

TOWNSHIP OF FRANKLIN

O-4-2019

**AN ORDINANCE AMENDING CHAPTER 253, LAND DEVELOPMENT,
OF THE CODE OF THE TOWNSHIP OF FRANKLIN,
COUNTY OF GLOUCESTER AND STATE OF NEW JERSEY**

WHEREAS, Chapter 253 of the Township of Franklin Code, entitled “Land Development Ordinance of the Township of Franklin,” establishes the Planning Board and Zoning Board of Adjustment, and outlines the application process and review requirements for both boards; and

WHEREAS, Article VII of Chapter 253, entitled “Development Procedures for Pinelands Protection Area,” specifies the procedures to be followed by all boards, agencies and officials of the Township and all applicants for the approval of development within the Pinelands Area of the Township in order to conform with the development review requirements of the Pinelands Commission; and

WHEREAS, the Pinelands Comprehensive Management Plan (the “CMP”) was recently the subject of a periodic review and amendments; and

WHEREAS, such periodic review by the Pinelands Commission and amendment to the CMP requires zoning amendments for local adoption, as relates to Definitions (*N.J.S.A.* 7:50-2.11) for “Alternative design pilot program treatment system”, “Immediate family” and “Solar energy facilities”; Development exempt from Pinelands Commission review (*N.J.S.A.* 7:50-4.1); Notifications to the Pinelands Commission (*N.J.S.A.* 7:50-4.35); Pinelands Development Credits – Recordation of deed restrictions (*N.J.S.A.* 7:50-5.47); Individual on-site wastewater treatment systems intended to reduce nitrate/nitrogen (*N.J.S.A.* 7:50-6.84(a)5); and Alternate Design Treatment Systems Pilot Program (*N.J.S.A.* 7:50-10.22); and

WHEREAS, the Township of Franklin desires to retain the certification of its Land Development Ordinance with the New Jersey Pinelands Commission in order to maintain local zoning control of areas within the Township, subject to Pinelands jurisdiction; and

WHEREAS, pursuant to *N.J.S.A.* 40:48-2, the Governing Body is authorized to enact and amend ordinances as deemed necessary for the preservation of public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the Township by law;

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of Franklin, County of Gloucester and State of New Jersey, as follows:

SECTION 1: Purpose: The purpose of this Ordinance is to amend Chapter 253, Land Development, of the Code of the Township of Franklin in response to amendments to the Pinelands Comprehensive Management Plan effective January 3, 2012, September 2, 2014, and March 5, 2018.

SECTION 2: Chapter 253, Land Development, Article I, General Provisions, §253-3, Definitions, is hereby amended by replacing or adding the following definitions:

ALTERNATE DESIGN PILOT PROGRAM TREATMENT SYSTEM

An individual or community on site waste water treatment system that has the capability of providing a high level of treatment including a significant reduction in the level of total nitrogen in the wastewater and that has been approved by the Pinelands Commission for participation in the alternate design wastewater treatment

systems pilot program pursuant to N.J.A.C. 7:50-10.23(b). Detailed plans and specifications for each authorized technology are available at the principal office of the Pinelands Commission.

IMMEDIATE FAMILY

Those persons related by blood or legal relationship in the following manner: spouses, domestic partners, great-grandparents, grandparents, great-grandchildren, grandchildren, parents, sons, daughters, brothers and sisters, aunts and uncles, nephews, nieces and first cousins.

SOLAR ENERGY FACILITY

A solar energy system and all associated components, including, but not limited to, panels, arrays, footings, supports, mounting and stabilization devices, inverters, electrical distribution wires and other on-site or off-site infrastructure necessary for the facility, which converts solar energy into usable electrical energy, heats water or produces hot air or other similar function.

SECTION 3: Chapter 253, Land Development, Article VII, Development Procedures for Pinelands Protection Area, §253-61, Applicability, is hereby amended by revising subsection B as follows:

B. Except as provided in Subsection C below, the following shall not be subject to the procedures set forth in this article:

(1)-(6) (No change.)

