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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 Pinelands 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. Dwelling unit shall include each separate apartment or unit where one or more individuals reside within an assisted living facility and each room, apartment, cottage or other

area within a continuing care retirement community set aside for the exclusive use or control of one or more individuals constituting a household unit.

“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 subtransmission 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, rehabilitation therapy centers and public health facilities; law enforcement facilities; military facilities; churches; public office buildings; cemeteries; and other similar facilities. For purposes of this Plan, institutional use shall not include medical offices which are not associated with hospitals or other medical or health service facilities, nor shall it include assisted living 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.

“Nonconforming use” means a use or activity, which was lawful prior to the adoption or amendment of this Plan, but which fails to conform to the requirements of the municipal zoning district and/or Pinelands management area in which it is located by reasons of adoption or amendment of this Plan.

“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. For agricultural or horticultural purpose or use, parcel includes noncontiguous lands in common ownership which have an active production history as a unit or where a farm management plan has been prepared which demonstrates that the parcels will be farmed as a unit.

“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 the extracted material on the same parcel by the landowner.

“Resource extraction, agricultural” means those resource extraction activities accessory to an existing agricultural or horticultural use which meet the standards contained in N.J.A.C. 7:50-6.55 or which do not require an application to the Pinelands Commission pursuant to N.J.A.C. 7:50-4.1(a) 19.

“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 Depart-

ment 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”.

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

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

Inserted “Assisted living facility” and “Continuing care retirement community”; in “Dwelling unit”, added a second sentence; and in “Institutional use”, deleted a reference to supervised residential institutions, and added a second sentence.

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

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

In “Agricultural or horticultural purpose or use”, inserted “aquatic organisms as part of aquaculture;” following “fur animals;”; added “Aquaculture” and “Aquatic organisms”.

Amended by R.2001 d.454, effective December 3, 2001.

See: 33 N.J.R. 2005(a), 33 N.J.R. 4133(a).

Rewrote “Parcel”; in “Resource extraction” insert “on the same parcel” following “material”; added “Resource extraction, agricultural”.

Amended by R.2002 d.247, effective August 5, 2002.

See: 34 N.J.R. 722(a), 34 N.J.R. 2804(b).

Added “Alternate design pilot program treatment system”.

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).

Added “Consumer electronics”.

Amended by R.2007 d.372, effective December 3, 2007.  
See: 39 N.J.R. 1970(a), 39 N.J.R. 5077(b).

Added definitions "Abandonment" and "Nonconforming use"; and in definition "Alternate design pilot program treatment system"; deleted paragraph 1 and recodified paragraphs 2 through 5 as paragraphs 1 through 4.

#### Case Notes

New Jersey Pinelands Commission was entitled to a preliminary injunction preventing construction of a solid waste transfer facility in the Pinelands National Reserve based on failure by a railroad and the purported owners and operators of the facility site to obtain regulatory approvals under the National Parks and Recreation Act of 1978, 16 U.S.C.S. § 471i et seq., the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and the Commission's Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.; the Commission was likely to succeed on its claim that regulation of the facility was not within the exclusive jurisdiction of the Surface Transportation Board pursuant to 49 U.S.C.S. § 10501(b). *J.P. Rail, Inc. v. New Jersey Pinelands Comm'n*, 404 F.Supp.2d 636, 2005 U.S. Dist. LEXIS 36411 (D.N.J. 2005).

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.

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.

### 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

## Case Notes

Regulations set forth the minimum standards for protection of the Pinelands. *Fine v. Galloway Twp. Committee*, 190 N.J. Super. 432, 463 A.2d 990 (Law Div. 1983).

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

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

Amended by R.1995 d.449, effective August 21, 1995.  
See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

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

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

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

2. They include provisions which:

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

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

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

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

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

vi. Implement Pinelands management area and zoning district boundaries in a manner which provides

consistent treatment of similarly situated lands and considers the suitability of lands for their assigned management area and zoning district designations as they relate to the standards and objectives of this Plan;

vii. Enable permitted densities in each Regional Growth Area zoning district in which residential development is permitted to be reasonably achieved in most cases; and

viii. Establish and implement a mitigation plan as part of any municipal stormwater management plan and ordinance adopted in accordance with N.J.A.C. 7:8-4.2(c)11 which:

(1) Identifies those measures necessary to offset the granting of exceptions to the standards set forth in N.J.A.C. 7:50-6.84(a)6i through v;

(2) Specifies that exceptions to the standards set forth in N.J.A.C. 7:50-6.84(a)6i through v will be considered only in cases where an applicant is able to demonstrate that such standards cannot be met on a particular parcel or where the municipality determines that stormwater management would more effectively be achieved through alternative measures;

(3) Requires that any off-site mitigation measures identified pursuant to (a)2viii(1) above occur within the Pinelands Area and within the same drainage area as the parcel proposed for development;

(4) Allows for monetary contributions to be made to the municipality in lieu of performing the off-mitigation measures identified pursuant to (a)2viii(1) above, with the amount of any such in-lieu contribution being equivalent to the cost of implementing and maintaining the stormwater management measures for which an exception is granted; and

(5) Requires that the municipality expend any contributions collected pursuant to (a)2viii(4) above within five years of their receipt.

3. They provide that no application for development within the Pinelands Area, except as provided in N.J.A.C. 7:50-3.81 through 3.85, shall be determined to be complete by any municipal department, body or agency unless it is accompanied by a Certificate of Filing issued by the Commission pursuant to N.J.A.C. 7:50-4.34 and contains at least the information required by the Commission pursuant to N.J.A.C. 7:50-4.2(b);

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

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

- i. Are designed to implement a clear and straightforward process for the review of forestry applications that does not involve municipal site plan approval;
  - ii. Require that forestry permits be approved or denied within 45 days after submission of a complete application to a municipality, or within such further time as may be consented to by the applicant;
  - iii. Provide that failure of a municipality to act within the period prescribed in (a)5ii above shall constitute municipal approval of the permit; and
  - iv. At the option of the municipality, provide for the establishment of reasonable application fees for forestry permits in accordance with N.J.S.A. 40:55D-8(b) and the posting of financial sureties in accordance with N.J.A.C. 7:50-6.47;
6. They provide that no local permit shall be effective, except as provided in N.J.A.C. 7:50-3.81 through 3.85, until the review procedures in N.J.A.C. 7:50-4.31 through 4.42 have been completed;
7. They include a capital improvements program which demonstrates that adequate and necessary facilities will be available to serve permitted development;
8. They provide for sufficient residentially zoned property to be eligible for an increase in density to accommodate transferred Pinelands Development Credits as provided for in N.J.A.C. 7:50-5, Part IV;
9. If the municipality has established an environmental commission, they provide for referral of applications for development approval to the environmental commission for review and comment;
10. They otherwise are in conformance with and contain all provisions necessary to implement the objectives of this Plan;
11. They demonstrate conformance to the energy conservation requirements of L. 1980, ch. 146;
12. They demonstrate that they are in compliance with the provisions of the Federal Act; and
13. In the event that the distribution and density of land uses at the boundary of a municipality are in conflict with or otherwise inconsistent with the distribution and density of land uses in adjacent municipalities, they include a description of steps which have been taken to resolve such conflicts including consultation with the county or counties in which the municipalities are located.
- (b) Municipalities with areas outside the Pinelands Area but within the Pinelands may request review by the Commission of their land use ordinances and master plans for these areas to determine substantial compliance with the provisions of N.J.A.C. 7:50-5 and 6 of this Plan. Equivalent protection of the resources of the Pinelands will be the overall

standard used in such compliance review rather than strict adherence to every standard in N.J.A.C. 7:50-5 and 6. Buffer requirements to wetlands will be evaluated based on the provisions of the Freshwater Wetlands Protection Act rather than on the standards set forth in N.J.A.C. 7:50-6.14. To encourage voluntary compliance, if the Commission determines that the municipality is in substantial compliance with the provisions of N.J.A.C. 7:50-5 and 6, the Commission will rely upon the complying master plans and ordinances, rather than a strict interpretation of this Plan, to provide comment to relevant state and federal regulatory agencies in its role as the planning entity for the Pinelands.

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

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

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

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

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

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

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

Amended by R.1999 d.306, effective September 7, 1999.

See: 31 N.J.R. 1251(a), 31 N.J.R. 2609(a).

Inserted (a)14.

Amended by R.2000 d.232, effective June 5, 2000.

See: 32 N.J.R. 151(a), 32 N.J.R. 2082(a).

Deleted a former (a)14.

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

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

In (a), added 2vi.

Amended by R.2002 d.67, effective March 4, 2002.

See: 33 N.J.R. 3399(a), 34 N.J.R. 1024(a).

In (a), added 2vii.

Amended by R.2006 d.159, effective May 1, 2006.

See: 37 N.J.R. 4133(a), 38 N.J.R. 1829(b).

In (a), deleted "and" from the end of 2vi; substituted "; and" for a period at the end of 2vii; and added 2viii.

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

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

#### **7:50-3.41 Setting of hearing and procedures therefor**

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

#### **7:50-3.42 Recommendation of county board**

After the hearing held pursuant to N.J.A.C. 7:50-3.41 is completed, the county planning board shall review the plan and land use ordinances and the record of the hearing and shall, within 60 days following receipt of the plan and land

use ordinances, submit a report to the Commission setting forth its findings and recommendation as to whether the municipal master plan and land use ordinances are in conformance with the minimum standards of this Plan.

#### **7:50-3.43 Recommendation of Executive Director**

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

#### **7:50-3.44 Action by Commission**

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

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

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

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

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

**7:50-3.83 Certification standards**

(a) The Commission may certify a county regulation or municipal ordinance which contains an alternative permitting program only if the following standards are met, taking into account the type, magnitude, location or complexity of development for which the program applies:

1. The county or municipality has demonstrated capability to implement the program in an efficient and effective manner;
2. The program, including the procedures to be followed, standing alone or in combination with activities continuing to be administered by the Commission, ensures that application requirements and permit decisions are adequate to determine compliance with the relevant criteria and standards of N.J.A.C. 7:50-5 and 6 and the provisions of the relevant certified local regulation or ordinance;
3. The program ensures that adequate, qualified and capable personnel will administer the program and that safeguards exist to ensure that (a)2 above is met in the event of personnel changes;
4. The program ensures that applicants receive any necessary waivers of strict compliance from the Pinelands Commission; and
5. Either the program allows for Commission review of local approvals pursuant to N.J.A.C. 7:50-4.31 et seq. or includes an alternative procedure to ensure that periodic review of permits by the Commission may be conducted to assess consistency of the program with the standards of N.J.A.C. 7:50-5 and 6 and the provisions of the relevant certified local regulation or ordinance. The alternative procedure shall also include a requirement for all local approvals to be subject to review by the Commission pursuant to N.J.A.C. 7:50-4.31 through 4.42 in the event that the Executive Director makes a recommendation to the Commission pursuant to N.J.A.C. 7:50-3.85. In that event, the procedures for the review of local approvals set forth in N.J.A.C. 7:50-4.31 through 4.42 shall remain in effect until such time as the procedures in N.J.A.C. 7:50-3.61 through 3.65 have been followed.

New Rule, R.1995 d.449, effective August 21, 1995.  
See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

**7:50-3.84 Assistance and monitoring**

(a) The Executive Director is authorized to provide such assistance to counties and municipalities as he or she deems necessary and appropriate and within the means of the Commission to help implement and maintain an alternative permitting program.

(b) The Executive Director shall report on each alternative permitting program to the Commission and the appropriate county or municipality in accordance with a specific review program approved by the Commission concurrent with its certification of the alternative permitting program.

Such report shall describe the elements of the permitting program and evaluate their operation according to the standards of N.J.A.C. 7:50-3.83.

New Rule, R.1995 d.449, effective August 21, 1995.  
See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

**7:50-3.85 Failure to implement**

Should the Executive Director recommend that the Commission revoke, suspend, or modify its certification of a county regulation or municipal ordinance which institutes an alternative permitting program because one or more of the certification standards is not being adequately fulfilled, the procedures set forth in N.J.A.C. 7:50-3.61 through 3.65 shall be followed. In such cases, the revocation, suspension or modification shall affect the alternative permitting program and procedures and not the certification status of the substantive provisions of the certified county regulation or municipal land use ordinance, unless such county or municipality willfully ignores or refuses to implement such revocation, suspension or modification order.

New Rule, 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).

**SUBCHAPTER 4. DEVELOPMENT REVIEW****INTRODUCTION**

The Pinelands Protection Act charges the Pinelands Commission with ensuring that the minimum standards, goals and objectives of this Plan are implemented and enforced. The procedures by which the Commission will discharge its development review responsibilities are set out in this subchapter, according to whether the applicant is a public or private entity and whether the proposed activity is located in a certified or uncertified municipality. Part I establishes a set of uniform application requirements which include a pre-application conference which is designed to afford an applicant the opportunity to informally resolve preliminary application problems and to determine the extent and form of the information and documentation which must be submitted in the application. Part I also establishes a uniform procedure for determining when an application for development approval is complete. N.J.A.C. 7:50-4 prescribes notice and public hearing requirements for development review as well as for the certification of municipal or county plans, regulations and ordinances (N.J.A.C. 7:50-3), the review of comprehensive plans submitted pursuant to N.J.A.C. 7:50-5.4, inter-governmental agreements (N.J.A.C. 7:50-4.52) and certain resource extraction issues (N.J.A.C. 7:50-6.64) or amendments to the Plan itself (N.J.A.C. 7:50-7).

