



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
OFFICE OF SMART GROWTH
PO Box 204
TRENTON NJ 08625-0204

JON S. CORZINE
Governor

JOSEPH V. DORIA, JR.
Commissioner

BENJAMIN SPINELLI
Executive Director

June 3, 2008

Dear Interested Parties:

Re: Readoption of State Planning Rules without Amendment

The State Planning Commission has proposed that the State Planning Rules be readopted without amendment and have been published in the June 2, 2008 N.J. Register.

If you would like a copy of the proposal: consult the June 2, 2008 New Jersey Register, contact the Office of Smart Growth at (609) 292-7156, or access the proposal at:

<http://www.nj.gov/dca/divisions/osg/>. The full text of the current State Planning Rules can also be accessed on the same web site.

The 60-day comment period ends August 1, 2008. Comments on the proposal may be submitted to:

Ben L. Spinelli, Secretary and Principal Executive Officer
State Planning Commission
c/o New Jersey Department of Community Affairs
Office of Smart Growth
101 South Broad Street
P.O. Box 204
Trenton, New Jersey 08625-0204
Fax: (609) 292-3292
E-mail: osgmail@dca.state.nj.us

Please see the attached Statement of Substance for details. You may contact Joy Farber, Chief Counsel at (609) 292-3170 if you have questions regarding this rule proposal.

Sincerely,

Benjamin L. Spinelli
Executive Director and Secretary

State Planning Rule Readoption
Statement of Substance

The Department of Community Affairs, Office of Smart Growth, has been advised that, pursuant to N.J.S.A. 52:14B-5.1c, the State Planning Rules were scheduled to expire July 15, 2008 subject to timely readoption. The State Planning Commission has reviewed these rules and finds that they continue to be necessary for the purpose for which they were promulgated, the implementation of the State Planning Act (P.L. 1985, c.398), and is therefore proposing that they be readopted.

The State Planning Commission (Commission) adopted these rules to fulfill the legislative mandates of the enabling legislation. The rules provide for procedures and standards necessary for efficient, predictable and systematic implementation of aspects of the State Planning Act relating to:

- design and preparation of the State Development and Redevelopment Plan (State Plan),
- procedures for facilitating solicitation and receipt of comments in preparation of preliminary and final versions of the State Plan, and
- procedures for comparing the State Plan with county and municipal master plans regarding land use, environmental, capital and economic development, in order to achieve a consensus State Plan that balances the many interests of the State.

The rules also contain provisions for making revisions to the State Plan Policy Map (Policy Map) where new research, conditions and events suggest appropriate changes to the Policy Map. They also provide guidance as to the purpose and authority for adopted rules, definitions, provision of technical assistance and standards for public participation.

The comment period for the rule expires on August 1, 2008. Written comments may be submitted to the Department of Community Affairs at the address listed above or via e-mail to: osgmail@dca.state.nj.us or via facsimile to: (609) 292-3292.

The State Planning Commission is also involved in a parallel track to amend the plan endorsement rules. The proposed amendment, which is expected to be published shortly, is unaffected by this rule readoption. There will be a separate comment period for the proposed amendments to the plan endorsement rules.

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- ~~3.-6 (No change.)~~
- ~~(k) (No change.)~~
- ~~5:23-5.25 Revocation of licenses and alternative sanctions~~
 - ~~(a)-(b) (No change.)~~
 - ~~(c) Conviction of a crime, or conviction of an offense in connection with one's performance as a licensed code enforcement official or inspector, or a determination by the Department that a licensee has engaged in conduct constituting a conflict of interest under N.J.A.C. 5:23-4.5(j)2, shall constitute grounds for revocation [or suspension] of a license.~~
 - ~~(d)-(e) (No change.)~~

(a)

**STATE PLANNING COMMISSION
State Planning Rules**

Proposed Readoption: N.J.A.C. 5:85

Authorized By: State Planning Commission, Benjamin L. Spinelli,
Secretary and Principal Executive Officer.

Authority: N.J.S.A. 52:18A-203.

Proposal Number: PRN 2008-178.

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Submit written comments by August 1, 2008, to:

Benjamin L. Spinelli, Esq., Secretary and Principal Executive
Officer
State Planning Commission c/o Office of Smart Growth
New Jersey Department of Community Affairs
101 South Broad Street
P.O. Box 204
Trenton, New Jersey 08625-0204
E-mail: osg@mail@dca.state.nj.us
Fax: 609-292-3292

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, the State Planning Rules, N.J.A.C. 5:85, are scheduled to expire on January 11, 2009. The State Planning Commission has reviewed these rules and finds that they continue to be necessary for the purpose for which they were promulgated, the implementation of the State Planning Act (P.L. 1985, c. 398), and is therefore proposing that they be readopted.

