

**ORDINANCE 2019 – 04**

**AN ORDINANCE AMENDING CHAPTER 55, LAND USE,  
OF THE CODE OF THE TOWNSHIP OF BARNEGAT, COUNTY OF  
OCEAN AND STATE OF NEW JERSEY**

**BE IT ORDAINED** by the Township Committee of the Township of Barnegat, County of Ocean and State of New Jersey, as follows:

**SECTION 1.** Purpose: The purpose of this Ordinance is to amend Chapter 55, Land Use, of the Code of the Township of Barnegat in response to amendments to the Pinelands Comprehensive Management Plan effective January 3, 2012, September 2, 2014 and March 5, 2018.

**SECTION 2.** Chapter 55, Land Use, Article II, Zoning District Regulations, Section 55-41, PA – Preservation Area Zone, is hereby amended by replacing subsection E(9)(a) in its entirety with the following:

- (a) In the Preservation Area District: Berry agriculture; horticulture of native Pinelands plants; forestry; beekeeping; fish and wildlife management; wetlands management; 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 five percent of the parcel, and no more than one percent of the parcel will be covered with impervious surfaces; and accessory uses.

**SECTION 3.** Chapter 55, Land Use, Article XVIII, Pinelands Commission Review and Approval of Development, Section 55-276, Development Subject to and Exempt from

Pinelands Commission Review and Approval, is hereby amended by revising subsection B as follows:

B. *Exemptions from Pinelands Commission Review.* Except as provided in paragraph 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 55, Land Use, Article XVIII, Pinelands Commission Review and Approval of Development, Section 55-277, Notification to and Participation of Pinelands Commission in Municipal Review Process, 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 (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:
  - (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; and
  - (8) The nature of the municipal approval or approvals being sought.

B. *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:

- (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; and
- (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 (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:

- (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; and

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- (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 55, Land Use, Article XIX, Standards for Development in the Pinelands Area, Section 55-291, 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) If the proposed development is non-residential, it is located:
    - [1] In a Pinelands Regional Growth Area or Pinelands Village; or
    - [2] In the Pinelands Forest Area, provided that the standards of N.J.A.C. 7:50-6.84(a)5iii(2) are met.
  - (c) (No change.)

**SECTION 6.** Chapter 55, Land Use, Article XIX, Standards for Development in the Pinelands Area, §55-291, Water Quality, is hereby amended by revising subsection B(7) as follows:

- (7) Alternate design pilot program treatment systems, 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

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- (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.
- (l) ~~No alternate design pilot program treatment system shall be installed after August 5, 2007.~~

**SECTION 7.** Chapter 55, Land Use, Article XX, Definitions, §55-305B, Definitions, is hereby amended by replacing or adding to subsection B 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 8.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 9.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 10.** This ordinance shall take effect after second reading and publication as required by law

**NOTICE**

**NOTICE IS HEREBY GIVEN** that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Barnegat on the 5th day of February, 2019, and will be considered for second and final passage at a meeting of the Township Committee to be held on the 5th day of March, 2019, at 6:30 PM. at the Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

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**MICHELE RIVERS, RMC**, Clerk  
Township of Barnegat

**CERTIFICATION**

I, Michele Rivers, Municipal Clerk of the Township of Barnegat, County of Ocean, State of New Jersey do hereby certify by my hand and seal that the foregoing Ordinance was introduced and passed at a meeting of the Township Committee on the 5th day of February 2019, and finally adopted after Public Hearing at a meeting held on the 5<sup>th</sup> day of March, 2019 in the Municipal Complex, 900 West Bay Avenue, Barnegat, NJ

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Michele Rivers, RMC  
Municipal Clerk

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