Part II of this subchapter establishes the procedures for development review in uncertified jurisdictions. Part III of this subchapter sets forth the procedures for development

review in certified areas, including the Commission's authority to review development approvals at the local level. It is recognized that the specific provisions of this Part can be refined at the local level provided that the objective and goals the procedural requirements represent will be achieved. In addition, the procedures may be modified through the implementation of alternative permitting programs as provided in N.J.A.C. 7:50-3.81 through 3.85. Part IV contains those procedures applicable to review of public development in the Pinelands Area.

In addition, Part V of this subchapter contains provisions for the procedures to be employed in consideration of applications to waive strict compliance with the standards of the Plan. If a waiver is granted by the Commission, the applicant may proceed with the development review procedures in Part III, if in a certified area, or Part II, if in an uncertified area, or Part IV, if it is an application by a public agency.

Part VI sets forth a procedure whereby any person may secure a clarification or interpretation of the meaning or applicability of any provision of this Plan. Part VII provides for coordinated permitting with other state agencies.

Part VIII sets forth the procedures to follow if any applicant or other aggrieved person wishes to appeal a decision by the Executive Director or the Commission.

## PART I—UNIFORM PROCEDURES

### 7:50-4.1 Applicability

(a) For the purposes of this subchapter only, the following shall not be considered development except for development of any historic resource designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154:

1. The improvement, expansion, or reconstruction within five years of destruction or demolition, of any single family dwelling unit or appurtenance thereto;
2. The improvement, expansion, construction or reconstruction of any structure accessory to a single family dwelling;
3. The improvement, expansion, construction or reconstruction of any structure used exclusively for agricultural or horticultural purposes;
4. The construction, repair or removal of any sign, except for the construction or replacement of any off-site commercial advertising sign;
5. The repair of existing utility distribution lines;
6. The installation of utility distribution lines, except for sewage lines, to serve areas which are effectively developed or development which has received all necessary approvals and permits;
7. The clearing of less than 1,500 square feet of land;
8. The construction of any addition or accessory structure for any non-residential use or any multi-family residential structure provided said addition or structure will be located on or below an existing impermeable surface and the existing use is served by public sewers and said addition or structure will cover an area of no more than 1,000 square feet;
9. The demolition of any structure less than 50 years old;
10. The repair or replacement of any existing on-site waste water disposal system;
11. The repaving of existing paved roads, provided no increase in the paved width of said roads will occur;
12. The clearing of land solely for agricultural purposes;
13. Fences, provided no more than 1,500 square feet of land is to be cleared;
14. Above-ground telephone equipment cabinets;
15. Tree pruning;
16. The following forestry activities:
  - i. Normal and customary forestry practices on residentially improved parcels of land that are five acres or less in size;
  - ii. Tree harvesting, provided that no more than one cord of wood per five acres of land is harvested in any one year and that no more than five cords of wood are harvested from the entire parcel in any one year;
  - iii. Tree planting, provided that the area to be planted does not exceed five acres in any one year, no soil disturbance occurs other than that caused by the planting activity and no trees other than those authorized by N.J.A.C. 7:50-6.25 are to be planted; and
  - iv. Forest stand improvement designed to selectively thin trees and brush, provided that no clearing or soil disturbance occurs and that the total land area on the parcel in which the activity occurs does not exceed five acres in any one year;
17. Prescribed burning and the clearing and maintaining of fire breaks;
18. Normal and customary landscape plantings, unless a landscaping plan is required pursuant to N.J.A.C. 7:50-6.24; or
19. Agricultural resource extraction, provided that:
  - i. All of the removed soil remains in agricultural or horticultural use within the Pinelands Area;
  - ii. No more than 2,000 cubic yards of soil per calendar year are removed from any parcel; or

iii. No more than 20,000 cubic yards of soil per calendar year are removed from any parcel and a Farm Conservation Plan, designed in accordance with the United States Department of Agriculture, Natural Resources Conservation Service New Jersey Field Office Technical Guide, section 4, dated May 2001, incorporated herein by reference, as amended and supplemented, is approved by the Soil Conservation District and submitted to the Pinelands Commission by the owner of the parcel, demonstrating that the proposed resource extraction is for one of the following agricultural purposes:

(1) Agricultural irrigation ponds;

(2) Blueberry/cranberry agriculture site preparation and horticulture of other wetland species, provided the activity is located on wetland soils or soil types that are somewhat poorly drained or moderately well drained with a seasonal high water table within 24 inches of the natural surface of the ground, as defined in the applicable county soil survey, published by the United States Department of Agriculture, Natural Resources Conservation Service, as amended and or supplemented; or

(3) The offsite removal of overlying soils to access underlying sand for cranberry management practices, provided the quantity of overlying soil removed offsite does not exceed the quantity of underlying sand to be used for the management practices listed in N.J.A.C. 7:50-6.55(a)4 and the quantity of overlying soil removed offsite does not exceed that reasonably necessary to provide access to underlying sand to be utilized within a three year period.

(b) As of January 14, 1991, the provisions of this Plan shall apply to any proposed development or portion thereof which received approval from the Pinelands Commission pursuant to the Interim Rules and Regulations or which received approval from the Pinelands Development Review Board and said approvals expired as of that date or will expire subsequent to that date, without exception, unless the requirements in (b)1, 2 and either 3 or 4 below have been met and continue to be met:

1. All necessary municipal planning board or board of adjustment approvals were obtained by January 14, 1991;

2. No additional approval, extension, renewal or any other action whatsoever is required or received from either the municipal planning board or board of adjustment after January 14, 1991; and either

3. All necessary approvals, including all necessary construction permits, were obtained by January 3, 1995 or within 18 months of the expiration of any tolling pursuant to N.J.S.A. 40:55D-21 of the running of the period of the planning board or board of adjustment approval pursuant to N.J.S.A. 40:55D-47 or 40:55D-52, whichever is later;

and no construction permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after the latter of said dates; or

4. All necessary approvals, including all necessary construction permits, are obtained by December 31, 1996 and no construction permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after said date, provided that the lot for which the approvals and permits are issued either fronts on a road that prior to January 3, 1995 was improved at least to the extent of the installation of a subbase or had a foundation or septic system lawfully constructed on said lot prior to January 3, 1995.

(c) The Commission shall determine that an application for the improvement or reconstruction of a single family dwelling or appurtenance thereto five years or more after destruction or demolition of the single family dwelling is in conformance with this Plan, provided the applicant demonstrates that:

1. The improvement or reconstruction does not involve a historic resource designated by the Commission pursuant to N.J.A.C. 7:50-6.154;

2. The improvement or reconstruction is performed within 25 years of the destruction or demolition of a single family dwelling unit or appurtenance thereto;

3. The foundation of the demolished or destroyed single family dwelling unit is intact, will be used for the development and will constitute the footprint of the improvement or reconstruction; and

4. The destroyed or demolished building was a single family dwelling.

(d) Nothing herein shall preclude any local or state agency from reviewing, in accordance with the provisions of any applicable ordinance or regulation, any proposed development which does not require an application to the Pinelands Commission pursuant to (a) or (b) above or which is determined by the Commission to be in conformance with this Plan pursuant to (c) above.

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)7, added "or any multi-family residential structure" and "or below".

Amended by R.1993 d.211, effective May 17, 1993.  
See: 25 N.J.R. 225(a), 25 N.J.R. 2119(a).

Established an expiration date coincident with P.L. 1993 c.82 (Permit Extension Act).

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).

In (b)3 changed the approval date; rewrote (b)4.  
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 tree pruning, forestry activities and prescribed burning and fire breaks.

Amended by R.2001 d.103, effective April 2, 2001.  
See: 32 N.J.R. 4037(a), 33 N.J.R. 1095(a).

Added new (c); recodified former (c) as (d) and inserted "or which is determined by the Commission to be in conformance with this Plan pursuant to (c) above" following "(a) or (b) above".

Amended by R.2001 d.454, effective December 3, 2001.  
See: 33 N.J.R. 2005(a), 33 N.J.R. 4133(a).  
In (a), added 19.

**7:50-4.2 Pre-application conference; application requirements**

**(a) Pre-application conference.**

1. Request: Any applicant for any application provided for in this Plan may request an informal conference with the Executive Director prior to filing an application. However, an applicant seeking approval pursuant to the provisions of Part III of this subchapter is encouraged to discuss the application with the appropriate officials in the certified municipality prior to requesting a conference with the Executive Director. All requests for a pre-application conference shall include the name and address of the applicant, the legal description and street address, if any, of the parcel proposed for development, a brief description of the nature of any proposed development and the nature of the approval or waiver sought by the applicant.

2. Scheduling of conference: Within 15 days following receipt of any request for a pre-application conference, the Executive Director shall schedule a pre-application conference and notify the applicant of the time, date and location of the conference and specify any additional information which the Executive Director determines is necessary.

3. Conduct and purpose of conference: The Executive Director shall conduct the pre-application conference. The conference shall be informal and its purpose shall be to openly consider the proposals, views and concerns of the applicant and the Commission and to determine whether any of the application requirements of (b) below should be waived or any additional information should be required.

4. Pre-application conference orders: At the conclusion of the pre-application conference, the Executive Director shall inform the applicant in writing whether any of the application requirements contained in (b) below are to be waived or any additional information is to be submitted.

5. Representations of the Executive Director: No representation made by the Executive Director or any member of the staff designated by the Executive Director during the course of any pre-application conference shall be binding on the Commission or the Executive Director with respect to any application subsequently submitted.

**(b) Application requirements.**

1. General requirements. All applications shall be submitted to the Executive Director at the principal office of the Commission in such form and number as he shall from time to time establish. The filing of an application shall be deemed to be authorization for the Executive Director or his staff to inspect the parcel which is the subject of the application. The application shall be accompanied by a sworn statement that the requirements of (b)2 below have been satisfied.

2. Notice: The applicant shall provide notice of all applications for development in uncertified municipalities, applications for waivers and applications for letters of interpretation filed with the Commission to the municipal and county clerk, and the environmental commission, if any, of the municipality.

3. Waiver of application requirements following pre-application conference: The Executive Director may waive or modify any of the application requirements contained in this subsection if, after a pre-application conference held pursuant to (a) above, he determines that any required information is either not relevant or not necessary to assure proper consideration of any application. Such waiver or modification shall be made in a pre-application order issued pursuant to (a)4 above.

4. Application for approval of minor development: Unless the submission requirements are modified or waived pursuant to (b)3 above, an application filed pursuant to N.J.A.C. 7:50-4.13 or 4.33 for approval of minor development shall include at least the following information:

i. The applicant's name and address and his interest in the subject parcel;

ii. The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application;

iii. The legal description, including block and lot designation and street address, if any, of the subject parcel;

iv. A description of all existing uses of the subject parcel;

v. A brief written statement generally describing the proposed development;

vi. A USGS Quadrangle map, or copy thereof, and a copy of the municipal tax map sheet on which the boundaries of the subject parcel and the Pinelands management area designation and the municipal zoning designation in a certified municipality are shown;

vii. A plat or plan showing the location of all boundaries of the subject parcel, the location of all proposed development, and existing or proposed facilities to provide water for the use and consumption of occupants of all buildings and sanitary facilities which will serve the proposed development. The following information shall be included with respect to existing or proposed sanitary facilities:

(1) On-Site Treatment Facilities: Location, size, type and capacity of any proposed on-site wastewater treatment facilities; and

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

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

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

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

Added (f)3vii.

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

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

Section was "Goals and objectives of Pinelands Management Areas".

Added (i).

#### Case Notes

Certification and approval of master plan which designated forest area as municipal reserve area was improper where municipal reserve area created was immediately adjacent to forest area. In Re: Certification of Master Plan and Land Use Ordinances of Berkeley Twp., 214 N.J.Super. 390, 519 A.2d 901 (App.Div.1986).

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

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

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

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

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

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

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

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

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

1. The area to be designated is primarily agricultural in use, is of a size capable of sustaining active agricultural operation taking into account adjacent and surrounding

uses and the availability of agricultural support uses, and includes surrounding actively used agricultural lands in so far as necessary to ensure that a viable, long term agricultural area exists; and

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

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

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

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

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

1. The village area should include the center of the village, typically located at or near the intersection of two roads, the developed lands contiguous to the village center, and other cleared lands not in active agricultural use.

2. In the Preservation Area District and Forest Areas the village area should not contain more than 50 percent forested land.

3. In Agricultural Production Areas and Forest Areas the village area should not include active agricultural lands except for isolated areas of less than 10 acres.

4. Village boundaries along roads leading to and from the village center should not be extended more than ½ mile from the village center.

5. Village delineations should not intrude into wetlands vegetation associations.

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

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

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

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

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

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

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

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

**7:50-5.19 Cluster development**

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

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

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

3. The amount of the development proposed does not exceed that which would be permitted separately in each management area as determined by application of the standards contained in this subchapter and in N.J.A.C. 7:50-6.84;

4. The minimum lot area requirements of the management area in which the portion of the parcel to be developed is located are met; and

5. If any portion of the parcel is located within the Regional Growth Area, opportunities for the use of Pinelands Development Credits established pursuant to N.J.A.C. 7:50-5.28(a)3 are not reduced as a result of the cluster development.

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

**7:50-5.20 (Reserved)**

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

**7:50-5.21 Purpose**

In order to ensure the long-term integrity of the Pinelands environment while accommodating regional growth influences, the Pinelands Commission finds that it is appropriate and necessary to establish minimum standard governing the character, location and magnitude of development and the use of land in the Pinelands.