(7) The construction of any addition or accessory structure for any non-residential use or any multi-family residential structure provided that:

(a) If the addition or structure will be located on or below an existing impervious surface, either the existing use is served by public sewers or the addition or structure will generate no wastewater flows, and said addition or structure will cover an area of no more than 4,999 square feet; and

(b) If the addition or structure will not be located on or below an impervious surface, said addition or structure will generate no wastewater flows and will cover an area of no more than 1,000 square feet.

(8) - (10) (No change.)

(11) The repaving of existing paved roads and other paved surfaces, provided no increase in the paved width or area of said roads and surfaces will occur.

(12) The clearing of land solely for agricultural or horticultural purposes.

(13) - (18) (No change.)

(19) The installation of an accessory solar energy facility on any existing structure or impervious surface.

(20) The installation of a local communications facilities antenna on an existing communications or other suitable structure, provided such antenna is not

inconsistent with any comprehensive plan for local communications facilities approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-5.4(c)6.

- (21) The establishment of a home occupation within an existing dwelling unit or structure accessory thereto, provided that no additional development is proposed.
- (22) The change of one nonresidential use to another nonresidential use, provided that the existing and proposed uses are or will be served by public sewers and no additional development is proposed.

SECTION 4: Chapter 253, Land Development, Article VII, Development Procedures for Pinelands Protection Area, §253-64, Notices to Pinelands Commission, is hereby amended by replacing subsections A through C in their entirety with the following:

- A. Application submission and modifications. Written notification shall be given by the Township, by email or regular mail, to the Pinelands Commission within seven days after a determination is made by the Township that an application for development in the Pinelands Area is complete or if a determination is made by the Township approval agency that the application has been modified. Said notice shall contain:
 - (1) The name and address of the applicant.
 - (2) The legal description and street address, if any, of the parcel that the applicant proposes to develop.
 - (3) A brief description of the proposed development, including uses and intensity of uses proposed.
 - (4) The application number of the Certificate of Filing issued by the Pinelands Commission and the date on which it was issued.
 - (5) The date on which the application or any change thereto was filed and any application number or other identifying number assigned to the application by the approval agency.
 - (6) The approval agency with which the application or change thereto was filed.
 - (7) The content of any change made to the application since it was filed with the Commission, including a copy of any revised plans or reports.
 - (8) The nature of the municipal approval or approvals being sought.
- B. Hearings. Where a meeting, hearing or other formal proceeding on an application for development approval in the Pinelands Area is required, the applicant shall provide notice to the Pinelands Commission by email, regular mail or delivery of the same to the principal office of the Commission at least five days prior to such meeting, hearing or other formal proceeding. Such notice shall contain at least the following information:
 - (1) The name and address of the applicant.
 - (2) The application number of the Certificate of Filing issued by the Pinelands Commission and the date on which it was issued.

- (3) The date, time and location of the meeting, hearing or other formal proceeding.
 - (4) The name of the approval agency or representative thereof that will be conducting the meeting, hearing or other formal proceeding.
 - (5) Any written reports or comments received by the approval agency on the application for development that have not been previously submitted to the Commission.
 - (6) The purpose for which the meeting, hearing or other formal proceeding is to be held.
- C. Notice of approvals and denials. The Pinelands Commission shall be notified of all approvals and denials of development in the Pinelands Area, whether the approval occurs by action or inaction of any approval agency or an appeal of any agency's decision. The applicant shall, within five days of the approval or denial, give notice, by email or regular mail, to the Pinelands Commission. Such notice shall contain the following information:
- (1) The name and address of the applicant.
 - (2) The legal description and street address, if any, of the parcel that the applicant proposes to develop.
 - (3) The application number of the Certificate of Filing issued by the Pinelands Commission and the date on which it was issued.
 - (4) The date on which the approval or denial was issued by the approval agency.
 - (5) Any written reports or comments received by the approval agency on the application for development that have not been previously submitted to the Commission.
 - (6) Any revisions to the application not previously submitted to the Commission.
 - (7) A copy of the resolution, permit or other documentation of the approval or denial. If the application was approved, a copy of any preliminary or final plan, plot or similar document that was approved shall also be submitted.

