a substation of or interconnection point with another interconnecting utility company; (c) a substation of a high-load customer of the utility.

"Enlargement" means an addition to the floor area of an existing building, an increase in the size of any other existing structure or an increase in that portion of a tract of land occupied by an existing use.

"Erosion" means the detachment and movement of soil rock fragments by water, wind, ice or gravity.

"Executive Director" means the chief administrative officer of the Commission or any representative designated by such chief administrative officer to perform any functions delegated to such chief administrative officer pursuant to any provision of this Plan.

"Fair market value" means the value of a parcel based on what a willing buyer will pay a willing seller in an arms length transaction for the parcel if no Waiver of Strict Compliance is approved. For undersized lots, the determination of fair market value shall include consideration of the

extent to which the parcel would contribute to the value of a developable parcel if combined with one or more parcels.

"Family" means one or more persons related by blood, marriage, adoption or guardianship, or any number of persons not so related occupying a dwelling unit and living as a single housekeeping unit.

"Family, immediate". See "Immediate family".

"Federal Act" means Section 502 of the National Parks and Recreation Act of 1978 (PL 95-625).

"First order stream" means that portion of a stream, as identifiable on the USGS 7½ foot quadrangle maps, from the point of upstream origin, downstream to the first point of intersection with another branch, stream or tributary.

"Fish and wildlife management" means the changing of the characteristics and interactions of fish and wildlife populations and their habitats in order to promote, protect and enhance the ecological integrity of those populations.

"Flood plain" means the relatively flat area adjoining the channel of a natural stream, which has been or may be hereafter covered by flood water.

"Floor area" means the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls, or from the centerline of a wall separating two buildings.

"Forestry" means the planting, cultivating and harvesting of trees for the production of wood products, including firewood. It includes such practices as reforestation, site preparation and other silvicultural practices. For purposes of this Plan, the following activities shall not be defined as forestry:

1. Removal of trees located on a parcel of land one acre or less on which a dwelling has been constructed;
2. Horticultural activities involving the planting, cultivating or harvesting of nursery stock or Christmas trees;
3. Removal of trees necessitated by the development of the parcel as otherwise authorized by this Plan;
4. Removal of trees necessary for the maintenance of utility or public rights-of-way;
5. Removal or planting of trees for the personal use of the parcel owner; and
6. Removal of trees for public safety.

"Forestry management plan". See N.J.A.C. 7:50-4.2(b)6ii.

"Forest stand" means a uniform group of trees of similar species, size, and age.

“Habitat” means the natural environment of an individual animal or plant, population, or community.

“Hazardous or toxic substances” means such elements, compounds and substances which pose a present or potential threat to human health, living organisms or the environment. They consist of all hazardous or toxic substances defined as such by the Department of Environmental Protection and the Environmental Protection Agency as of May 20, 1996 and any other substances defined as hazardous or toxic by the Department of Environmental Protection and the Environmental Protection Agency subsequent to May 20, 1996.

“Hazardous waste” means any waste or combination of wastes, including toxic, carcinogenic, corrosive, irritating, sensitizing, radioactive, biologically infectious, explosive or flammable waste, which poses a present or potential threat to human health, living organisms or the environment. They consist of all hazardous wastes defined as such by the Department of Environmental Protection and the Environmental Protection Agency as of May 20, 1996 and any other wastes defined as hazardous by the Department of Environmental Protection and the Environmental Protection Agency subsequent to May 20, 1996.

“Height of building” means the vertical distance measured from grade to the highest point of the roof for flat roofs, to the deck line for mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

“Historic Preservation Commission”. See N.J.A.C. 70:50-6.153.

“Historic resource” means any site, building, area, district, structure or object important in American history or prehistory, architecture, archaeology and culture at the national, state, county, local or regional level.

“Home occupations” means an activity for economic gain, carried out in a residential dwelling or accessory structure thereto, in which an occupant of the residence and no more than two other individuals are employed and which is clearly secondary to the use of the dwelling as a residence.

“Household hazardous waste” means any hazardous waste material derived from households, including single-family and multi-family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas.

“Hydrophytes” means any plant growing in water or in substrate that is at least periodically deficient in oxygen as a result of excessive water content.