**7:50-5.22 Minimum standards governing the distribution and intensity of development and land use in the Preservation Area District**

(a) The following uses shall be permitted in the Preservation Area District:

1. Residential dwelling units in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32.
2. Berry agriculture and horticulture of native plants and other agricultural activities compatible with the existing soil and water conditions that support traditional Pinelands berry agriculture.
3. Forestry.
4. Beekeeping.
5. Fish and wildlife management.
6. Low intensity recreational uses, provided that:
  - i. The parcel proposed for low intensity recreational use has an area of at least 50 acres;
  - ii. The recreational use does not involve the use of motorized vehicles except for necessary transportation;

iii. Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage;

iv. Clearing of vegetation, including ground cover and soil disturbance, does not exceed five percent of the parcel; and

v. No more than one percent of the parcel will be covered with impermeable surfaces.

**7. Pinelands Development Credits.**

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in the Preservation Area District:

1. Agricultural employee housing as an element of, and accessory to, an active agricultural operation.
2. Expansion of intensive recreational uses, provided that:
  - i. The intensive recreational use was in existence on February 7, 1979 and was not subsequently abandoned;
  - ii. The capacity of the use will not exceed two times the capacity of the use on February 7, 1979;
  - iii. The use is necessary to achieve recreational use of a particular element of the existing Pinelands environment; and
  - iv. The use is environmentally and aesthetically compatible with the character of the Preservation Area District and the characteristics of the particular basin in which the use is to be located, taking into consideration the proportion of cleared and developed land, ambient water quality, ecologically sensitive areas and unique resources, and will not unduly burden available public services.
3. Campgrounds, in accordance with the standards of (a)6 above, provided that the parcel will contain no more than one campsite per two acres and that, if clustered, the campsites not exceed a net density of six per acre.
4. Public service infrastructure which is necessary to serve only the needs of the Preservation Area District uses. Centralized waste water treatment and collection facilities shall be permitted to service the Preservation Area District only in accordance with N.J.A.C. 7:50-6.84(a)2. Communication cables not primarily intended to serve the needs of the Preservation Area District may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.
5. Continuation of existing resource extraction operations in accordance with the standards of N.J.A.C. 7:50-6, Part VI.

## 6. Signs.

7. Infill areas: Residential dwellings and commercial uses on lots existing as of January 14, 1981 of at least one acre in size within an area designated by a municipality in its ordinance in accordance with the following criteria:

i. The area must have direct access to an existing improved public road;

ii. The area must exhibit a compact pattern of existing development, generally exhibited by more than 20 principal structures and the boundary shall generally conform to that of the existing developed area so that extensive amounts of adjoining vacant land are not included;

iii. The area must contain vacant lots of at least one acre in size or smaller lots which could reasonably be assembled into one acre or greater lots; and

iv. Commercial uses shall be limited to those specific portions of the area which are predominantly occupied by existing commercial uses.

## 8. Accessory uses.

## 9. Home occupations.

10. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.

11. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:

i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);

ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);

iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);

iv. Recycling centers accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d), provided the existing resource extraction operation or manufacturing facility is located within one mile of a Regional Growth Area or Pinelands Town;

v. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and

vi. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).

(c) No residential dwelling shall be located on a lot of less than 3.2 acres, except as provided in N.J.A.C. 7:50-5.32.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in

N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)4 above, provided, however, that no such structure shall be located on a parcel of less than one acre.

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

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

Added text in (b)4, "Communication cables not ..."; added (c) and (d). 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).

Added (b)10.

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

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

In (b) added waste management facilities.

Amended by R.2007 d.372, effective December 3, 2007.

See: 39 N.J.R. 1970(a), 39 N.J.R. 5077(b).

In (b)2i, inserted "was not subsequently abandoned;" and recodified "the capacity of the use will not exceed two times the capacity of the use on February 7, 1979;" as new (b)2ii; in (b)2ii, substituted "The" for "the"; recodified former (b)2ii and (b)2iii as (b)2iii and (b)2iv; and in (b)11iv, inserted "provided the existing resource extraction operation or manufacturing facility is located within one mile of a Regional Growth Area or Pinelands Town".

#### Case Notes

Application for operation of roadside produce stand denied as the owner of the proposed stand did not intend to engage in agricultural production on grounds near or attached to the proposed stand site. *Hanoverland Industries v. Pinelands Commission*, 8 N.J.A.R. 529 (1985).

#### 7:50-5.23 Minimum standards governing the distribution and intensity of development and land use in Forest Areas

(a) The following uses shall be permitted in a Forest Area:

1. Residential dwelling units in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32.

2. Residential dwelling units at municipally designated densities provided that the total number of dwelling units authorized by a municipality does not exceed an average of one dwelling unit for every 15.8 acres of privately owned, undeveloped land which is not defined in this Plan as wetlands. The Executive Director shall maintain a current record of residential units zoned in each certified municipality pursuant to this section.

3. Agriculture;

4. Forestry;

5. Low intensity recreational uses, provided that:

i. The parcel proposed for low intensity recreational use has an area of at least 50 acres;

ii. The recreational use does not involve the use of motorized vehicles except for necessary transportation;

iii. Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage;

iv. Clearing of vegetation, including ground cover and soil disturbance, does not exceed five percent of the parcel; and

v. No more than one percent of the parcel will be covered with impermeable surfaces.

(b) In addition to uses permitted under (a) above, a municipality may, at its option, permit the following uses in a Forest Area:

1. Institutional uses, provided that:

i. The use does not require or will not generate subsidiary or satellite development in the Forest Area;

ii. The applicant has demonstrated that adequate public service infrastructure will be available to serve the use; and

iii. The use is primarily designed to serve the needs of the Forest Area in which the use is to be located.

2. Pinelands resource-related industrial or manufacturing uses, excluding resource extraction and uses that rely on sand or gravel as raw products, provided that:

i. The parcel proposed for development has an area of at least five acres;

ii. The principal raw material for the proposed use is found or produced in the Pinelands; and

iii. The use does not require or will not generate subsidiary or satellite development in a Forest Area.

3. Light industrial uses within an area designated by a municipality in accordance with the following criteria:

i. The area adjoins an existing airport, and the airport is either publicly owned or serves a Pinelands Town;

ii. The area is predominantly developable under the provisions of subchapter 6 of this Plan; and

iii. The area is limited in size to that which received approval to develop pursuant to the Pinelands Protection Act prior to January 14, 1981.

4. Campgrounds, not to exceed one campsite per gross acre, provided that the campsites may be clustered at a net density not to exceed 10 campsites per acre.

5. Agricultural commercial establishments, excluding supermarkets, restaurants and convenience stores provided that:

i. The principal goods or products available for sale were produced in the Pinelands; and

ii. The sales area of the establishment does not exceed 5,000 square feet.

6. Roadside retail sales and service establishments, provided that:

i. The parcel proposed for development has roadway frontage of at least 50 feet;

ii. No portion of any structure proposed for development will be more than 300 feet, measured along a line parallel to the roadway, from the closest part of a roadside retail sales and service establishment structure that was in existence on February 7, 1979; and

iii. The proposed use will not unduly burden public services, including but not limited to water, sewer and roads.

7. Continuation of existing resource extraction operations in accordance with the standards of N.J.A.C. 7:50-6, Part VI.

8. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:

i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);

ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);

iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);

iv. Recycling centers accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d), provided the existing resource extraction operation or manufacturing facility is located within one mile of a Regional Growth Area or Pinelands Town;

v. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and

vi. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).

9. Fish and wildlife management.

10. Agricultural employee housing as an element of, and accessory to, an active agricultural operation.

11. Expansion of intensive recreational uses, provided that:

i. The intensive recreational use was in existence on February 7, 1979 and was not subsequently abandoned;

ii. The capacity of the use will not exceed two times the capacity of the use on February 7, 1979;

iii. The use is necessary to achieve recreational use of a particular element of the existing Pinelands environment; and

iv. The use is environmentally and aesthetically compatible with the character of the Forest Area and the

characteristics of the particular basin in which the use is to be located, taking into consideration the proportion of cleared and developed land, ambient water quality, ecologically sensitive areas and unique resources, and will not unduly burden available public services.

12. Public service infrastructure intended to primarily serve only the needs of the Pinelands. Centralized waste water treatment and collection facilities shall be permitted to service the Forest Area only in accordance with N.J.A.C. 7:50-6.84(a)2. Communication cables not primarily intended to serve the needs of the Forest Area may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.

13. Home occupations.

14. Signs.

15. Accessory Uses.

16. Airport facilities provided:

i. The airport is publicly owned or serves a Pinelands Town; and

ii. The airport was in existence on January 14, 1981; and

iii. The area of the airport is limited in size to that which existed on January 14, 1981; and

iv. The use will not generate subsidiary or satellite development not otherwise permitted in the Forest Area, Preservation Area District or Special Agricultural Production Area.

17. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.

(c) No residential dwelling unit shall be located on a lot of less than 3.2 acres, except as provided in N.J.A.C. 7:50-5.30, 5.31 and 5.32. When the residential density otherwise permitted on a particular parcel of land is clustered on 3.2 acre lots, the remainder of the parcel not assigned to individual residential lots shall be permanently dedicated through recordation of a restriction on the deed to the parcel as open space with no further development permitted. Recreational amenities may be permitted on the deed restricted lands insofar as they are consistent with the types of recreational amenities which could have been developed as accessory uses on the residential lots, absent clustering.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)12 above, provided, however, that no such structure shall be located on a parcel of less than one acre.

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

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

Added text to (b)12, "Communications cables not ..."; and added (d). Amended by R.1990 d.170, effective March 19, 1990.

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

Added (b)16.

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

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

Exception added at (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).

Added (b)17.

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

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

In (b) substituted waste management facilities for landfills.

Amended by R.2007 d.372, effective December 3, 2007.

See: 39 N.J.R. 1970(a), 39 N.J.R. 5077(b).

In (b)8iv, inserted "provided the existing resource extraction operation or manufacturing facility is located within one mile of a Regional Growth Area or Pinelands Town"; in (b)11i, inserted "was not subsequently abandoned" and recodified "the capacity of the use will not exceed two times the capacity of the use on February 7, 1979;" as new (b)11ii; in (b)11ii, substituted "The" for "the"; and recodified former (b)11ii and (b)11iii as (b)11iii and (b)11iv.

#### 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).

Sale of adjoining lot precluded existence of extraordinary hardship, even though property owner was elderly individual suffering from heart problems and diabetes and sought to sell or develop property in order to help support herself and two handicapped sons residing with her. Stark v. Pinelands Commission, 92 N.J.A.R.2d (EPC) 34.

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.

#### 7:50-5.24 Minimum standards governing the distribution and intensity of development and land use in Agricultural Production Areas

(a) The following uses shall be permitted in an Agricultural Production Area:

1. Residential dwelling units in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32.

2. Residential dwelling units not to exceed a gross density of one unit per 10 acres provided that:

i. The dwelling is accessory to an active agricultural operation;

ii. The dwelling is for an operator or employee of the farm who is actively engaged in and essential to the agricultural operation;

iii. The dwelling is located on a lot which is under or qualified for agricultural assessment;

iv. The dwelling is located on a lot which has an active production history or where a farm management plan has been prepared which demonstrates that the property will be farmed as a unit unto itself or as part of another farm operation in the area;

v. A residential lot has not been subdivided from the property within the previous five years unless the lot has been subdivided pursuant to N.J.A.C. 7:50-5.32; and

vi. No more than one lot may be created for a dwelling accessory to an active agricultural operation pursuant to this provision at any one time.

3. Residential dwelling units at a gross density of one unit per 40 acres, provided that:

i. The unit(s) shall be clustered on one acre lots, unless the municipality determines that residential development is not compatible and interferes with the use of the remaining parcel and adjoining lands for agricultural use;

ii. The remainder of the parcel, including all contiguous lands in common ownership, which is not assigned to individual residential lots shall be permanently dedicated for agricultural uses through recordation of a restriction on the deed to the parcel; and

iii. The restriction on the deed to the parcel, including any rights to be redeemed for future residential development, shall be done in accordance with N.J.A.C. 7:50-5, Part IV, so as to sever any Pinelands Development Credits allocated to the parcel.

4. Agriculture.

5. Forestry.

6. Low intensity recreational uses, provided that:

i. The parcel proposed for low intensity recreational use has an area of at least 50 acres;

ii. The recreational use does not involve the use of motorized vehicles except for necessary transportation;

iii. Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage;

iv. Clearing of vegetation, including ground cover and soil disturbance, does not exceed five percent of the parcel; and

v. No more than one percent of the parcel will be covered with impermeable surfaces.

7. Agricultural commercial establishments excluding supermarkets, restaurants and convenience stores, provided that:

i. The principal goods or products available for sale were produced in the Pinelands; and

ii. The sales area of the establishment does not exceed 5,000 square feet.

8. Agricultural products processing facilities.

9. Pinelands Development Credits.

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in an Agricultural Production Area:

1. Roadside retail sales and service establishments, provided that:

i. The parcel proposed for development has roadway frontage of at least 50 feet;

ii. No portion of any structure proposed for development will be more than 300 feet, measured along a line parallel to the roadway, from the closest part of a roadside retail sales and service establishment structure that was in existence on February 7, 1979; and

iii. The proposed use will not unduly burden public services, including but not limited to water, sewer and roads.

2. Pinelands resource-related industries, excluding resource extraction and uses that rely on sand or gravel as raw products, provided that:

i. The parcel proposed for development has an area of at least five acres;

ii. The principal raw material for the proposed use is found or produced in the Pinelands; and

iii. The use does not require or will not generate subsidiary or satellite development in an Agricultural Production Area.