Under authority of P.L. 1993, c. 32, the State Planning Commission (Commission) has adopted these rules to fulfill the legislative mandates of the enabling legislation. The rules provide for procedures and standards necessary for efficient, predictable and systematic implementation of aspects of the State Planning Act relating to:

1. The design and preparation of the State Development and Redevelopment Plan (State Plan);
2. The procedures for facilitating solicitation and receipt of comments in preparation of preliminary and final versions of the State Plan; and
3. The procedures for comparing the State Plan with county and municipal master plans regarding land use, environmental, capital and economic development, in order to achieve a consensus State Plan that balances the many interests of the State.

The rules also contain provisions for making revisions to the State Plan Policy Map (Policy Map) where new research, conditions and events suggest appropriate changes to the Policy Map. The rules also provide guidance as to the purpose and authority for adopted rules, definitions and provision of technical assistance and standards for public participation.

Subchapter 1 sets forth the title and citation, purpose and authority, applicability, as well as definitions, availability of technical assistance from the Office of Smart Growth and standards for public participation and notice requirements.

Subchapter 2 provides procedures for preparation of a preliminary State Plan including revising the State Plan, approval of the Preliminary

State Plan and form and content of a Cross-Acceptance Manual for use during the process of cross-acceptance.

Subchapter 3 describes procedures for comparing State, regional, county and municipal plans with the Preliminary State Plan. It contains commencement periods for comparing plans, identification of negotiating entities for cross-acceptance and standards for optional joint county cross-acceptance agreements. In addition, the roles of municipalities, as well as regional and State agencies are delineated for each entity's participation in cross-acceptance. The subchapter provides for comparison of the Preliminary State Plan with local and county plans and preparation of a cross-acceptance report, as well as distribution of the report.

Subchapter 4 describes procedures for negotiating plans to attain the greatest degree of consistency between municipal, county, regional and State plans with the Preliminary State Plan. It allows and defines conditions for Commission, negotiating entity and municipal representation for negotiating plans. The negotiation process and completion of cross-acceptance are described. Finally, this subchapter sets forth standards for preparing an Impact Assessment of the draft Final State Plan.

Subchapter 5 sets forth procedures for: adopting the Final State Plan, including commencement of Final Plan approval, requirements for public hearings relating to adoption of the final State Plan and provisions for a municipal and county review and comment period before adoption of the Final State Plan.

Subchapter 6 is reserved.

Subchapter 7 sets forth procedures for plan endorsement including purpose, eligibility, and procedural aspects including: pre-petition meetings, initial and advanced petitions for plan endorsement, a determination of completeness, a period of review and a determination of the Executive Director and Commission on the petition. In addition, this subchapter includes provisions for extension of time requirements in the event a petitioner requires more time to submit materials. This subchapter also defines a period of endorsement for endorsed plans, a procedure for monitoring plans and previously designated centers and a procedure in the event it becomes necessary to revoke endorsement of a plan or prior center designation.

Subchapter 8 describes the Policy Map as being for illustrative purposes and that it is not to be considered the official map of the State Plan, as well as adding a further purpose of the Policy Map, which is to reflect the intergovernmental consensus arrived at during the cross-acceptance process. In addition, the rationale for making map amendments is described, as well as procedures for such amendments including: a determination of completeness and a period of review, a determination of the Executive Director and Commission and extension of time requirements.

The Commission believes that the rules provide sufficiently technical guidance to planning entities to comprehend and participate meaningfully in the activities of the Commission regarding development and implementation of the State Plan at the State agency, regional planning entity, county and municipal levels. The rules provide assurance that municipalities and other planning entities, as well as the public will have sufficient input into development of the State Plan so that the final version achieves a proper balance among the various interests in the State and gives appropriate guidance as to how to prepare and put in place land use policies and ordinances that implement the State Plan to satisfy the intent of the State Planning Act.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

Readoption of this chapter is expected to have a positive social impact, as it is designed to encourage counties, municipalities, regional planning entities, relevant State agencies and the public to engage in the Commission's comprehensive planning process, and to directing development and redevelopment into compact areas suitable for growth while assuring natural resource protection and conservation measures are implemented in the environs. Directing development into these compact areas reduces sprawl, eases traffic congestion, saves the State's large

contiguous areas of open space, reduces energy consumption, improves air and water quality, creates cost savings across a wide range of factors, and enhances a sense of place. Compact communities offer easy access to public services and facilities and preferably mass transit and promote walking, bicycling, and other active recreation through well-planned, resource-efficient and beneficial growth and development patterns.

Economic Impact

Readoption of these rules is expected to have a beneficial fiscal impact on New Jersey residents by conserving valuable natural resources, minimizing capital investment in extensive and unnecessary infrastructure extensions and encouraging and facilitating efficient land use patterns. Sound planning made possible through the rules is expected to result in increased protection of natural resources. Such protection is expected to avoid costs of engineering solutions that become necessary when functions served by natural resources are lost. For example, protection of flood plains and maintenance of wooded conditions in wetlands provides valuable flood control that, when lost, require expensive engineered solutions to ameliorate. Accordingly, capital expenditures are anticipated to be reduced.

