

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 001-2019

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE
CHAPTER XX (ZONING) OF THE CODE OF UPPER TOWNSHIP**

WHEREAS, the Pinelands Commission has requested Upper Township to amend Chapter XX (Zoning) in response to amendments to the Pinelands Comprehensive Management Plan effective January 3, 2012, September 2, 2014, and March 5, 2018; and

WHEREAS, the Township Planning Board reviewed and discussed the proposed zoning ordinance amendment and made a recommendation in the Upper Township Master Plan Reexamination, August 2018 that Township Committee adopt the model ordinance; and

WHEREAS, the Township Planning Board reviewed and discussed the proposed zoning ordinance amendment and adopted a resolution approving this proposed zoning ordinance amendment finding said amendment is consistent with the Upper Township Master Plan Reexamination on February 21, 2019; and

WHEREAS, the Township Committee finds that the zoning ordinance revisions herein are substantially consistent with the Land Use Plan Element and Master Plan Reexamination;

BE IT ORDAINED by the Township Committee, in the Township of Upper, County of Cape May and State of New Jersey, as follows:

SECTION 1. Chapter 20 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

Add the following to **Section 20-2.2 Pinelands Area Definitions** as follows:

Solar energy facility shall mean 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.

Revise the following to **Section 20-2.2 Pinelands Area Definitions** as follows:

Alternate design pilot program treatment system shall mean 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 shall mean 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.

Revise the following subsection **Section 20-5.14.h.2(e) Water Quality**:

- (e) Individual on-site septic waste water treatment systems which are intended to reduce the level of nitrate/nitrogen in the wastewater, provided that:
 - (1) (No change.)
 - (2) If the proposed development is non-residential and located outside of a Pinelands Town or Pinelands Village management area, the standards of N.J.A.C. 7:50-6.84(a)5iii(2) are met.
 - (3) (No change.)

Revise the following subsection **Section 20-5.14.h.2(g) Water Quality**:

- (g) Alternate design pilot program treatment systems, provided that:
 - (1)-(9) (No change.)
 - (10) 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 provisions 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 observation made at any other time; and
 - (11) 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 paragraph h,2(g)(9) 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.
 - ~~(12) No alternate design pilot program treatment system shall be installed after August 5, 2007.~~

Revise the following subsection **Section 20-11.5a.2 Special Procedures Regarding Development in the Pinelands Area**:

2. Except as provided in paragraph a.3. below, the following shall not be subject to the procedures set forth in this Chapter::

(a)-(f) (No change.)

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

(1) 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

(2) 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.

(h)-(j) (No change.)

(k) 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.

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

(m)-(r) (No change.)

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

(t) 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.

(u) The establishment of a home occupation within an existing dwelling unit or structure accessory thereto, provided that no additional development is proposed.

(v) 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.

Revise the following subsection **Section 20-11.5d Special Procedures Regarding Development in the Pinelands Area:**

d. Notices to the Pinelands Commission.

1. Application Submission and Modifications. Written notification shall be given by the Township, by email or regular mail, to the Pinelands Commission within seven (7) 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:

(a) The name and address of the applicant;

- (b) The legal description and street address, if any, of the parcel that the applicant proposes to develop;
- (c) A brief description of the proposed development, including uses and intensity of uses proposed;
- (d) The application number of the Certificate of Filing issued by the Pinelands Commission and the date on which it was issued;
- (e) 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;
- (f) The approval agency with which the application or change thereto was filed;
- (g) 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; and
- (h) The nature of the municipal approval or approvals being sought.

2. Meetings and 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 (5) days prior to such meeting, hearing or other formal proceeding. Such notice shall contain at least the following information:

- (a) The name and address of the applicant;
- (b) The application number of the Certificate of Filing issued by the Pinelands Commission and the date on which it was issued;
- (c) The date, time and location of the meeting, hearing or other formal proceeding;
- (d) The name of the approval agency or representative thereof that will be conducting the meeting, hearing or other formal proceeding;
- (e) Any written reports or comments received by the approval agency on the application for development that have not been previously submitted to the Commission; and
- (f) The purpose for which the meeting, hearing or other formal proceeding is to be held.

3. 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 (5) days of the approval or denial, give notice by email or regular mail to the Pinelands Commission. Such notice shall contain the following information:

- (a) The name and address of the applicant;
- (b) The legal description and street address, if any, of the parcel that the applicant proposes to develop;

- (c) The application number of the Certificate of Filing issued by the Pinelands Commission and the date on which it was issued;
- (d) The date on which the approval or denial was issued by the approval agency;
- (e) Any written reports or comments received by the approval agency on the application for development that have not been previously submitted to the Commission;
- (f) Any revisions to the application not previously submitted to the Commission;
- (g) 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 2: EFFECTIVE DATE: This ordinance shall take effect immediately upon certification by the Pinelands Commission and following publication as required by law.

SECTION 3: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 4: SEVERABILITY: If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 5: CODIFICATION: This Ordinance shall be codified in the Upper Township Code at the sections referred to above.

ATTEST:


BARBARA L. YOUNG, Township Clerk


RICHARD PALOMBO, Mayor

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR THE FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 28TH DAY OF JANUARY, 2019 AT THE TOWNSHIP HALL, AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 25TH DAY OF FEBRUARY, 2019 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

Legislative History:

Introduced: January 28, 2019

Publication: February 1, 2019

Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: February 25, 2019

Final Adoption: February 25, 2019

Final Publication Date: February 28, 2019

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on February 25, 2019 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on February 28, 2019.


BARBARA L. YOUNG, Township Clerk