3. Airports and heliports which are accessory to agricultural uses and are used exclusively for the storage, fueling, loading and operation of aircraft as a part of an ongoing agricultural operation.

4. Light industrial uses within an area designated by a municipality in accordance with the following criteria:

i. The area adjoins a publicly owned airport;

ii. The area is predominantly developable under the provisions of subchapter 6; and

iii. The area is limited in size to that which is no greater in size than the airport.

5. Fish and wildlife management.

6. Agricultural employee housing as an element of, and accessory to, an active agricultural operation.

7. Expansion of intensive recreational uses, provided that:

i. The intensive recreational use was in existence on February 7, 1979 and the capacity of the use will not exceed two times the capacity of the use on February 7, 1979;

ii. The use is necessary to achieve recreational use of a particular element of the existing Pinelands environment; and

iii. The use is environmentally and aesthetically compatible with the character of the Agricultural Production Area and the characteristics of the particular basin in which the use is to be located, taking into consideration the proportion of cleared and developed land, ambient water quality, ecologically sensitive areas and unique resources, and will not unduly burden available public services.

8. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:

i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);

ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);

iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);

iv. Recycling centers accessory to an existing lawful asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d);

v. Vegetative waste landfills in accordance with N.J.A.C. 7:50-6.75(a);

vi. Vegetative waste composting facilities in accordance with N.J.A.C. 7:50-6.77(a);

vii. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and

viii. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).

9. Public service infrastructure except that centralized waste water treatment and collection facilities shall be permitted to service the Agricultural Production Area only in accordance with N.J.A.C. 7:50-6.84(a)2. Communication cables not primarily intended to serve the needs of Agricultural Production Areas may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.

10. Home occupations.

11. Signs.

12. Accessory Uses.

13. Airport facilities provided:

i. The airport is publicly owned or serves a Pinelands Town; and

ii. The airport was in existence on January 14, 1981; and

iii. The area of the airport is limited in size to that which existed on January 14, 1981; and

iv. The use will not generate subsidiary or satellite development not otherwise permitted in the Forest Area, Preservation Area District, Special Agricultural Production Area or Agricultural Production Area.

14. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.

(c) No residential dwelling unit shall be located on a lot of less than one acre.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)9 above, provided, however, that no such structure shall be located on a parcel of less than one acre.

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

Added text to (b)9, "Communications cables not ..."; and added (d).

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)2v, added subdivision reference; added 2vi and (b)13.

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).

Added (b)14.

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

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

In (b) substituted waste management facilities for landfills.

Administrative correction.

See: 28 N.J.R. 4479(a).

#### Case Notes

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

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

Nonfarm housing limitations are not a taking or partial taking of property. *Gardner v. New Jersey Pinelands Com'n*, 227 N.J. Super. 396, 547 A.2d 725 (Ch.1988), affirmed 235 N.J. Super. 382, 562 A.2d 812, certification granted 117 N.J. 663, 569 A.2d 1355, affirmed 125 N.J. 193, 593 A.2d 251.

#### 7:50-5.25 Minimum standards governing the distribution and intensity of development and land use in Special Agricultural Production Areas

(a) The following uses shall be permitted in a Special Agricultural Production Area:

1. Residential dwelling units in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32.

2. Berry agriculture and horticulture of native plants and other agricultural activities compatible with the existing soil and water conditions that support traditional Pinelands berry agriculture;

3. Beekeeping;

4. Forestry;

5. Fish and wildlife management;

6. Pinelands Development Credits.

(b) In addition to the uses permitted under (a) above, a municipality may permit, at its option, the following uses in a Special Agricultural Production Area:

1. Residential dwelling units provided that the dwelling is:

i. Accessory to an active agricultural operation;

ii. For an operator or employee of the farm who is actively engaged in and essential to the agricultural operation;

iii. To be located on a parcel of land of at least 40 acres in size which is under or qualified for agricultural assessment; and

iv. Located on a property which has an active production history or where a farm management plan has been prepared which demonstrates that the property will be farmed as a unit unto itself or as part of another farm operation in the area.

2. Agricultural employee housing as an element of, and accessory to, an active agricultural operation;

3. Public service infrastructure which is necessary to serve only the needs of the Special Agricultural Production Area uses. Centralized waste water treatment and collection facilities shall be permitted to service the Special Agricultural Production Area only in accordance with N.J.A.C. 7:50-6.84(a)2. Communication cables not primarily intended to serve the needs of Special Agricultural Production Areas may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.

4. Home occupations;

5. Accessory uses;

6. Signs;

7. Local communications facilities; and

8. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:

i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);

ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);

iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);

iv. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and

v. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).

(c) No residential dwelling unit shall be located on a lot of less than 3.2 acres, except as provided in N.J.A.C. 7:50-5.32.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)3 above, provided, however, that no such structure shall be located on a parcel of less than one acre.

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

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

Added text in (b)3, "Communications cables not ..."; and added (d).

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).

Added (b)7.

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

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

In (b) added waste management facilities.

#### **7:50-5.26 Minimum standards governing the distribution and intensity of land use in Rural Development Areas**

(a) Residential dwelling units at municipally designated densities shall be permitted provided that the total number of dwelling units authorized by a municipality does not exceed one dwelling unit for every 3.2 acres of privately owned undeveloped land which is not defined in this Plan as wetland.

(b) In addition to the residential uses permitted under (a) above, a municipality may permit any use which is compatible with the essential character of the Pinelands environment and is similar in character, intensity and impact to the following uses:

1. Agriculture;

2. Agricultural employee housing as an element of, and accessory to, an active agricultural operation;

3. Forestry;

4. Recreational facilities, other than amusement parks;

5. Agricultural products sales establishments;

6. Agricultural processing facilities and other light industrial uses;

7. Roadside retail sales and service establishments;

8. Resource extraction operations;

9. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:

i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);

ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);

iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);

iv. Recycling centers accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d);

v. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and

vi. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).

10. Public service infrastructure except that centralized waste water treatment and collection facilities shall be permitted to service the Rural Development Area only in accordance with N.J.A.C. 7:50-6.84(a)2;

11. Institutional uses;

12. Community commercial uses;

13. Signs;

14. Accessory uses; and

15. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.

(c) No residential dwelling unit shall be located on a lot of less than 3.2 acres, except as provided in N.J.A.C. 7:50-5.30, 5.31 and 5.32. A municipality may also permit the residential density otherwise permitted on a particular parcel of land to be clustered on one acre lots if the remainder of the parcel not assigned to individual residential lots is permanently dedicated through recordation of a restriction on the deed to the parcel as open space with no further development permitted. Recreational amenities may be permitted on the deed restricted lands insofar as they are consistent with the types of recreational amenities which could have been developed as accessory uses on the residential lots, absent clustering.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)10 above, provided, however, that no such structure shall be located on a parcel of less than one acre.

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

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

Added (d).

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).

Added (b)15.

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

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

In (b) substituted waste management facilities for landfills.

#### Case Notes

Parcel not have beneficial use; extraordinary hardship existed entitling property owner to waiver of Pinelands Comprehensive Management Plan requirements; conditions imposed. Christensen v. New Jersey Pinelands Commission, 93 N.J.A.R.2d (EPC) 5.

No extraordinary hardship existed entitling property owner to waiver of strict compliance with density requirements, seasonal high water table requirement, and wetlands protection requirements. Summonte v. Pinelands Commission, 92 N.J.A.R.2d (EPC) 9.

No extraordinary hardship existed entitling property owner to waiver of strict compliance with lot size requirements. Egenstaffer v. Pinelands Commission, 92 N.J.A.R.2d (EPC) 3.

#### 7:50-5.27 Minimum standards governing the distribution and intensity of development and land use in Pinelands Villages and Towns

(a) Any use not otherwise limited pursuant to N.J.A.C. 7:50-6 may be authorized in a Pinelands Village or Town, provided that:

1. Public service infrastructure necessary to support the use is available, or can be provided without any development in the Preservation Area District, Special Agricultural Production Area, or a Forest Area;

2. The character and magnitude of the use is compatible with existing structures and uses in the Village or Town;

3. Only the following waste management facilities shall be permitted in a Pinelands Village in accordance with N.J.A.C. 7:50-6, Part VII:

i. Transfer stations, collection facilities and recycling centers in accordance with N.J.A.C. 7:50-6.76(a);

ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);

iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);

iv. Recycling centers accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d);

v. Composting facilities in accordance with N.J.A.C. 7:50-6.77(b); and

vi. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).

4. No hazardous waste facility, landfill or incinerator shall be permitted in a Pinelands Town, 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 either:

1. A centralized waste water treatment plant; or

2. A community on-site waste water treatment system serving two or more residential dwelling units which meets the standards of N.J.A.C. 7:50-6.84(a)5 or 10.21 through 10.23, provided that the overall residential density on the parcel does not exceed one dwelling unit per acre.

(c) Any local approval, including variances, which grants relief from density or lot area requirements for a residential or principal non-residential use shall require that Pinelands Development Credits be used for all dwelling units or lots in excess of that otherwise permitted, unless a Waiver of Strict Compliance for the dwelling unit or lot has been approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, Part V. The requirement for use of Pinelands Development Credits shall not apply to use variances which authorize development on lots which conform to the area requirements for principal uses normally permitted in the zone.

Amended by R.1992 d.91, effective March 2, 1992.  
See: 23 N.J.R. 2458(b), 24 N.J.R. 832(b).

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).

Amended by R.2002 d.247, effective August 5, 2002.

See: 34 N.J.R. 722(a), 34 N.J.R. 2804(b).

Rewrote (b).

Amended by R.2006 d.159, effective May 1, 2006.

See: 37 N.J.R. 4133(a), 38 N.J.R. 1829(b).

Rewrote (c).

**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 local approval, including variances, 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 otherwise permitted, unless a Waiver of Strict Compliance for the dwelling unit or lot has been approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, Part V.

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

i. Municipal variances or other municipal approvals which authorize residential development in a zone in which residential development is not otherwise permitted or which authorize nonresidential development in a zone in which the approved nonresidential development is not otherwise permitted, and in which permitted residential density may be increased through the use of

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

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

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

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

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

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

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

(2) For those municipal variances or approvals which authorize nonresidential development in a zone in which the approved nonresidential development is not otherwise permitted, and in which density may be increased through the use of Pinelands Development

Credits pursuant to (a)3ii above, Pinelands Development Credits must be acquired and redeemed at 50 percent of the maximum rate permitted for Pinelands Development Credit use in the zone which the nonresidential use will be located for parcels under 10 acres in size; at 75 percent of the maximum rate for parcels between 10 and 20 acres in size; and at 100 percent of the maximum rate for parcels over 20 acres in size.

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

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

7. Nothing in (a) above is intended to prevent a municipality, as 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;

ii. Increasing or decreasing by as much as 10 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; or

iii. Decreasing the total number of dwelling units assigned pursuant to (a)1 above to a density of no less than 2.5 units per acre of developable land, provided that:

(1) The municipality's originally assigned density pursuant to (a)1 above is 3.0 units per developable acre or higher;

(2) The Pinelands Development Credit program requirements of (a)3 above are met; and

(3) The municipal governing body describes those ongoing and future efforts, projects and other measures that it will implement, individually or collectively, or recommend to responsible agencies to address the needs identified in (a)7iii(3)(A) through (D) below, provides reasonable schedules for the implementation of the identified efforts, projects and measures, and describes how they will help to support the land development policies reflected in its munic-

ipal land use ordinance and foster the provision of real opportunities to achieve the permitted residential densities provided therein:

(A) The municipality's present and future circulation and utility service needs;

(B) The municipality's present and future recreation, conservation and open space needs;

(C) The municipality's present and long-term economic development needs, taking into account existing non-residential land use patterns within the municipality, non-residential zoning policies of its ordinance and the requirements of (a)2 above; and

(D) The municipality's present and future housing and community development needs, taking into account existing land use patterns and housing stock and the value of having a variety of housing types and neighborhoods where retail and service facilities are readily accessible to residences.

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 either:

1. A centralized waste water treatment plant; or

2. A community on-site waste water treatment system serving two or more residential dwelling units which meets the standards of N.J.A.C. 7:50-6.84(a)5 or 10.21 through 10.23, provided that the overall residential density on the parcel does not exceed one dwelling unit per acre.

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

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

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

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

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

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

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

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

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

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

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

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

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

In (a) prohibited hazardous waste facilities, landfills and incinerators.

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

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

In (a), rewrote 5 and 6.

Amended by R.2002 d.67, effective March 4, 2002.

See: 33 N.J.R. 3399(a), 34 N.J.R. 1024(a).

In (a), added 7iii.

Amended by R.2002 d.247, effective August 5, 2002.

See: 34 N.J.R. 722(a), 34 N.J.R. 2804(b).

Rewrote (b).

Amended by R.2006 d.159, effective May 1, 2006.

See: 37 N.J.R. 4133(a), 38 N.J.R. 1829(b).

Rewrote (a)4.

**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. *Carino 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) 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 lots smaller than 3.2 acres existing as of February 8, 1979 or created as a result of an approval granted by the Pinelands Development Review Board or by the Pinelands Commission pursuant to the Interim Rules and Regulations prior to January 14, 1981 which otherwise meets the standards of (a) above may be permitted by a municipality within any management area provided that:

1. The lot contains at least one acre;

2. The applicant qualifies for and receives a variance from the 3.2 acre lot size requirement from the municipality in which the lot is located;

3. Unless a Waiver of Strict Compliance for the dwelling unit or lot has been approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, Part V, the applicant acquires and redeems 0.25 Pinelands Development Credits in addition to the reduction in the Pinelands Development Credit allocation that will result from the development of the dwelling unit pursuant to N.J.A.C. 7:50-5.43(b)3; and

4. Any Pinelands Development Credits allocated to the lot are reduced pursuant to N.J.A.C. 7:50-5.43(b)3.

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

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

New (b) added.

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

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

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

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

Amended by R.2006 d.159, effective May 1, 2006.

See: 37 N.J.R. 4133(a), 38 N.J.R. 1829(b).

In (b), substituted "on lots" for "on a lot" and in (b)(3), substituted "Unless a Waiver of Strict Compliance for the dwelling unit or lot has been approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, Part V, the" for "The".

**Case Notes**

Waiver to subdivide a parcel of land denied by Pinelands Commission; petitioner failed to establish ownership of the land in compliance with N.J.A.C. 7:50-5.32(a)3i. *Gerber v. Pinelands Commission*, 11 N.J.A.R. 12 (1988).

**7:50-5.33 (Reserved)**

Repealed by, R.2000 d.232, effective June 5, 2000.

See: 32 N.J.R. 151(a), 32 N.J.R. 2082(a).

Section was "Special provisions for public educational facilities".

**7:50-5.34 Assisted living facilities and continuing care retirement communities**

(a) A municipality may include in its master plan and land use ordinance provisions which permit assisted living facilities and continuing care retirement communities, provided that:

1. Such uses shall be permitted only in Regional Growth Areas, Pinelands Villages and Pinelands Towns;

2. Within Regional Growth Areas, assisted living facilities and continuing care retirement communities may be permitted at densities consistent with the standards of N.J.A.C. 7:50-5.28(a); provided, however, that the maximum permitted density for an assisted living facility, including the assisted living component of a continuing care retirement community, shall be permitted to exceed eight units per acre only through the use of Pinelands Development Credits;

3. Within Pinelands Villages and Pinelands Towns, assisted living facilities and continuing care retirement communities may be permitted consistent with the standards of N.J.A.C. 7:50-5.27;

4. Calculations of residential density shall include all dwelling units in a continuing care retirement community and all dwelling units within an assisted living facility. Long term care beds within nursing facilities that have been licensed as such by the Department of Health and Senior Services shall not be included in calculations of density, whether or not said facility is part of a continuing care retirement community; and

5. Residential density for continuing care retirement communities and for any assisted living facilities which are part of a mixed use development shall be calculated by determining the amount of land associated with each use to be located on the parcel proposed for development. When the residential and nonresidential uses are located in the same building or share other facilities, the determination of land area occupied by the residential use may take into consideration the size, intensity and capacity of the proposed residential and nonresidential uses on said parcel.

New Rule, R.2000 d.272, effective July 3, 2000.

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

**7:50-5.35 Minimum standards governing the distribution and intensity of development and land use in the Parkway Overlay District**

(a) The following uses shall be permitted in the Parkway Overlay District, provided they are located within the existing highway right of way:

1. Construction, improvement, expansion, repair, reconstruction and maintenance of roadways, bridges and outlying and accessory facilities associated with operation and maintenance of the highway;

2. Improvement, expansion, repair, reconstruction and maintenance of existing interchanges;

3. Construction, improvement, expansion, repair, reconstruction and maintenance of public service infrastructure, both underground and above-ground, including communications and data transfer utilities and Intelligent Transportation Systems; and

4. Local communications facilities, provided that the standards set forth in N.J.A.C. 7:50-5.4(c)4ii through v are met.

(b) The uses listed in (a)1 through 3 above shall be permitted provided they will not induce changes in the location, pattern or intensity of land use which would be inconsistent with the Pinelands land use program as implemented through the Commission's certification, pursuant to N.J.A.C. 7:50-3, of the master plans and land use ordinances of Pinelands municipalities.

(c) In order to support the continued use and development of the Garden State Parkway and to ensure that only those uses specified in (a) above are allowed to be developed within the Parkway Overlay District, the provisions of (a) and (b) above shall control in the event of a conflict with any other standards set forth elsewhere in this Part for the underlying Pinelands management area designations.

New Rule, R.2006 d.221, effective June 19, 2006.

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

**7:50-5.36 through 7:50-5.40 (Reserved)**


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**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, intensive 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.

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

In (b)3, replaced old i and ii with new i through iii; in (b)4, added "less than one-quarter" of a PDC requirement.

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 "parcel" for "property" throughout section and amended (b)5.

Amended by R.2000 d.43, effective February 7, 2000.

See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

Inserted (b)6.

#### Case Notes

Reduction of development credits in Pinelands Preservation Area District was justified due to existence of two dwellings on parcel. Fas-Mac Associates v. Pinelands Commission, 96 N.J.A.R.2d (EPC) 21.

#### 7:50-5.44 Limitations on use of Pinelands Development Credits

(a) No Pinelands Development Credit may be conveyed, sold, encumbered or transferred unless the owner of the land from which the credit has been obtained has received a Pinelands Development Credit Certificate from the New Jersey Pinelands Development Credit Bank pursuant to N.J.A.C. 3:42-3, and has deed restricted the use of the land in perpetuity to those uses set forth in N.J.A.C. 7:50-5.47(b) by recorded deed restriction which is in favor of a public agency or not for profit incorporated organization and specifically and expressly enforceable by the Commission.

(b) Notwithstanding the provisions of (a) above, an owner of a parcel from which Pinelands Development Credits are sold may retain a right for residential development on that parcel, provided that the recorded deed restriction expressly provides for same and that the total allocation of Pinelands

Development Credits for that parcel is reduced by .25 Pinelands Development Credits for each reserved right to build a dwelling unit. Subdivision of the parcel shall not be required until such time as the residential development right is exercised.

(c) The bonus density of a parcel of land on which Pinelands Development Credits are used shall not exceed the upper limits of the density range of the municipal zone or district in which the parcel is located.

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

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

In (b), added .25 PDC reduction for reserved rights.

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 "parcel" for "property" throughout section.

#### **7:50-5.45 Pinelands Development Credit bonus multipliers**

Pinelands Development Credits which are used for securing a density bonus for parcels of land located in a Regional Growth Area shall yield a bonus of four dwelling units per credit.

#### **7:50-5.46 Aggregation of Pinelands Development Credits**

Pinelands Development Credits may be aggregated from different parcels for use in securing a bonus for a single parcel of land in a Regional Growth Area, provided that the density does not exceed the limits of the density range specified in the municipal district in which the parcel is located.

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 section.

#### **7:50-5.47 Recordation of deed restriction**

(a) No conveyance, sale or transfer of Pinelands Development Credits shall occur until the municipality with jurisdiction over the parcel of land from which the Pinelands Development Credits were obtained, the agency or organization to which the restriction is in favor, and the Commission have been provided with evidence of recordation of a restriction on the deed to the land from which the development credits were obtained.

(b) Such deed restriction shall specify the number of Pinelands Development Credits sold and that the parcel may only be used in perpetuity for the following uses:

##### **1. In the Preservation Area District:**

i. Berry agriculture; horticulture of native Pinelands plants; forestry; beekeeping; fish and wildlife management; and low intensity recreational uses in which the use of motorized vehicles is not permitted

except for necessary transportation, access to water bodies is limited to no more than 15 feet of frontage per 1,000 feet of frontage on the water body, clearing of vegetation does not exceed five percent of the parcel, and no more than one percent of the parcel will be covered with impermeable surfaces.

ii. Where permitted by a certified municipal land use ordinance or when the property is located in an uncertified municipality, agricultural employee housing as an accessory use may also be specifically permitted in such deed restriction.

##### **2. In Special Agricultural Production Areas:**

i. Berry agriculture; horticulture of native Pinelands plants; forestry; beekeeping; and fish and wildlife management.

ii. Where permitted by a certified municipal land use ordinance or when the property is located in an uncertified municipality, agricultural employee housing as an accessory use may also be specifically permitted in such deed restriction.

##### **3. In Agricultural Production Areas:**

i. Agriculture; forestry; low intensity recreational uses in which the use of motorized vehicles is not permitted except for necessary transportation, access to water bodies is limited to no more than 15 feet of frontage per 1,000 feet of frontage on the water body, clearing of vegetation does not exceed five percent of the parcel, and no more than one percent of the parcel will be covered with impermeable surfaces; agricultural commercial establishments, excluding supermarkets and restaurants and convenience stores, where the principal goods or products available for sale were produced in the Pinelands and the sales area does not exceed 5,000 square feet; and agricultural products processing facilities.

ii. Where permitted by a certified municipal land use ordinance or when the property is located in an uncertified municipality, the following additional uses may be specifically permitted in such deed restriction: airports and heliports accessory to agricultural uses and which are used exclusively for the storage, fueling, loading, and operation of aircraft as part of an ongoing agricultural operation; fish and wildlife management; and agricultural employee housing as an accessory use.

4. In all other Pinelands management areas where Pinelands Development Credits have been allocated pursuant to N.J.A.C. 7:50-4.62(d)2:

i. Agriculture; forestry; and low intensity recreational uses.

(c) No development involving the use of Pinelands Development Credits shall be approved by a local permitting agency until the developer has provided the Commission and

the municipality in which the parcel of land to be developed is located with evidence of his ownership and redemption of the requisite Pinelands Development Credits; provided, however, that a municipality may grant general development plan, preliminary subdivision or preliminary site plan approval conditioned upon such evidence being presented as a prerequisite to final subdivision or site plan approval. For such a final subdivision or site plan, the developer shall provide evidence of Pinelands Development Credit ownership and redemption to secure the same proportion of lots or residential units as was approved for Pinelands Development Credit use in the preliminary approval or, as appropriate, the general development plan. Notification of a local permitting agency development approval shall be made to the Pinelands Commission pursuant to N.J.A.C. 7:50-4 and to the New Jersey Pinelands Development Credit Bank in accordance with N.J.A.C. 3:42-3. Redemption of the requisite Pinelands Development Credits shall occur in accordance with N.J.A.C. 3:42-3.6 prior to the memorialization of the resolution granting final subdivision or final site plan approval, or if no such approval is required, prior to the issuance of any construction permits.

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

Substituted "developer" for "developed" in (c).  
Amended by R.1990 d.170, effective March 19, 1990.  
See: 21 N.J.R. 3381(a), 22 N.J.R. 948(a).

In (b)3i, deleted "farm related housing" reference.  
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.2000 d.43, effective February 7, 2000.  
See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

Rewrote (c).

#### Case Notes

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

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

#### 7:50-5.48 through 7:50-5.50 (Reserved)

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

#### 7:50-5.51 Purpose

This Part establishes a special program for the State's purchase of Pinelands Development Credits, utilizing funds appropriated by the State for this purpose. The program is administered in cooperation with the New Jersey Department of Environmental Protection and the New Jersey Pinelands Development Credit Bank and is intended to increase the amount of important agricultural and forested lands permanently protected in the Preservation Area District, the Agricultural Production Areas and the Special Agricultural

Production Areas. All Pinelands Development Credits purchased through this special program shall also be retired so that the development rights purchased by the State are not used for density bonuses in Regional Growth Areas or for other development activities authorized in this Plan.

New Rule, R.2000 d.43, effective February 7, 2000.

See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

Former N.J.A.C. 7:50-5.51, Purpose, recodified to N.J.A.C. 7:50-5.61.

#### 7:50-5.52 Program administration

(a) The Pinelands Commission shall enter into a memorandum of agreement with the New Jersey Department of Environmental Protection and the New Jersey Pinelands Development Credit Bank to provide for the orderly administration of the special program authorized in this Part. The agreement shall, among other financial and administrative matters, provide for the Pinelands Commission's determination, through letters of interpretation issued pursuant to N.J.A.C. 7:50-4, Part VI, of the number of Pinelands Development Credits attributed to a parcel, the Pinelands Development Credit Bank's purchase of the Pinelands Development Credits on behalf of the Pinelands Commission and the administration of the appropriated funds. The memorandum of agreement may also authorize joint implementation of the program with any County Development Credit Bank.

(b) Nothing in this Part shall be construed to limit the authority of the Pinelands Development Credit Bank to otherwise purchase, extend loan guarantees for, sell, exchange, convey or retire Pinelands Development Credits pursuant to the authorities granted to the Bank in N.J.S.A. 13:18A-30 through 49.

New Rule, R.2000 d.43, effective February 7, 2000.

See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

Former N.J.A.C. 7:50-5.52, Designation of Municipal Reserve Areas, recodified to N.J.A.C. 7:50-5.62.

#### 7:50-5.53 Pinelands Development Credit purchases

(a) The memorandum of agreement shall authorize the Pinelands Development Credit Bank to purchase Pinelands Development Credits through this special program on behalf of the Pinelands Commission only when sufficient funds are available for such purchases and when all of the requirements of (b) and (c) below are met.

(b) All purchases of Pinelands Development Credits under this program shall meet the following criteria:

1. The deed restriction required pursuant to N.J.A.C. 7:50-5.47 was recorded on or after July 1, 1999 for the parcel to which the Pinelands Development Credits are allocated;
2. The Pinelands Development Credits are owned by the person or entity who owns the parcel to which the Pinelands Development Credits are allocated;

3. The Pinelands Development Credits are not owned by a public agency;

4. If a person or entity owns more than one parcel, each of which is one acre or less in size and each of which receives a PDC allocation pursuant to N.J.A.C. 7:50-5.43(b)4 or 5, no more than a total of 0.50 Pinelands Development Credits allocated to such parcels shall be purchased from that person or entity; and

5. No more than 25 Pinelands Development Credits shall be purchased from any person or entity prior to July 1, 2000 unless the full amount of the appropriation by the State for such purposes is not obligated by June 30, 2000.

(c) Upon receipt of a written request from a property owner and the transfer of sufficient funds to the Pinelands Development Credit Bank by the Pinelands Commission, the Bank shall purchase the Pinelands Development Credits if the requirements of (a) and (b) above and the requirements of N.J.A.C. 3:42-3 are met.

(d) The requirements of (a), (b) and (c) above apply to the Pinelands Development Credit Bank's purchase of Pinelands Development Credits pursuant to this special program and shall not otherwise be construed to limit any person's ability to sell Pinelands Development Credits to the Pinelands Development Credit Bank pursuant to N.J.A.C. 3:42-5 or to any other person.

New Rule, R.2000 d.43, effective February 7, 2000.  
See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

Former N.J.A.C. 7:50-5.53, Development in Municipal Reserve Areas, recodified to N.J.A.C. 7:50-5.63.

#### **7:50-5.54 Purchase price**

(a) The purchase price of a Pinelands Development Credit shall be the higher of the following values:

1. The 1985 market value of \$12,500 established in the Pinelands Development Credit Bank Act, P.L. 1985, c.310 (N.J.S.A. 13:18A-30-49), adjusted to current dollar value. The adjustment shall be directly proportional to the percent change in the Consumer Price Index from the 1985 annual average index to the annual average index for the calendar year immediately preceding the purchase. The adjustment shall use the Consumer Price Index for All Urban Consumers, Philadelphia-Wilmington-Atlantic City Area, Owners Equivalent Rent of Primary Residence, as compiled by the United States Department of Labor Bureau of Labor Statistics; or

2. The value derived from the more recent of the following:

i. The purchase price for Pinelands Development Credits established by the Pinelands Development Credit Bank pursuant to the Pinelands Development Credit Bank Act, P.L. 1985, c.310 (N.J.S.A. 13:18A-30-49) which is promulgated at N.J.A.C. 3:42-5.6; or

ii. Eighty percent of the highest per unit bid received in conjunction with the most recent sale of Pinelands Development Credits by the Pinelands Development Credit Bank pursuant to N.J.A.C. 3:42-7.

New Rule, R.2000 d.43, effective February 7, 2000.

See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

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

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

Rewrote the section.

#### **7:50-5.55 Retirement of Pinelands Development Credits purchased through this program**

All Pinelands Development Credits purchased by the Pinelands Development Credit Bank pursuant to the special program authorized in this Part shall be retired and may never be transferred, sold, conveyed, redeemed or otherwise used in any way. The Pinelands Development Credit Bank shall record the retirement of these Pinelands Development Credits in the registry maintained pursuant to N.J.A.C. 3:42-4.

New Rule, R.2000 d.43, effective February 7, 2000.

See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

#### **7:50-5.56 through 7:50-5.60 (Reserved)**

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

#### **7:50-5.61 Purpose**

In order to enable counties and municipalities with jurisdiction over land in Rural Development Areas and Regional Growth Areas to plan for an orderly rate and pattern of growth within both areas, the Pinelands Commission hereby establishes a municipal option that may be incorporated in a municipal master plan or land use ordinance which allows a municipality to designate areas in a Rural Development Area or Regional Growth Area as Municipal Reserve Areas. These areas would be eligible for development under the minimum standards established for development and land use in Regional Growth Areas, including use of Pinelands Development Credits at a future date.

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

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

Recodified from N.J.A.C. 7:50-5.51 by R.2000 d.43, effective February 7, 2000.

See: 31 N.J.R. 3020(a), 32 N.J.R. 601(a).

#### **7:50-5.62 Designation of Municipal Reserve Areas**

(a) A municipality may, in its master plan and land use ordinance, designate lands in Rural Development Areas that are adjacent to or contiguous with a Regional Growth Area or areas of existing growth and development located outside of the Pinelands as Municipal Reserve Areas, provided that the area designated:

(e) Nothing in this Part shall be construed to prohibit the use of containers or the development of facilities which are intended solely for the collection and storage of waste generated from the lawful use of the parcel on which the containers or facilities are located. Wastes shall not be stored for more than six months.

Repeal and New Rule, R.1996 d.225, effective May 20, 1996.

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

Section was "Solid waste transfer stations".

#### 7:50-6.77 Composting facilities

(a) Composting facilities which accept only vegetative waste shall be ancillary to an agricultural use of the parcel on which they are located.

(b) Composting facilities which accept only vegetative waste and are located in Pinelands Villages and at closed landfills outside Regional Growth Areas and Pinelands Towns shall accept only vegetative waste for composting that is generated within the municipality in which the composting facility is located. Vegetative waste from other Pinelands municipalities may be accepted provided that the composting facility will process less than 20,000 cubic yards of vegetative waste per year.

Repeal and New Rule, R.1996 d.225, effective May 20, 1996.

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

Section was "Categories of wastes prohibited".

#### 7:50-6.78 Regulated medical waste

(a) The Fort Dix solid waste incinerator may accept regulated medical waste from outside the Pinelands subject to the total volume limitations for all waste previously approved by the Commission pursuant to N.J.A.C. 7:50-4.51 through 4.58.

(b) Notwithstanding (a) above, generators of regulated medical waste may, as an accessory use, collect, store, treat and destroy such waste on-site or at another generator's facility. Such facilities may accept regulated medical waste from outside the Pinelands if the nature and volume of such waste is incidental to that which the facility handles from within the Pinelands.

Repeal and New Rule, R.1996 d.225, effective May 20, 1996.

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

Section was "Compliance with county, state and federal requirements".

#### 7:50-6.79 Land application of waste or waste derived materials

(a) The application of waste or waste derived material to any parcel of land is prohibited except as expressly authorized in this Part and as follows:

1. The lawful application to any parcel of land of not more than 100 cubic yards per principal structure of sludge derived product, composted vegetative waste, vegetative waste, or animal manure in support of an otherwise lawful use of the parcel shall be permitted;

2. Mulch from paper, vegetative waste or composted vegetative waste may be used for landscaping purposes for an otherwise lawful use or as necessary to meet the restoration standards set forth in N.J.A.C. 7:50-6.69 for resource extraction operations; and

3. Nothing herein is intended to prohibit the use of recycled concrete, asphalt or brick as aggregate fill in support of an otherwise lawful use.

(b) The land application of liquid or dewatered sludge and sludge derived products may be permitted by the State, a county or a municipality, provided that:

1. The parcel is an active agricultural operation;
2. The material is applied to benefit the agricultural operation;
3. The material is applied according to the agronomic rate of application for its intended purpose;
4. The parcel is located in the Pinelands Protection Area or that portion of the Pinelands Preservation Area designated as an Agricultural Production Area; and
5. No treatment or processing occurs at the site of land application except as necessary to meet pathogen or vector attraction reduction requirements imposed by the Department of Environmental Protection.

(c) Vegetative and composted vegetative waste may be applied to land for agricultural purposes, provided that any such land application shall be in conformance with an agricultural management plan approved by the soil conservation district in which the agricultural operation is located.

(d) Nothing in this Part shall be construed to prohibit the use of animal manure as a fertilizer for agricultural operation, provided that all relevant criteria and standards developed by the New Jersey Department of Agriculture are met.

New Rule, R.1996 d.225, effective May 20, 1996.

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

#### 7:50-6.80 Memoranda of agreement may permit deviations

(a) The Pinelands Commission may enter into intergovernmental memoranda of agreement with other governmental agencies which authorize exemptions only to the waste importation limitations prescribed in N.J.A.C. 7:50-6.73(c), provided that the Commission determines that:

1. Such agreement serves to implement a comprehensive district or region-wide waste management plan;
2. Such agreement provides that certain waste management facilities and activities which could otherwise occur within the Pinelands will occur outside of the Pinelands;
3. The net effect of the waste management plan, when viewed in its entirety, is that the resources of the Pinelands are afforded a greater level of protection than would be provided through a strict application of the requirements of this Part. As appropriate, the following conditions must be met:

i. The volume and types of wastes proposed for import and export, and the environmental risks associated with them, should be considered in the balancing tests;

ii. Any non-recyclable residues produced in the Pinelands should have adequate provisions for their ultimate disposal outside the Pinelands; and

iii. The entire waste management program for the affected jurisdictions should be considered, including both current and proposed methods and siting of all waste management facilities; and

4. The exemption will not in any way authorize the importation of waste which originates from other than Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester or Ocean counties.

(b) The Pinelands Commission may enter into intergovernmental memoranda of agreement with other governmental agencies which authorize only the use of existing waste management facilities located in the Rural Development Area that were originally developed in accordance with the provisions of this Plan, provided that the Commission determines that:

1. The proposed waste management use is otherwise permitted in the Pinelands pursuant to the standards set forth in N.J.A.C. 7:50-5 and 6, except that no hazardous waste facilities, landfills or incinerators shall be permitted;

2. The existing facility is uniquely suited for the proposed waste management use;

3. The proposed use will not materially increase the area or previously approved design or permitted capacity of the existing facility;

4. There will be no material increase in traffic, impermeable surface or clearing of vegetation as a result of the proposed use;

5. The type of waste to be managed is either the same as is currently permitted at the facility or is a recyclable material as defined in N.J.A.C. 7:50-2.11; and

6. A deviation from N.J.A.C. 7:50-6.73(c) is not proposed and that, as necessary, the standards in N.J.A.C. 7:50-6.74(a) for recyclables and other special materials are met.

(c) The Pinelands Commission may enter into intergovernmental memoranda of agreement with other governmental agencies which authorize exemptions only to the limitations prescribed in N.J.A.C. 7:50-6.79(a) and (b)1 and 2 and to those in N.J.A.C. 7:50-6.75(h) which set forth the list of materials which may be used for landfill closure for the land application or use of liquid or dewatered sludge and sludge derived products, provided that the Commission determines that:

1. The sludge or sludge derived products shall be used only as follows:

i. For land application in support of otherwise permitted land uses;

ii. For land application in support of the reclamation of disturbed areas; or

iii. To facilitate the closure of a landfill.

2. Reasonable safeguards are established to limit the type and total amount of material to be land applied or used;

3. Such agreement serves to implement a monitoring program to determine the effects of the activities on Pinelands resources; and

4. The duration of the agreement is limited to that necessary to complete the monitoring program, except if extended to permit subsequent rulemaking.

(d) The Pinelands Commission may also enter into intergovernmental memoranda of agreement with other governmental agencies which authorize only the land application of compost derived from source separated municipal waste, provided that the provisions of (c) above are met.

(e) Prior to the execution of any intergovernmental memorandum of agreement pursuant to this section, a public hearing shall be held by the Executive Director in accordance with the provisions of N.J.A.C. 7:50-4.52(c)3.

New Rule, R.1996 d.225, effective May 20, 1996.  
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

## PART VIII—WATER QUALITY

### 7:50-6.81 Purpose

An essential element of the overall ecological value of the Pinelands environment is its extensive surface and ground water resources of exceptional quality. The Pinelands Protection Act provides that the Plan protect and maintain the quality of surface and ground water through the control of development and land use, and close cooperation and coordination with local, state and federal agencies of government. This management program is intended to protect and preserve surface and ground waters of the Pinelands and to ensure that random and uncontrolled growth and development will not degrade the Pinelands environment. Nothing in this Part applies to agricultural activities except as otherwise provided by state or Federal regulation.

responsibility to operate and maintain it in accordance with the manual required in (a)5iv(1)(D) above, and grants access, with reasonable notice, to the local board of health, the Commission and its agents for inspection and monitoring purposes. The recorded deed shall run with the property and shall ensure that the maintenance requirements are binding on any owner of the property during the life of the system; and

(2) For pressure dosed septic systems:

(A) A complete application for the proposed residential development was received by the Commission pursuant to N.J.A.C. 7:50-4.2 or by a municipality pursuant to an alternate permitting program certified by the Commission in accordance with N.J.A.C. 7:50-3.81 through 3.85 prior to August 5, 2002, the proposed lot size and density are consistent with the provisions of this Plan and the municipal land use ordinances that have been certified by the Commission pursuant to the provisions of N.J.A.C. 7:50-3, the proposed pressure dosed septic system receives approval from a local board of health by August 5, 2003 and the system is installed within one year of the issuance of its approval by the local board of health; and

(B) For residential development, either the system will be located on a lot of at least one acre for each individual single family residential dwelling unit or the system or systems for multi-family developments will be located on a parcel with an overall density equal to or greater than one residential dwelling unit per acre of land.

