

8. Hydrologic Soil Group, Plate 8, as amended as of August 21, 1995;

9. Soil Factors Limiting Use for Septic Tank Absorption Fields, Plate 9, as amended as of August 21, 1995;

10. Vegetation, Plate 10, as amended as of August 21, 1995;

11. Wildland Fire Hazard Classification, Plate 11, as amended as of August 21, 1995;

12. Watersheds Supporting Characteristics Pinelands Aquatic Communities, Plate 12;

13. Prehistoric Archaeologic Resources, Plate 13, as amended as of August 21, 1995;

14. Historic, Archaeologic and Architectural Resources, Plate 14, as amended as of August 21, 1995;

15. Cultural Subregions, Plate 15, as amended as of August 21, 1995;

16. Land Use, Plate 16, as amended as of August 21, 1995;

17. Sewer Service Areas, Plate 17, as amended as of August 21, 1995;

18. Water Service Areas, Plate 18, as amended as of August 21, 1995;

19. Solid Waste Disposal Sites, Plate 19, as amended as of August 21, 1995;

20. Transportation Systems, Plate 20, as amended as of August 21, 1995;

21. Major Public Land Holdings, Plate 21, as amended as of August 21, 1995;

22. Resource Extraction Areas, Plate 22, as amended as of August 21, 1995;

23. Ecological Critical Area Importance Values, Plate 27, as amended as of August 21, 1995;

24. Land Capability, Plate 28, as amended as of June 19, 2006;

25. Zoning maps, master plans and land use ordinances certified by the Commission under the provisions of N.J.A.C. 7:50-3;

26. Special Areas Map, Figure 7.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Amended by R.2005 d.171, effective June 6, 2005.

See: 36 N.J.R. 4401(a), 37 N.J.R. 172(a), 37 N.J.R. 2013(b).

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

Amended by R.2006 d.221, effective June 19, 2006.

See: 38 N.J.R. 49(a), 38 N.J.R. 2711(a).

Substituted "June 19, 2006" for "June 6, 2005" in (a)24.

7:50-5.4 Height limitations

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

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

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

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

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

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

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

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

(1) In a certified municipal commercial or industrial zone, including a mixed use zone which permits a variety of non-residential uses. If the facility is proposed in an industrial zone within the Forest or Preservation Area District where resource extraction is the primary permitted use, the facility shall be located on the parcel of an approved resource extraction operation in accordance with (c)4vi(3) below;

(2) On developed publicly owned lands within 500 feet of an existing structure, provided that the facility will be located on previously disturbed lands that have not subsequently been restored and that no facility will be located on State, county, or municipal

conservation lands, State recreation lands or county and municipal lands used for low intensity recreational purposes;

(3) On the parcel of an approved resource extraction operation, provided that the facility will be located on previously disturbed lands that have not subsequently been restored;

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

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

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

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

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

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

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

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

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

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

pursuant to this section. Any oversized facility shall be reduced within 12 months of the certification.

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

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

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

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

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

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

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

In (c)7 substituted 7:50-6.24 for 7:50-6.23(a)1 through 6.

Amended by R.2006 d.221, effective June 19, 2006.

See: 38 N.J.R. 49(a), 38 N.J.R. 2711(a).

Inserted "and in the Parkway Overlay District" in (a).

7:50-5.5 Setback standards

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

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

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

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

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

PART II—PINELANDS MANAGEMENT AREAS

7:50-5.11 Purpose

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

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

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

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

3. A single management area change would:

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

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

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

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

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

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

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

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

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

(c) In order to ensure that special resources and existing uses in the Pinelands are recognized and addressed in an appropriate manner which ensures that the minimum standards of this Plan are met, the Commission hereby finds that it is necessary to establish overlay districts governing such special resources and existing uses. The boundaries of the overlay districts are set forth on the Land Capability Map identified in N.J.A.C. 7:50-5.3. Lands within these overlay districts retain their Pinelands management area designations. The overlay district designation provides a mechanism for the imposition of more targeted standards governing the distribution and intensity of development within specific geographic portions of the various Pinelands management areas in order to accomplish important land use objectives. The boundaries of the overlay districts may be refined and/or adjusted through the Commission's certification of municipal master plans and land use ordinances pursuant to N.J.A.C. 7:50-3, provided that the Commission determines that the goals and objectives of this Plan will be implemented by the proposed municipal master plan or land use ordinance under the municipal plan certification procedures of N.J.A.C. 7:50-3.

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

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

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

Amended by R.2006 d.221, effective June 19, 2006.

See: 38 N.J.R. 49(a), 38 N.J.R. 2711(a).

Added (c).

Case Notes

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

7:50-5.12 Pinelands Management Areas and Parkway Overlay District established

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

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

(b) The following Pinelands Overlay District is hereby established: