

**ORDINANCE 2018 -5 OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN,  
AND STATE OF NEW JERSEY, AMENDING CHAPTER 200, ENTITLED "LAND USE  
AND DEVELOPMENT," AND CHAPTER 340 "ZONING," OF THE CODE OF THE  
TOWNSHIP OF BERLIN TO BE CONSISTENT WITH THE PINELANDS  
COMPREHENSIVE MANAGEMENT PLAN AMENDMENTS**

**WHEREAS**, Chapter 200 of the Code of the Township of Berlin, entitled "Land Use and Development," guides the use and development of land within the Township of Berlin in accordance with and pursuant to the Municipal Land Use Law; and

**WHEREAS**, Chapter 200 is further intended to implement the objectives of the Pinelands Protection Act and the Pinelands Comprehensive Management Plan (the "CMP") and conforms to the minimum standards contained in said plan; and

**WHEREAS**, Chapter 340 of the Code of the Township of Berlin, entitled "Zoning," encourages the most appropriate use of land throughout the Township and implements the objectives of the Pinelands Protection Act and the Pinelands CMP and conforms to the minimum standards contained in said plan; and

**WHEREAS**, the objectives with respect to the Pinelands are to protect, preserve and enhance the significant values of the resources thereof, including natural, ecological, agricultural, archaeological, historic, scenic, cultural and recreational resources of Berlin Township; and

**WHEREAS**, the Pinelands CMP recently underwent periodic review and amendments associated therewith; and

**WHEREAS**, the Mayor and Township Council have determined it is in the best interest of the Township, consistent with the CMP amendments, to amend Chapter 200 and Chapter 340 of the Code of the Township of Berlin in response to the most recent amendments to the Pinelands CMP; and

**WHEREAS**, the Mayor and Township Council have reviewed the existing provisions pertaining to development approvals, standards, and notices required to the Pinelands Commission in Chapter 200 and determined that same require revisions to be consistent with CMP amendments; and

**WHEREAS**, the Mayor and Township Council have reviewed the existing provisions pertaining to Pinelands development standards in Chapter 340 and determined the same require revisions to be consistent with CMP amendments; 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 the 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 Mayor and the Township Council of the Township of Berlin, as follows:

**SECTION 1:** Section 200-45, entitled "Development approval required; applicability; additional standards," of Article VII, entitled "Development Procedures for Pinelands Area," of Chapter 200, entitled, "Land Use and Development," 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 2:** Section 200-49, entitled "Notices to Pinelands Commission," of Article VII, entitled "Development Procedures for Pinelands Area," of Chapter 200, entitled, "Land Use and Development," is hereby amended by deleting subsections A, B, and C and replacing them with new subsections A, B, and C as follows:

- 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 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.
- (1) 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:

- (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.

(2) Where an appeal of a decision is made to the Board of Adjustment or governing body, the applicant shall notify the Pinelands Commission by email or regular mail of the decision of the Zoning Board of Adjustment or governing body within five days following the decision on such an appeal. Such notification shall contain the information set forth in § 200-49C above.

**SECTION 3:** Section 340-5, entitled “Definitions of terms associated with Pinelands provisions,” of Article II, entitled “Terminology,” of Chapter 340, entitled, “Zoning,” is hereby amended by adding the following terms and definitions in alphabetical order as follows:

**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 4:** Section 340-21, entitled "Pinelands development standards," of Article IV, entitled "General Provisions," of Chapter 340, entitled, "Zoning," is hereby amended by revising subsection H1(e) as follows:

- (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 is located in the Pinelands Rural Development Area, the standards of N.J.A.C. 7:50-6.84(a)5iii(2) are met.
  - [3] [No change]

**SECTION 5:** Section 340-21, entitled "Pinelands development standards," of Article IV, entitled "General Provisions," of Chapter 340, entitled "Zoning," is hereby amended by deleting subparagraph H(1)(g)[12] and replacing it with a new subparagraph H(1)(g)[12] as follows:

[12] The provisions of this § 340-21H(1)(g) shall apply to any applications for unsewered residential development on lots of less than 3.2 acres which were not deemed complete by the Pinelands Commission prior to August 5, 2002.

**SECTION 6:** Section 340-51, entitled "Permitted uses," of Article IX, entitled "Highway Commercial Zones C-1, C-2, C-2RD and C-3," of Chapter 340, entitled "Zoning," is hereby amended by deleting subsection H and replacing it with a new subsection H as follows:

H. Motor and unpowered vehicle rentals, sales and storage.

Any business engaged in the rental, sale, storage or display of new and/or used motor vehicles and new and/or used unpowered vehicles towed by motor vehicles, including recreational travel trailers, utility trailers, vehicle transport trailers, boat trailers, horse trailers, semi-trailers, mobile homes, portable classrooms, constructions trailers, pod trailers, generator trailers, compressor trailers and other similar unpowered vehicles and equipment towed by motor vehicles, shall not be any closer than one mile to each such other similar business establishment, as measured from each property line of every property on which each such use is located.

**SECTION 7:** Except as set forth in Sections 1 through 6 above, the balance of Chapters 200 and 340 of the Code of the Township of Berlin shall not be affected by this Ordinance.

**SECTION 8:** All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 9:** 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 10:** 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 has a period of thirty-five (35) days after referral to report on the proposed Ordinance.

**SECTION 11:** Upon adoption, a copy of this Ordinance shall be filed with The Pinelands Commission for review and certification pursuant to the Pinelands Comprehensive Management Plan's rules and regulations. Notwithstanding anything herein to the contrary, this Ordinance shall not take effect until certified by The Pinelands Commission as required by law

**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 and other agencies as required by law.

**SECTION 13:** This Ordinance shall take effect twenty (20) days after final adoption and publication as required by law.

Introduced May 14, 2018      Advertiser Courier Post      5/30/18  
Adopted June 11, 2018      Advertiser Courier Post      6/30/18

Catherine Underwood  
Catherine Underwood, Township Clerk

Phyllis Magazu  
Phyllis Magazu, Mayor

It is hereby certified that the foregoing is a true copy of an ordinance adopted by the Mayor and Council of the Township of Berlin on June 11, 2018.

Catherine Underwood  
Catherine Underwood, Township Clerk