(3) Other on-site septic waste water treatment systems shall only be credited with reducing total nitrogen concentration to the extent authorized by an experimental monitoring program approved by the Pinelands Commission. Such an experimental monitoring program shall only be approved if:

(A) The specific theoretical basis for the nitrogen removal process to be utilized is sound and has been satisfactorily documented in the scientific literature;

(B) The nitrogen removal efficiency of operating systems using the design concept to service one or more types of development has been satisfactorily demonstrated and adequately documented in the scientific literature;

(C) The proposed application of the treatment process could be expected to meet the two parts per million nitrate/nitrogen ground water quality standard in the Pinelands Area and the ability to meet this requirement can be continuously achieved on a long-term basis;

(D) Systems utilizing the design concept can be expected not to require any maintenance beyond that required of conventional septic systems or, if additional maintenance is required, sufficient measures can feasibly be taken to insure that the system will be properly maintained and operated;

(E) A comprehensive monitoring program is feasible to fully evaluate the nitrogen removal efficiency of the application of the proposed design concept;

(F) The system meets all the requirements in N.J.A.C. 7:50-10.22(a) 6i through x; and

(G) The design concept can be expected to meet those requirements of the New Jersey Department of Environmental Protection necessary to receive a Treatment Works Approval.

v. Only contiguous land located within the same municipal zoning district and Pinelands management area as the proposed septic waste water treatment system or systems may be utilized for septic dilution purposes, except for the development of an individual single family dwelling on a lot existing as of January 14, 1981, non-residential development on a lot of five acres or less existing as of January 14, 1981, or cluster development as permitted by N.J.A.C. 7:50-5.19;

vi. The depth to seasonal high water table is at least five feet;

vii. Any potable water well will be drilled and cased to a depth of at least 100 feet, unless the well penetrates an impermeable clay aquiclude, in which case the well shall be cased to at least 50 feet;

viii. The system will be maintained and inspected in accordance with the requirements of N.J.A.C. 7:50-6.85;

ix. Flow values for non-residential development shall be determined based on the values contained in N.J.A.C. 7:9A-7.4, as amended, except that number of employees may not be utilized in calculating flow values for office uses. In the event that N.J.A.C. 7:9A-7.4 does not provide flow values for a specific use, but a flow value is assigned for that use in 7:14A-23.3(a), the flow value specified in N.J.A.C. 7:14A-23.3(a) shall be used in calculating flow.

6. Surface water runoff in accordance with N.J.A.C. 7:8-5 and 6, as amended, except as modified and supplemented pursuant to the following:

i. Runoff rate and volume, runoff quality and groundwater recharge methodologies:

(1) Runoff rates and volumes shall be calculated in accordance with the USDA Natural Resources

Conservation Service (NRCS) Runoff Equation, Runoff Curve Numbers, and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Part 630 – Hydrology and Technical Release 55 – Urban Hydrology for Small Watersheds, incorporated herein by reference, as amended and supplemented. Information regarding these methodologies is available from the Natural Resources Conservation Service website at <http://www.wcc.nrcs.usda.gov/water/quality/common/neh630/4content.html> or at Natural Resources Conservation Service, 220 Davison Avenue, Somerset, New Jersey 08873; (732) 537-6040. Alternative methods of calculation may be utilized, provided such alternative methods are at least as protective as the NRCS methodology when considered on a regional stormwater management area basis;

(2) Stormwater runoff shall be calculated using NRCS methodology by separately calculating and then combining the runoff volumes from pervious and directly connected impervious surfaces within each drainage area within the parcel;

(3) Calculations of stormwater runoff from unconnected impervious surfaces shall be based, as applicable, upon the Two-Step Method described in the New Jersey Stormwater Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, incorporated herein by reference, as amended and supplemented and available at <http://www.njstormwater.org/bmp-manual2.htm>, or the NRCS methodology; and

(4) In calculating stormwater runoff using the NRCS methodology, the appropriate 24-hour rainfall depths as developed for the parcel by the National Oceanic and Atmospheric Administration shall be utilized. Information regarding these rainfall data is available from the National Oceanic and Atmospheric Administration (NOAA) at <http://www.hdsc.nws.noaa.gov/hdsc/pfds/index.html> or DOC/NOAA/National Weather Service, Office of Hydrologic Development, Hydrometeorological Design Studies Center, Bldg. SSMC2 W/OHD13, 1325 East-West Highway, Silver Spring, Maryland 20910-3283; (301) 713-1669 extension 154.

ii. Runoff shall meet the requirements in (a)6ii(4) and (5) below and one of (a)6ii(1), (2) or (3) below:

(1) The post-development stormwater runoff hydrographs generated from the parcel by a two-year, 10-year and 100-year storm, each of a 24-hour duration, shall not exceed, at any point in time, the parcel's pre-development runoff hydrographs for the same storms; or

(2) Under post-development site conditions:

(A) There shall be no increase in pre-development stormwater runoff rates from the parcel for the two-year, 10-year and 100-year storm; and

(B) Any increased stormwater runoff volume or change in stormwater runoff timing for the two-year, 10-year and 100-year storms shall not increase flood damage at or downstream of the parcel. When performing this analysis for the pre-development site conditions, all off-site development levels shall reflect existing conditions. When performing this analysis for post-development site conditions, all off-site development levels shall reflect full development potential in accordance with those municipal land use ordinances certified by the Commission pursuant to N.J.A.C. 7:50-3; or

(3) The peak post-development stormwater runoff rates for the parcel for the two-year, 10-year and 100-year storms shall be 50, 75 and 80 percent, respectively, of the parcel's peak pre-development stormwater rates for the same storms. Peak outflow rates from onsite stormwater measures for these storms shall be adjusted where necessary to account for the discharge of increased stormwater runoff rates and/or volumes from areas of the parcel not controlled by onsite measures. These percentages need not be applied to those portions of the parcel that are not proposed for development at the time an application is submitted to the Commission pursuant to N.J.A.C. 7:50-4, provided that:

(A) Such areas have been permanently protected from future development by conservation easement, deed restriction, or other acceptable legal measures; or

(B) A deed notice has been filed stating that such areas will be subject to the standards of this section at the point in time they are proposed for development in the future;

(4) There shall be no direct discharge of stormwater runoff from any point or nonpoint source to any wetland, wetlands transition area or surface waterbody. In addition, stormwater runoff shall not be directed in such a way as to increase the volume and rate of discharge into any surface water body from that which existed prior to development of the parcel; and

(5) To the maximum extent practical, there shall be no direct discharge of stormwater runoff onto farm fields so as to protect farm crops from damage due to flooding, erosion, and long term saturation of cultivated crops and cropland.

iii. Recharge standards:

(1) For all major developments, the total runoff volume generated from the net increase in impervious surfaces by a 10-year, 24-hour storm shall be retained and infiltrated onsite;

(2) In high pollutant loading areas (HPLA) and areas where stormwater runoff is exposed to source material, as defined at N.J.A.C. 7:8-5.4(a)2iii(1) and (2), the following additional water quality standards shall apply:

(A) The areal extent and amount of precipitation falling directly on or flowing over HPLAs and areas where stormwater is exposed to source material shall be minimized through the use of roof covers, canopies, curbing or other physical means to the maximum extent practical in order to minimize the quantity of stormwater generated from HPLA areas;

(B) The stormwater runoff originating from HPLAs and areas where stormwater runoff is exposed to source material shall be segregated and prohibited from co-mingling with stormwater runoff originating from the remainder of the parcel;

(C) The stormwater runoff from HPLAs and areas where stormwater runoff is exposed to source material shall be subject to pretreatment to achieve 90 percent removal of total suspended solids from the water quality design storm established in N.J.A.C. 7:8-5.5(a) prior to infiltration, using one or more of the following measures, designed in accordance with the New Jersey Stormwater Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, incorporated herein by reference, as amended and supplemented:

(I) Bioretention system;

(II) Sand filter;

(III) Wet ponds, which shall be hydraulically disconnected by a minimum of two feet of vertical separation from the seasonal high water table and shall be designed to achieve a minimum 80 percent removal of total suspended solids;

(IV) Constructed stormwater wetland; and

(V) Other measures certified by the Department of Environmental Protection, including a Media Filtration System manufactured treatment device with a minimum 80 percent removal of total suspended solids as verified by the New Jersey Corporation for Advanced Technology; and

(D) If the potential for contamination of stormwater runoff by petroleum products exists

onsite, prior to being conveyed to the pretreatment facility required in (a)6iii(2)(C) above, the stormwater runoff from the HPLAs and areas where stormwater runoff is exposed to source material shall be conveyed through an oil/grease separator or other equivalent manufactured filtering device providing for the removal of petroleum hydrocarbons.

iv. Infiltration basin design, siting and construction standards:

(1) Stormwater infiltration facilities shall be designed, constructed and maintained to provide a minimum separation of at least two feet between the elevation of the lowest point of the bottom of the infiltration facility and the seasonal high water table;

(2) Stormwater infiltration facilities shall be sited in suitable soils verified by field testing to have permeability rates between one and 20 inches per hour. A factor of safety of two shall be applied to the soil's field-tested permeability rate in determining the infiltration facility's design permeability rate. If such soils do not exist on the parcel proposed for development or if it is demonstrated that it is not practical for engineering, environmental or safety reasons to site the stormwater infiltration basin(s) in such soils, the stormwater infiltration basin(s) may be sited in soils verified by field testing to have permeability rates in excess of 20 inches per hour, provided that stormwater is routed through a bioretention system prior to infiltration. Said bioretention system shall be designed, installed and maintained in accordance with the New Jersey Stormwater Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, incorporated herein by reference, as amended and supplemented;

(3) Groundwater mounding analysis shall be required for purposes of assessing the hydraulic impacts of mounding of the water table resulting from infiltration of stormwater runoff from the maximum storm designed for infiltration. The mounding analysis shall provide details and supporting documentation on the methodology used. Groundwater mounds shall not cause stormwater or groundwater to breakout to the land surface or cause adverse impacts to adjacent water bodies, wetlands or subsurface structures, including, but not limited to basements and septic systems. Where the mounding analysis identifies adverse impacts, the infiltration facility shall be redesigned or relocated, as appropriate;

(4) To the maximum extent practical, stormwater management measures on a parcel shall be designed to limit site disturbance, maximize stormwater management efficiencies, maintain or improve aesthetic

conditions and incorporate pretreatment as a means of extending the functional life and increasing the pollutant removal capability of structural stormwater management facilities. The use of stormwater management measures that are smaller in size and distributed spatially throughout a parcel, rather than the use of a single larger structural stormwater management measure, shall be required to the maximum extent practical;

(5) To avoid sedimentation that may result in clogging and reduction of infiltration capability and to maintain maximum soil infiltration capacity, the construction of stormwater infiltration basins shall be managed in accordance with the following standards:

(A) No stormwater infiltration basin shall be placed into operation until its drainage area has been completely stabilized. Instead, upstream runoff shall be diverted around the basin and into separate, temporary stormwater management facilities and sediment basins. Such temporary facilities and basins shall be installed and utilized for stormwater management and sediment control until stabilization is achieved in accordance with N.J.A.C. 2:90, Standards for Soil Erosion and Sediment Control in New Jersey;

(B) If, for engineering, environmental or safety reasons, temporary stormwater management facilities and sediment basins cannot be constructed on the parcel in accordance with (a)6iv(5)(A) above, the stormwater infiltration basin may be placed into operation prior to the complete stabilization of its drainage area provided that the basin's bottom during this period is constructed at a depth at least two feet higher than its final design elevation. When the drainage area has been completely stabilized, all accumulated sediment shall be removed from the infiltration basin, which shall then be excavated to its final design elevation; and

(C) To avoid compacting an infiltration basin's subgrade soils, no heavy equipment such as backhoes, dump trucks or bulldozers shall be permitted to operate within the footprint of the stormwater infiltration basin. All excavation required to construct a stormwater infiltration basin shall be performed by equipment placed outside the basin. If this is not possible, the soils within the excavated area shall be renovated and tilled after construction is completed. Earthwork associated with stormwater infiltration basin construction, including excavation, grading, cutting or filling, shall not be performed when soil moisture content is above the lower plastic limit.

v. As-built requirements:

(1) After all construction activities have been completed on the parcel and finished grade has been established in the infiltration basin, replicate post-development field permeability tests shall be conducted to determine if as-built soil permeability rates are consistent with design permeability rates. The results of such tests shall be submitted to the municipal engineer. If the results of the post-development field permeability tests fail to achieve the minimum required design permeability rate, utilizing a factor of safety of two, the infiltration basin shall be renovated and re-tested until such minimum required permeability rates are achieved; and

(2) After all construction activities and required field testing have been completed on the parcel, as-built plans, including as-built elevations of all stormwater management measures shall be submitted to the municipal engineer. Based upon the municipal engineer's review of the as-built plans, all corrections or remedial actions deemed by the municipal engineer to be necessary due to the failure to comply with design standards and/or for any reason concerning public health or safety, shall be completed by the applicant. In lieu of review by the municipal engineer, the municipality may engage a licensed professional engineer to review the as-built plans and charge the applicant for all costs associated with such review.

vi. Exceptions:

(1) The standards set forth in (a)6i through v above shall not apply to minor residential development, provided such development does not involve the construction of any new roads, or to minor non-residential development, provided such development does not involve the grading, clearing or disturbance of an area in excess of 5,000 square feet within any five-year period;

(2) The use of nonstructural strategies in accordance with N.J.A.C. 7:8-5.3 shall not be required for development which would create less than one acre of disturbance;

(3) Provided an applicant for major development is able to demonstrate that the standards set forth in (a)6i through v above cannot be met on the parcel proposed for development or that stormwater management would more effectively be achieved through alternative measures, strict compliance with said standards may be waived at the discretion of the municipality in which the proposed development is located, provided the municipal stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 specifies the circumstances under which such alternative measures would be appropriate and identifies those parcels or projects elsewhere in the Pinelands Area where any off-site mitigation would be permitted to occur; and

(4) Unless specifically included in (a)6vi(1) through (3) above, the exemptions, exceptions, applicability standards and waivers of strict compliance for stormwater management described in N.J.A.C. 7:8 shall not apply.

vii. Maintenance standards:

(1) Maintenance plans required pursuant to N.J.A.C. 7:8-5.8(a) shall be supplemented so as to include reporting of inspection and repair activities. Said plans shall include accurate and comprehensive drawings of all stormwater management measures on a parcel, including the specific latitude and longitude and block/lot number of each stormwater management measure. Maintenance plans shall specify that an inspection, maintenance and repair report will be updated and submitted annually to the municipality;

(2) Stormwater management measure easements shall be provided by the property owner as necessary for facility inspections and maintenance and preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities. The purpose of the easement shall be specified in the maintenance agreement; and

(3) An adequate means of ensuring permanent financing of the inspection, maintenance, repair and replacement plan shall be implemented and shall be detailed in the maintenance plan. Financing methods shall include, but not be limited to.