“Immediate family” means those persons related by blood or legal relationship in the following manner: husbands and wives, great-grandparents, grandparents, great-grandchildren, grandchildren, parents, sons, daughters, brothers and sisters, aunts and uncles, nephews, nieces and first cousins.

“Impermeable surface” means any surface which does not permit fluids to pass through or penetrate its pores or spaces.

“Incinerator” means a thermal device in which waste is burned and results in volume reduction. For purposes of this definition, it shall include a facility used to obtain energy but shall not include a facility where methane gas burnoff occurs in association with an approved landfill closure and post-closure plan.

“Institutional use” means any land used for the following public or private purposes: educational facilities, including universities, colleges, elementary and secondary and vocational schools, kindergartens and nurseries, cultural facilities such as libraries, galleries, museums, concert halls, theaters and the like; hospitals, including such educational, clinical, research and convalescent facilities as are integral to the operation of the hospital; medical and health service facilities, including nursing homes, supervised residential institutions, rehabilitation therapy centers and public health facilities; law enforcement facilities; military facilities; churches; public office buildings; cemeteries; and other similar facilities.

“Interested person” means any persons whose right to use, acquire or enjoy property is or may be affected by any action taken under this Plan, or whose right to use, acquire or enjoy property under this Plan or under any other law of this State or of the United States has been denied, violated or infringed upon by an action or a failure to act under this Plan.

“Interim rules and regulations” means the regulations adopted by the Pinelands Commission pursuant to the Pinelands Protection Act to govern the review of applications from the adoption of the regulations until the Comprehensive Management Plan took effect on January 14, 1981. These regulations were formerly codified as N.J.A.C. 7:1G-1 et seq.

“Land” includes the surface and subsurface of the earth as well as improvements and fixtures on, above, or below the surface and any water found thereon.

“Landfill” means a site where any waste is disposed of by application on or into the land, with or without the use of management practices or soil covering. It does not include a site where land application of waste or waste derived material occurs in accordance with N.J.A.C. 7:50-6.79.

“Landscaping” means the installation of plant material or seed as part of development.

"Land use ordinance" or "land use regulation" means any county or municipal ordinance or regulation which, in any way, regulates or affects the development of land.

"Lawful use" means a use of land, building or structure, or portion thereof, that is permitted under all relevant local, State and Federal land use, nuisance and environmental statutes.

"Leachate collector", for the purposes of this Plan, shall mean attributed to the phrase by, and each such "leachate collector" shall conform to the requirements of the New Jersey Solid Waste Administration.

"Local communications facility" means an antenna and any support structure, together with any accessory facilities, which complies with the standards in N.J.A.C. 7:50-5.4 and which is intended to serve a limited, localized audience through point to point communication, including cellular telephone cells, paging systems and dispatch communications. It does not include radio or television broadcasting facilities or microwave transmitters.

"Local permitting agency" means any county or municipal official, department agency or other body authorized to rule on any application for development.

"Lot" means a designated parcel, tract or area of land designated for use or development as a unit.

"Mobile home" means a dwelling unit manufactured in one or more sections, designed for long-term occupancy and which can be transported after fabrication to a site where it is to be occupied.

"Municipal master plan" means a composite of one or more written or graphic proposals for development of the municipality as set forth and adopted pursuant to N.J.S.A. 40:55-28.

"Municipality" means any city, borough, town or township wholly or partially located within the Pinelands Area or Pinelands National Reserve.

"Navigable waters" means water capable of being traversed by pleasure craft.

"Off-site commercial advertising sign" means a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

"Parcel" means any quantity of land, consisting of one or more lots, that is capable of being described with such definiteness that its location and boundaries may be established.

"Person" means an individual, corporation, public agency, business trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

"Pinelands" means the Pinelands National Reserve and the Pinelands Area.

"Pinelands Area" means that area designated as such by Section 10(a) of the Pinelands Protection Act.

"Pinelands Development Review Board" means the agency responsible from February 8, 1979 until June 28, 1979 for the review of and action on applications for development in the Pinelands Area which required approvals of other state agencies, except where the Pinelands Commission acted on applications during that time period.

"Pinelands National Reserve" means that area designated as such by Section 3(i) of the Pinelands Protection Act.

"Pinelands Protection Act". See: N.J.S.A. 13:18A-1 to 29.

"Pinelands resource related use" means any use which is based on resources which are indigenous to the Pinelands including but not limited to forest products, berry agriculture and sand, gravel, clay or ilmenite.

"Plants, threatened or endangered" means a Pinelands plant species whose survival worldwide, nationwide, or in the state is in jeopardy.

"Plat" means one or more maps of a subdivision or a site plan which shows the location, boundaries and ownerships of individual properties.

"Plan" means the Comprehensive Management Plan for the Pinelands.

"Pre-application conference". See N.J.A.C. 7:50-4.2.

"Preservation Area" means that area so designated by Section 10(b) of the Pinelands Protection Act.

"Protection Area" means all land within the Pinelands Area which is not included in the Preservation Area.

"Public agencies" means the government of the United States of America; the State of New Jersey or any other state; their political subdivisions, agencies or instrumentalities; and interstate and regional agencies exercising sovereign powers of government.

"Public services" means sewer service, gas, electricity, water, telephone, television and other public utilities, roads and streets and other similar services provided or maintained by any public or private entity.

"Public service infrastructure" means sewer service, gas, electricity, water, telephone, cable television and other public utilities developed linearly, roads and streets and other similar services provided or maintained by any public or private entity.

"Recommended management practice" means the management program which employs the most efficient use of available technology, natural, human and economic resources.

"Record tree" means the largest tree of a particular species in New Jersey based on its circumference at 4.5 feet above ground level. A listing of the largest known tree of each species and its location is maintained at the principal office of the Commission.

"Recreational facility, intensive" means any recreational facility which does not satisfy the definition of low intensive recreational facility including but not limited to golf courses, marinas, amusement parks, hotels, and motels.

"Recreational facility, low intensive" means a facility or area which complies with the standards in N.J.A.C. 7:50-5, Part III, utilizes and depends on the natural environment of the Pinelands and requires no significant modifications of that environment other than to provide access, and which has an insignificant impact on surrounding uses or on the environmental integrity of the area. It permits such low intensity uses as hiking, hunting, trapping, fishing, canoeing, nature study, orienteering, horseback riding, and bicycling.

"Recyclable material" means the following materials which would otherwise become solid waste and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products: source-separated non-putrescible metal, glass, paper, plastic containers, corrugated and other cardboard; vegetative waste; waste concrete; asphalt; brick; block; asphalt-based roofing scrap and wood waste; other waste resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings, pavements and other structures; whole trees, tree trunks, tree parts, tree stumps, brush and leaves that are not composted; scrap tires; petroleum contaminated soil that is delivered to a non-mobile in-State asphalt plant, concrete production plant or brick-making facility for incorporation as a raw material; and petroleum contaminated soil that is processed at its point of generation by mobile recycling equipment which produces asphalt, concrete or bricks by incorporating it as a raw material in its mobile production process.

"Recycling center" means a facility designed and operated solely for receiving, storing, processing or transferring recyclable materials, except that recycling center shall not include a manufacturer. For purposes of this definition, processing may include, but is not necessarily limited to, separating by type, grade or color, crushing, grinding, shredding or baling.

"Regulated medical waste" means any waste regulated pursuant to the New Jersey Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 et seq.

"Remediation" means a process to remove or treat a waste or hazardous or toxic substance from soil or water but does not include any subsequent burial or land application of contaminated soil or other solids.

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

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

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

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

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

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

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

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

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

1. Divisions of property by testamentary or intestate provisions;
2. Divisions of property upon court order; and

3. Conveyances so as to combine existing lots by deed or other instrument.

The term "subdivision" shall also include the term "resubdivision".

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

"Suitable sewage sludge" means sewage sludge in which the concentrations of any metals, measured on a dry weight basis, do not exceed the following limits: 10 parts per million arsenic; 40 parts per million cadmium; 1,000 parts per million chromium; 1,200 parts per million copper; 4,800 parts per million lead; 10 parts per million mercury; 1,250 parts per million nickel; and 2,400 parts per million zinc. The metal concentration limits used to define suitable sewage sludge are identical to those set forth in the Department of Environmental Protection's September 1993 draft Solid Waste Management State Plan Update for Class B sludge.

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

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

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

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

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

"Waste" means any hazardous waste, regulated medical waste, garbage, refuse, septage, sludge, discarded materials, and other by-products and substances which become unsuitable for their original purpose, resulting from industrial, commercial and agricultural operations and from domestic and community activities. They shall include solid and

liquid waste materials. For purposes of this definition, liquids which are released from a sewage treatment plant or on-site septic waste water treatment system and solid animal and vegetable wastes collected by swine producers licensed by the New Jersey Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms shall not be considered waste.

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

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

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

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

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

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

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

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

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

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



iii. The wetland is an actively cultivated non-berry agricultural field which was cleared and in production prior to February 8, 1979; and

3. The wetland is not:

- i. An Atlantic white cedar swamp;
- ii. A wetland which is frequently ponded or flooded for a period of at least seven days during the growing season;
- iii. A herbaceous or shrub dominated wetland type found in naturally occurring circular or nearly circular depressions within upland or wetland complexes;
- iv. Located within 300 feet of a lake, pond, river or permanent stream; or
- v. A wetlands supporting plant species which are designated as endangered pursuant to N.J.S.A. 13:1B-15.151 et seq. or a supporting plant or wildlife species designated as threatened or endangered pursuant to N.J.A.C. 7:50-6.27 and N.J.A.C. 7:50-6.33.

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

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

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

"Certificate of Compliance" added. "Certificate of Conformity" deleted.

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

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

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

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

Substantially amended.

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

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

Substantially amended.

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

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

Corrected errors in "Parcel" and "Subdivision".

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

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

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

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

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

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

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

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

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

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

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

#### Case Notes

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

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

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

### PART I—PURPOSE

#### 7:50-3.1 Purpose

(a) The Pinelands Protection Act is a legislative determination that management and protection of the essential character and ecological values of the Pinelands require a regional perspective in the formulation and implementation of land use policies and regulations. The Act also recognizes, as does this Plan, that local government participation in the management process is fundamental to achieving the goals and objectives of the Act. The Act and this Plan contemplate that local governments will be the principal management entities implementing the Plan, with the Pinelands Commission providing technical assistance to local authorities, monitoring development review and updating the Plan.

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

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



**7:50-4.57 Standards for public development**

(a) The Commission shall approve or conditionally approve an application filed pursuant to this Part only if the development as proposed, or with any conditions which are imposed:

1. Satisfies all of the standards established by N.J.A.C. 7:50-5 and 6 or a certified local plan and if a local agency of a certified municipality or certified county is seeking approval, the provisions of the certified ordinances and master plan of that jurisdiction; and

2. If the proposed development includes any public roads, the applicant demonstrates that: alternative locations or transportation modes including mass transit and non-motorized methods cannot be employed to satisfy transportation needs; and public fishing, crabbing or canoe access facilities in association with bridge crossings will be provided as appropriate.

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

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

Recodified from 4.46.

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

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

Recodified from 4.56.

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

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

**7:50-4.58 Limits on public agency actions**

No public agency shall carry out any development which has been disapproved by the Commission pursuant to this Part, nor shall any public agency initiate any proposed development which has been approved with conditions by the Commission pursuant to this Part unless the conditions imposed are incorporated into the proposed development.

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

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

Recodified from 4.47 and substantially amended.

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

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

Recodified from 4.57.

**7:50-4.59 through 7:50-4.60 (Reserved)**

**PART V—WAIVER OF STRICT COMPLIANCE  
WITH PROVISIONS OF THE COMPRE-  
HENSIVE MANAGEMENT PLAN**

**7:50-4.61 Purpose**

This Part establishes procedures and standards pursuant to which the Commission may waive strict compliance with the Plan. Waivers from the standards of N.J.A.C. 7:50-5 or 6 may be granted in limited circumstances. Waivers granted pursuant to this Part are intended to provide relief where strict compliance with this Plan will create an extraordinary hardship or where the waiver is necessary to serve a compelling public need. The relief provided will be consistent with

the protection of the resources of the Pinelands. The relief granted will only be the minimum necessary to alleviate the extraordinary hardship or the compelling public need. For some extraordinary hardship cases, the minimum relief granted will allow the development of the parcel in question; in others the minimum relief will include an allocation of Pinelands Development Credits. These provisions are designed to provide all property owners with at least a minimum beneficial use of their parcels consistent with constitutional requirements. For some compelling public need cases, special measures may need to be taken so there will be an overall improvement to the resources of the Pinelands.