In addition, implementation of the State Plan as a result of adoption and use of these rules, is expected to further concentrate development in centers and reduce "sprawl" type development. This is expected to minimize the amount and extent of public expenditures on installation, repair and maintenance of infrastructure. Although an initial expenditure of funds in developing plans consistent with the State Plan is required, long-term cost-savings for each of the municipalities, counties and regional planning entities participating in the sound planning encouraged by these rules will result. These cost savings will inure to the private sector, as well as to all New Jersey citizens. According to the Rutgers/Center for the Urban Policy Research study assessing implementation of the State Plan policies, municipalities could save as much as \$2.3 billion in capital costs for local road and sewer infrastructure over the next 20 years and as much as \$160 million per year in reduced fiscal deficits Statewide.

Federal Standards Statement

No Federal standards analysis is required because the rules proposed for readoption are not being proposed under the authority of, or in order to implement, comply with or participate in any program established under, Federal law or a State statute that incorporates or refers to Federal law, standards or requirements.

Jobs Impact

The Commission does not anticipate that the rules proposed for readoption would result in the creation or loss of any jobs.

Agricultural Industry Impact

Readoption of the rules is expected to have a positive impact on the agriculture industry in that the rules encourage relevant governmental entities to plan for farmland preservation and agricultural industry retention. According to the impact assessment of the State Plan performed by Rutgers University, "the (State) Plan scenario will save more than 50 percent of the agricultural lands that otherwise would be lost (under trend)."

Regulatory Flexibility Statement

Since the rules proposed for readoption implement a statute that provides for furthering Statewide planning functions apply to municipalities, counties and other planning entities, they do not impose any reporting, recordkeeping or compliance obligations on any developers or property owners who might be "small businesses," as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The compact, mixed use development pattern that is expected to result as a consequence of the rules having the desired impact, is expected to help small businesses. Many downtown commercial centers, primarily occupied by small business merchants, have been in decline and have suffered from competition by "big box" shopping malls that are emblematic of a less favored development pattern. One anticipated advantage to small businesses of readoption of the rules, is that entities engaging in the sound planning embodied by these rules, will alter land

development patterns so as to revitalize areas of existing development, such as commercial downtowns, through planned development there. Accordingly, the readopted rules are consistent with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Smart Growth Impact

Readoption of these rules would have a positive impact upon achievement of smart growth and implementation of the State Plan. According to the State Planning Act, New Jersey needs integrated and coordinated planning in order to conserve its natural resources, to revitalize its urban centers, to provide affordable housing and adequate public facilities at a reasonable cost, to promote equal social and economic opportunity for New Jersey's citizens, and to prevent sprawl and promote smart growth through the suitable use of land.

The State Planning Act anticipates that participation in procedures developed by the Office of State Planning, as embodied in these readopted rules, will result in municipal and county master plans and State agency functional Master Plans being drawn to be consistent with the State Plan. Administrative rules, codes, ordinances, regulations and other devices designed to implement these consistent master plans and functional plans will result in realization of the goals and policies of the State Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:85.

ENVIRONMENTAL PROTECTION

(a)

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan Application Fees

Proposed Amendments: N.J.A.C. 7:50-1.6 and 1.7

Authorized By: New Jersey Pinelands Commission, John C. Stokes,
Executive Director.

Authority: N.J.S.A. 13:18A-6n.

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Proposal Number: PRN 2008-180.

A public hearing concerning the proposal will be held on:

Tuesday, July 15, 2008 at 7:00 P.M.

Richard J. Sullivan Center

15 C Springfield Road

New Lisbon, New Jersey 08064

Submit written comments by close of business on August 2, 2008 by
regular mail, facsimile or e-mail to:

Susan R. Grogan, P.E., AICP

Chief Planner

Pinelands Commission

PO Box 7

New Lisbon, New Jersey 08064

Facsimile: (609) 894-7336

E-mail: planning@njpines.state.nj.us

The name and mailing address of the commenter must be submitted
with all public comments.

The agency proposal follows:

Summary

The New Jersey Pinelands Commission (Commission) is proposing to amend Subchapter 1, General Provisions, of the Pinelands Comprehensive Management Plan (CMP) regarding fees and escrows. The Commission adopted its first fee schedule in April 2004 (see 36 N.J.R. 1804(a)) and amended it in June 2006 (see 38 N.J.R. 2708(a)).

On July 1, 2003, P.L. 2003, c. 177 was signed into law. Section 30 of this law authorized the Commission to establish fees by regulation adopted pursuant to the Administrative Procedures Act, P.L. 1968, c. 410 (N.J.S.A. 52:14B-1 et seq.) for services performed relating to