(A) The assumption of the inspection and maintenance program by a municipality, county, public utility or homeowners association;

(B) The required payment of fees to a municipal stormwater fund in an amount equivalent to the cost of both ongoing maintenance activities and necessary structural replacements.

viii. Unless specifically mandated pursuant to (a)6i through vii above, the New Jersey Stormwater Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, as amended, may be utilized as a guide in determining the extent to which stormwater management activities and measures meet the standards of (a)6i through vii above.

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)2, added "or collection" and "where a public health problem has been identified", and in (a)4ii, deleted "District" and added "Rural Development Area".

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

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

Administrative Correction

See: 27 N.J.R. 1410(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).

Deleted (a)5.iv.(2)(A)(I) and (a)5.iv.(2)(A)(II).

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)4viii and (a)5ix inserted the reference to 7:14A-23.3(a).

Amended by R.2002 d.247, effective August 5, 2002.

See: 34 N.J.R. 722(a), 34 N.J.R. 2804(b).

Rewrote (a)5iv.

Amended by R.2006 d.159, effective May 1, 2006.

See: 37 N.J.R. 4133(a), 38 N.J.R. 1829(b).

Rewrote (a)6.

#### Case Notes

Municipal sewage treatment facility may have waiver from strict compliance with water purity requirements where compliance with environmental and procedural laws is shown. *Adamucci v. Pinelands Commission*, 96 N.J.A.R.2d (EPC) 1.

No extraordinary hardship existed entitling property owner to waiver of strict compliance with seasonal high water table requirement. *Pappas v. Pinelands Commission*, 93 N.J.A.R.2d (EPC) 13.

Parcel not have beneficial use; extraordinary hardship existed entitling property owner to waiver of Pinelands Comprehensive Management Plan requirements; conditions imposed. *Christensen v. New Jersey Pinelands Commission*, 93 N.J.A.R.2d (EPC) 5.

Assumption that 3.5 people would inhabit each of proposed dwellings permissible; calculation as to whether proposed development violated nitrate-nitrogen ground water requirements. *Schretzenmair v. Pinelands Commission*, 93 N.J.A.R.2d (EPC) 1.

Sale of adjoining lot precluded existence of extraordinary hardship, even though property owner was elderly individual suffering from heart problems and diabetes and sought to sell or develop property in order to help support herself and two handicapped sons residing with her. *Stark v. Pinelands Commission*, 92 N.J.A.R.2d (EPC) 34.

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.

Compelling health need; hardship waiver of nitrate-nitrogen discharge limitations; town permitted to build wastewater treatment facility. *Adamucci, et al v. Pinelands Commission and Town of Hammonton*, 92 N.J.A.R.2d (EPC) 21.

No extraordinary hardship existed entitling property owner to waiver of strict compliance with density requirements, seasonal high water table requirement, and wetlands protection requirements. *Summonte v. Pinelands Commission*, 92 N.J.A.R.2d (EPC) 9.

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.

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).

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).

Development application denied to petitioners for failure to meet minimum standards for seasonal high water table and wetlands buffer; waiver of strict compliance denied for failure to offer information to establish an extraordinary hardship citing N.J.A.C. 1:1-11.2 (recodified as N.J.A.C. 1:11-8.3)—(Final Decision by the Pinelands Commission). *Lavecchia v. Pinelands Commission*, 10 N.J.A.R. 63 (1987).

Application to resubdivide two existing lots denied for failure to meet minimum standards for seasonal high water table and wetlands buffer;

waiver of strict compliance denied for failure to establish extraordinary hardship. (Final Decision by Pinelands Commission). *Colon v. Pinelands Commission*, 10 N.J.A.R. 14 (1987).

Effluent standard for waterless toilet (2 ppm) cited in determination that denial of waiver of strict compliance with toilet requirement reasonable. *Riggins v. Pinelands Commission*, 8 N.J.A.R. 441 (1985).

Property for which development approval sought, even if minimum lot size requirement met, does not meet minimum standards for wetlands buffer (N.J.A.C. 7:50-6.14) or seasonal high water table (N.J.A.C. 7:50-6.84); permit application denied. *Pfeiffer v. Pinelands Commission*, 8 N.J.A.R. 317 (1985).

Development application denied, in part, for failure to meet minimum standards for seasonal high water table. *Pfeiffer v. Pinelands Commission*, 8 N.J.A.R. 317 (1985).

#### **7:50-6.85 Individual wastewater treatment facility and petroleum tank maintenance**

(a) The owner of every on-site septic wastewater treatment facility in the Pinelands shall, as soon as suitable septage disposal facility capacity is available, in accordance with the provisions of Chapter 326 of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. and Section 201 of the Clean Water Act:

1. Have the facility inspected by a technician at least once every three years;

2. Have the facility cleaned at least once every three years; and

3. Once every three years submit to the board of health serving the municipality in which the facility is located a sworn statement that the facility has been inspected, cleaned and is functional, setting forth the name of the person who performed the inspection and cleaning and the date of such inspection.

(b) The owners of commercial petroleum storage tanks shall comply with the requirements of P.L. 1986, c.102 (N.J.S.A. 58:10A-29).

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

#### **7:50-6.86 Water management**

(a) Interbasin transfer of water between watersheds in the Pinelands should be avoided to the maximum extent practical. In areas served by central sewers, water-saving devices such as water-saving toilets, showers and sink faucets shall be installed in all new development.

(b) Water shall not be exported from the Pinelands except as otherwise provided in N.J.S.A. 58:1A-7.1.

(c) All wells and all increases in diversion from existing wells which require water allocation permits from the New Jersey Department of Environmental Protection shall be designed and located so as to minimize impacts on wetlands and surface waters. Hydrologic analyses shall be conducted in accordance with the New Jersey Department of Environmental Protection Guidelines for Water Allocation Permits, with an Appendix on Aquifer-Test Analysis Procedures, New Jersey Geological Survey Report GSR 29, 1992, incorporated herein by reference, as contained in pages 53 through 91 of the Technical Manual for Water Supply Element, Bureau of Water Allocation, Water Allocation Permits dated May 19, 1993, as amended.

(d) All applications for the development of water supply wells or the expansion of existing water distribution systems shall address measures in place or to be taken to increase water conservation in all areas to be served by the proposed well or system. This shall include efforts by water purveyors and local governments to reduce water demands by users and to reduce losses in the supply and distribution system.

(e) Except for agricultural uses, all new potable and non-potable water supply diversions of more than 100,000 gallons per day that utilize the Kirkwood-Cohansey aquifer as a source of water supply and new increases in existing potable and non-potable water supply diversions of over 100,000 gallons per day that utilize the Kirkwood-Cohansey aquifer may be permitted only if it is demonstrated that:

1. No viable alternative water supply sources are available; or
2. The proposed use of the Kirkwood-Cohansey aquifer will not result in any adverse ecological impact on the Pinelands Area.

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

#### 7:50-6.87 Prohibited chemicals and materials

(a) Use of the following substances is prohibited in the Pinelands to the extent that such use will result in direct or indirect introduction of such substances to any surface or ground water or any land:

1. Septic tank cleaners; and
2. Waste oil.

(b) All storage facilities for deicing chemicals shall be lined to prevent leaking into the soil, and shall be covered with an impermeable surface which shields the facility from precipitation.

(c) No person shall apply any herbicide to any road or public utility right-of-way within the Pinelands unless necessary to protect an adjacent agricultural activity.

7:50-6.88 through 7:50-6.90 (Reserved)

### PART IX—AIR QUALITY

#### 7:50-6.91 Purpose

Air quality in the Pinelands is important to the character and ecology of the Pinelands. It is the purpose of this Part to ensure that the quality of the air in the Pinelands region is protected and enhanced.

#### 7:50-6.92 Air quality program

In order to obtain certification under the provisions of N.J.A.C. 7:50-3, the municipal master plan and land use ordinances must contain a program for air quality. It is not necessary that the program incorporate the literal terms of the program set out in this Part; rather, it may adopt alternative or additional management techniques which will achieve the protection of the Pinelands equivalent to that which would be achieved under the provisions of this Part.

#### 7:50-6.93 General standard

All development shall adhere to the relevant air quality standards of N.J.A.C. 7:27. Adherence to the standards of this Part shall be determined by means of an air quality simulation model approved by the New Jersey Department of Environmental Protection pursuant to N.J.A.C. 7:27-18.3.

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

#### 7:50-6.94 Standards for specified development

(a) Applications for the following developments shall ensure that all state ambient air quality standards in N.J.A.C. 7:27 et seq. for carbon monoxide shall not be exceeded at places of maximum concentration and at sensitive receptors:

1. Residential development of 50 or more units and any other development involving more than 100 parking spaces located in a Regional Growth Area or Pinelands Town; and
2. Residential development of 100 or more units and any other development involving more than 300 parking spaces located in any other Pinelands management area.

7:50-6.95 through 7:50-6.100 (Reserved)

### PART X—SCENIC

#### 7:50-6.101 Purpose

The Pinelands is a complex of environmental values that presents a definable visual character to residents and visitors. This character contributes substantially to the attractiveness of the area and therefore is an important element to the area's economy. This Part is intended to ensure that development will take advantage of and enhance the visual character of the Pinelands.

**7:50-6.102 Scenic management program**

In order to be certified under the provisions of N.J.A.C. 7:50-3, a municipal master plan or land use ordinance must provide a program for the protection of the scenic values of the Pinelands. It is not necessary that the municipal program incorporate the literal terms of the program set out in this Part; rather, a municipality may adopt alternative and additional techniques which will achieve equivalent protection of scenic values which would be achieved under the provisions of this Part.

**7:50-6.103 Scenic corridors**

(a) Except for those roads which provide for internal circulation within residentially developed areas, all public, paved roads in the Preservation Area District, the Rural Development and Forest Areas shall be considered scenic corridors.

(b) Those rivers designated in N.J.A.C. 7:50-6.105 shall be considered as special scenic corridors in any part of the Pinelands.

**7:50-6.104 Requirements for scenic corridors**

(a) Except as provided in this section, no permit shall be issued for development other than for agricultural commercial establishments unless the applicant demonstrates that all buildings are set back at least 200 feet from the center line of the scenic corridor.

(b) If compliance with the 200-foot setback is constrained by environmental or other physical considerations, such as wetland, or active agricultural operation, the building shall be set back as close to 200 feet as practical and the site shall be landscaped in accordance with the provisions of Part II of this subchapter so as to provide screening from the corridor.

(c) If an applicant for development approval demonstrates that existing development patterns of the corridor are such that buildings are set back less than 200 feet within 1,000 feet of the site proposed for development, then a setback shall be set for the proposed development which is consistent with the established development pattern, provided that the site is landscaped in accordance with the provisions of Part II of this subchapter so as to provide screening between the building and the corridor.

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

**7:50-6.105 Requirements for special scenic corridors**

(a) The following rivers are hereby designated to be wild and scenic rivers and scenic corridors of special significance to the Pinelands. All structures within 1,000 feet of the center line of these rivers shall be designed to avoid visual impacts as viewed from the river:

1. Great Egg Harbor River—Great Egg Bay (Garden State Parkway) to Route 536.
2. Tuckahoe River—Great Egg Bay to the Route 552 crossing in Milmay.
3. Middle River—Great Egg Bay to Schoolhouse Lane crossing north of Corbin City.
4. Mullica River—Garden State Parkway to Medford Road crossing at the Medford, Waterford, and Shamong Township boundaries.
5. Wading River—Confluence with the Mullica River to Route 563 crossing at Speedwell.
6. Oswego River—Confluence with the Wading River to Sim Place reservoir dam.
7. Batsto River—Confluence with Mullica River to Carranza Memorial Road crossing at Shamong and Tabernacle Township boundaries.
8. Bass River—Confluence with the Mullica River to Stage Road crossing in Bass River State Forest.
9. Nescochague Creek—Confluence with the Mullica River to confluence with Great Swamp Branch and Albertson Branch.
10. Great Swamp Branch—Confluence with Nescochague Creek to Route 206 bridge in Hammonton.
11. Rancocas Creek—Route 530 crossing in Browns Mills to the Pinelands boundary.
12. Cedar Creek—Route 9 crossing to the dam at Bamber Lake.
13. West Creek—Confluence with Delaware Bay to Pickle Factory Pond above Route 550.
14. Dennis Creek—Confluence with Delaware Bay to the headwaters of the mainstem in the Great Cedar Swamp west of Route 9.
15. North Branch of the Forked River—Garden State Parkway to the confluence with Cave Cabin Branch east of Howardsville.
16. Toms River—From the Central Railroad of New Jersey bridge to the Route 528 crossing east of Cassville.
17. Maurice River—Delaware Bay to Manumuskin River.
18. Manumuskin River—Confluence with the Maurice River to the Route 49 crossing near Cumberland Road.
19. Mount Misery Branch—Route 70 crossing to the Greenwood Branch continuing to the North Branch of the Rancocas Creek.