SECTION 5: Chapter 253, Land Development, Article VIII, Management Program and Minimum Standards for Pinelands Protection Area, §253-77, Water quality, is hereby amended by revising subsection B(5) as follows:

- (5) Individual on-site septic waste water treatment systems which are intended to reduce the level of nitrate/nitrogen in the wastewater, provided that:
 - (a) (No change.)
 - (b) The proposed development is residential, or if non-residential, the standards of N.J.A.C. 7:50-6.84(a)5iii(2) are met.
 - (c) (No change.)

SECTION 6: Chapter 253, Land Development, Article VIII, Management Program and Minimum Standards for Pinelands Protection Area, §253-77, Water quality, is hereby amended by revising subsection B(7) as follows:

- (7) Alternate design pilot program treatment systems shall be permitted, provided that:
 - (a) - (i) (No change.)
 - (j) Each system shall be covered by a five-year warranty and a minimum five-year maintenance contract, consistent with those approved pursuant to N.J.A.C. 7:50-10.22(a)2v., that cannot be cancelled and is renewable and which includes a provision requiring that the manufacturer or its agent inspect the system at least once a year and undertake any maintenance or repairs determined to be necessary during any such inspection or as a result of observations made at any other time; and
 - (k) The property owner shall record with the deed to the property a notice consistent with that approved pursuant to N.J.A.C. 7:50-10.22(a)2vi that identifies the technology, acknowledges the owner's responsibility to operate and maintain it in accordance with the manual required in Subsection (7)(i) 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 that the monitoring requirements are binding on any owner of the property during the time period the monitoring requirements apply pursuant to the pilot program or any subsequent regulations adopted by the Commission that apply to said system.

SECTION 7: Chapter 253, Land Development, Article XXVIII, PA-P Pinelands Agricultural Production Districts, §253-160, Pinelands development credits, is hereby amended by replacing subsection I in its entirety with the following:

- I. Such deed restriction shall specify the number of Pinelands development credits sold and that the property may only be used in perpetuity for the following uses:
 - (1) In the PA-P District: agriculture; forestry; agricultural employee housing as an accessory use; 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 5% of the parcel, and no more than 1% of the parcel will be covered with impervious 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; agricultural products processing facilities; and accessory uses.
 - (2) (No change.)

SECTION 8: Except as set forth in Sections I through VII above, the balance of the Code of the Township of Franklin shall not be affected by this Ordinance.

SECTION 9: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 10: If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

SECTION 11: Pursuant to *N.J.S.A. 40:55D-26*, this Ordinance shall be referred to the Township Planning Board for review, which shall be based on whether the proposal is substantially consistent with the Master Plan. The Planning Board shall have a period of thirty-five (35) after referral to report on the proposed Ordinance.

SECTION 12: Upon adoption of this Ordinance after public hearing thereon, the Township Clerk is further directed to publish notice of the passage thereof and to file a copy of this Ordinance with the County Planning Board, the Pinelands Commission and other agencies as required by law.

SECTION 13: This Ordinance, after final passage and publication, shall take effect immediately upon approval by the Pinelands Commission.

ATTEST: TOWNSHIP OF FRANKLIN

Barbara Freijomil, Municipal Clerk

David Deegan, Mayor

CERTIFICATION

I, Barbara Freijomil, Clerk of the Township of Franklin, County of Gloucester, do here certify that the foregoing Ordinance was introduced at the Regular Meeting of the Township of Franklin held on March 12, 2019 and thereafter duly advertised in the legal newspaper of the Township at least seven (7) days prior to it being considered for final passage and adoption at a subsequent meeting to be held on April 9, 2019 at which time any person interested therein will be given an opportunity to be heard.

Barbara Freijomil, Municipal Clerk

Introduced: March 12, 2019

Name	Yes	No	Abstain	Absent
Vassallo				
Flaim				
Bruno				
Petsch-Wilson				
Deegan				

Adopted: April 9, 2019

Name	Yes	No	Abstain	Absent
Vassallo				
Flaim				
Bruno				
Petsch-Wilson				
Deegan				