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

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

Recodified from 4.51.

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

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

Additional rationale for granting of relief explained.

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

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

Substituted "parcel" for "property" throughout the section.

**Case Notes**

Pinelands Commission may consider application for waiver of strict compliance with Comprehensive Management Plan. *Riorano, Inc. v. Weymouth Twp.*, 209 N.J.Super. 280, 507 A.2d 311 (App.Div.1986).

Petitioner denied waiver of strict compliance with provisions of Comprehensive Management Plan for the Pinelands which establish minimum standards for septic wastewater treatment systems for failure to prove extraordinary hardship. *Kruckner v. New Jersey Pinelands Commission*, 10 N.J.A.R. 237 (1988).

Regulation provides for waiver of strict compliance with restrictions upon application where proposed use is not a permitted use in the zone (citing former N.J.A.C. 7:50-4.51). *Hanoverland Industries v. Pinelands Commission*, 8 N.J.A.R. 529 (1985).

Strict compliance with Pinelands restrictions may be waived in certain cases (citing former N.J.A.C. 7:50-4.51). *Pfeiffer v. Pinelands Commission*, 8 N.J.A.R. 317 (1985).

**7:50-4.62 General standards**

(a) Waivers may only be granted when either:

1. An extraordinary hardship has been established pursuant to N.J.A.C. 7:50-4.63(a) or (b); or

2. A compelling public need has been established pursuant to N.J.A.C. 7:50-4.64.

(b) Notwithstanding (a)1 above, the requested relief may not be granted if it will either result in a substantial impairment of the resources of the Pinelands or be inconsistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act or this Plan pursuant to the criteria set forth in N.J.A.C. 7:50-4.65.

(c) Notwithstanding (a) and (b) above, the requested relief may not be granted if it will involve trespass or create a public or private nuisance by being materially detrimental or injurious to other property or improvements in the area in which the subject parcel is located, increase the danger of fire or endanger public safety.

(d) When approved, the waiver may only grant the minimum relief necessary to relieve the extraordinary hardship or satisfy the compelling public need.

1. Any waiver which grants relief from the standards of this Plan to permit development of the parcel in question shall require:

i. The reduction as set forth in N.J.A.C. 7:50-5.43(b)3 of any Pinelands Development Credits which are allocated to the parcel pursuant to N.J.A.C. 7:50-5.43(b);

ii. The acquisition and redemption of any Pinelands Development Credits that are otherwise required pursuant to N.J.A.C. 7:50-5.27, 5.28 or 5.32;

iii. The acquisition and redemption of 0.25 Pinelands Development Credits for each standard in N.J.A.C. 7:50-6 from which the waiver provides relief, up to a maximum of 0.50 Pinelands Development Credits. Nothing in this subparagraph shall be construed as relieving an applicant of the requirement to reduce a Pinelands Development Credit allocation or acquire and redeem Pinelands Development Credits pursuant to (d)1i and ii above. The requirements of this subparagraph shall not apply to the following:

(1) State projects located on and directly related to the management and use of State conservation lands;

(2) Projects essential for the remediation of a site contaminated with wastes or hazardous or toxic substances; and

(3) Projects which qualify for a Waiver of Strict Compliance based on compelling public need pursuant to N.J.A.C. 7:50-4.64 and which involve one or more of the criteria set forth in N.J.A.C. 7:50-4.65(b); and

iv. The development meets the criteria set forth in N.J.A.C. 7:50-4.65(c) if the waiver is based on compelling public need pursuant to N.J.A.C. 7:50-4.64 and involves one or more of the criteria set forth in N.J.A.C. 7:50-4.65(b).

2. Any parcel for which an extraordinary hardship otherwise exists pursuant to N.J.A.C. 7:50-4.63(b) but which is precluded from on-site development pursuant to N.J.A.C. 7:50-4.63(b)4 and 4.65(b) shall receive an additional use right of an allocation of Pinelands Development Credits based on the fair market value of the parcel. The allocation shall be based on the market value of the Pinelands Development Credits at the time the application for a waiver is completed, provided that the applicant shall be entitled to a minimum allocation of 0.25 Pinelands Development Credits. Unless severed from the parcel pursuant to N.J.A.C. 7:50-5.47, any conveyance, sale or transfer of the parcel shall include the Pinelands Development Credits allocated herein. The applicant shall be entitled to demonstrate that the allocation of Pinelands Development Credits based on fair market value in conjunction with the permitted uses on the parcel does not give the parcel a beneficial use. If the applicant believes that even considering this allocation of Credits the parcel does not have a beneficial use, the applicant is entitled to appeal the allocation pursuant to N.J.A.C. 7:50-4.68.

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

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

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

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

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

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

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

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

Amended by R.1996 d.465, effective October 7, 1996.

See: 28 N.J.R. 2454(a), 28 N.J.R. 4478(a).

#### Case Notes

Waiver of strict compliance with the Pinelands Comprehensive Management Plan, allowing development of a single-family dwelling within 300 feet of wetlands, granted. *Hansen v. Pinelands Commission*, 94 N.J.A.R.2d (EPC) 1.

#### 7:50-4.63 Standards for establishing extraordinary hardship

(a) An extraordinary hardship is deemed to exist when the applicant demonstrates based on specific facts and the Pinelands Commission verifies that all of the following conditions exist:

1. Except as provided in (a)1v below, the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for one of the following:

i. Cultural housing pursuant to N.J.A.C. 7:50-5.32 on a parcel at least 1.0 acres in size;

ii. A single family dwelling or a permitted commercial use within an infill area designated pursuant to N.J.A.C. 7:50-5.22(b)7 and located on a parcel at least 1.0 acres in size;

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. Any municipal variance for an approval of residential development approved in a zone in which residential development is not otherwise permitted shall require that Pinelands Development Credits be used for all dwelling units in such development.

6. Any municipal variance for an approval of 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, shall require that Pinelands Development Credits be used at the maximum rate permitted for Pinelands Development Credit use in the zone in which the development is located. This requirement shall not apply to the expansion of or changes to existing uses in accordance with N.J.A.C. 7:50-5.2 or to uses that were constructed based upon an approval granted pursuant to the provisions of this Plan.

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.

#### 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. *Cariño 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

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 (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 through 7:50-5.40 (Reserved)

## PART IV—PINELANDS DEVELOPMENT CREDIT PROGRAM

### 7:50-5.41 Purpose

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

### 7:50-5.42 Pinelands Development Credit Program required

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



**7:50-5.43 Pinelands Development Credits established**

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

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

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

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

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

iii. Other uplands: one Pinelands Development Credit per 39 acres; and

iv. Wetlands: two-tenths Pinelands Development Credits per 39 acres.

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

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

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

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

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

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

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

i. Any parcel of 10 acres or less which is developed for a commercial, industrial, resource extraction, inten-

sive recreation, institutional, campground or landfill use shall not receive Pinelands Development Credit entitlement. For such an improved parcel of more than 10 acres, the area actively used for such use or 10 acres, whichever is greater, shall not receive Pinelands Development Credit entitlement.

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

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

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

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

6. The total allocations made pursuant to (b)4 and 5 above to any owner of record shall not exceed one-half of a Pinelands Development Credit. At such time as the application of (b)4 and 5 above would exceed a total allocation of one-half of a Pinelands Development Credit to an owner, all remaining lands of that owner in excess of that needed to yield the one-half Pinelands Development Credit allocation shall be entitled to an allocation of Pinelands Development Credits according to the allocation formulas specified in (b)1, 2 and 3 above.

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

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

Added "District" to (b)1.  
Amended by R.1990 d.170, effective March 19, 1990.