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**ENVIRONMENTAL PROTECTION
LAND USE MANAGEMENT
DIVISION OF LAND USE REGULATION**

**Notice of Acceptance of Community Development Boundaries Formally Approved
by the New Jersey State Planning Commission as Boundaries for Certain
CAFRA Centers under N.J.A.C. 7:7E-5B.3.**

**Cape May Point CAFRA Village
Ocean City CAFRA Regional Center**

**Notice of Administrative Changes
N.J.A.C. 7:7E, Appendices 3 and 5**

Take notice that, in accordance with N.J.A.C. 7:7E-5B.3, the New Jersey Department of Environmental Protection (Department) has determined to accept the community development boundaries that have been formally approved by the State Planning Commission as the boundaries for certain centers in the coastal zone. In each case, the Department evaluated the boundaries and determined that they are consistent with the purposes of the Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq., and the Coastal Zone Management rules, N.J.A.C. 7:7E. The Department has determined to accept the following community development boundaries: Cape May Point Village Center (Borough of Cape May Point, Cape May County) and Ocean City Regional Center (City of Ocean City, Cape May County).

In accordance with N.J.A.C. 7:7E-5B.3(c), the boundaries accepted by the Department will be operative 30 calendar days from the date of publication of this notice in the New Jersey Register. The centers described by the accepted operative boundaries will be incorporated into N.J.A.C. 7:7E-5B as CAFRA centers for purposes of applying the requirements for impervious cover and vegetative cover under N.J.A.C. 7:7E-5 and 5B. Maps indicating the operative boundaries of the new CAFRA centers are available on the

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Department's Geographic Information System (GIS) and may be reviewed at the Department, 401 East State Street, Trenton, New Jersey 08625. An appointment for review can be scheduled by calling (609) 292-1143.

The resulting administrative changes to Appendices 3 and 5 are indicated below and shall be operative {30 days from date of publication}.

State Planning Commission Center Designation

Cape May Point Village Center

The Borough of Cape May Point (Borough) filed a petition with the State Planning Commission in August 2007, pursuant to N.J.A.C. 5:85-7, seeking to amend the State Plan Policy Map of the State Development and Redevelopment Plan (State Plan) to have Cape May Point Borough designated as a Village Center under the State Plan as part of the Borough's overall submittal for plan endorsement. As discussed further below, the plan endorsement process was initiated at a time when the then-existing Cape May Point Village Center was scheduled to expire on January 7, 2008 under the provisions of the State Planning Commission's rules. In a report dated March 7, 2008, the Executive Director of the Office of Smart Growth recommended approval of the petition.

The Plan Implementation Committee of the State Planning Commission conducted a public hearing on the petition filed by the Borough on June 24, 2009. The Plan Implementation Committee reviewed and considered the report of the Executive Director of the Office of Smart Growth, State agency comments and the public comments submitted at the public hearing. The Committee recommended that the Borough of Cape May Point be designated as a Village Center, and forwarded the petition to the State Planning Commission with a recommendation for approval.

On July 22, 2009, the State Planning Commission considered the petition submitted by the Borough and the recommendation of the Executive Director of the Office of Smart Growth, and adopted Resolution No. 2009-03, designating the Borough a Village Center.

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Ocean City Regional Center

The City of Ocean City (City) filed a petition with the State Planning Commission in August 2007, pursuant to N.J.A.C. 5:85-7, seeking to amend the State Plan Policy Map of the State Plan to have the City of Ocean City designated as a Regional Center under the State Plan. In a report dated February 11, 2008, the Executive Director of the Office of Smart Growth recommended approval of the petition.

The Plan Implementation Committee of the State Planning Commission conducted a public hearing on the petition filed by the City on November 23, 2009. The Plan Implementation Committee reviewed and considered the report of the Executive Director of the Office of Smart Growth, State agency comments and the public comments submitted at the public hearing. The Committee recommended that the City of Ocean City be designated as a Regional Center, and forwarded the petition to the State Planning Commission with a recommendation for approval.

On November 24, 2009, the State Planning Commission considered the petition submitted by the City and the recommendation of the Executive Director of the Office of Smart Growth, and adopted Resolution No. 2009-07, designating the City a Regional Center.

Cape May Point CAFRA village center description

In 2004, the State Planning Commission adopted rules at N.J.A.C. 5:85-7.11 that set expiration dates for certain State Planning Commission designated centers that were not approved through the plan endorsement process. In accordance with N.J.A.C. 5:85-7.11(b), the expiration date was January 7, 2008 for centers and cores approved prior to January 7, 2002. Accordingly, the Cape May Point Village Center expired on January 7, 2008. On September 6, 2008, the Permit Extension Act of 2008, N.J.S.A. 40:55D-136.1 et seq., was signed into law. In accordance with that Act, the boundaries of State Planning Commission designated centers were extended, except for those portions of the

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centers located in environmentally sensitive areas. Thus, the expiration dates of designated centers set forth by the State Planning Commission were modified by operation of law by enactment of the Permit Extension Act of 2008. Accordingly, the expiration of the Cape May Point Village Center was tolled until July 1, 2010, except for those portions of the center that were environmentally sensitive areas as defined by the Permit Extension Act. The entire Cape May Point Village center was located within the Environmentally Sensitive Planning Area as designated by the State Plan, except Cape May Point State Park.

The State Plan Policy Map uses the term “Parks and Natural Areas” to cover an array of publicly dedicated land which contributes to the attainment of the State Plan goal of preserving and enhancing areas with historic, cultural, scenic, open space and recreational value. The Parks and Natural Areas delineation differs from the Planning Area designations in its more focused purpose and use. Unlike Planning Areas, Parks are not areas where the objectives for land use, housing and economic development can be applied. Rather, these lands represent public investment specifically for resource preservation and the provision of recreational opportunities. Because Cape May Point State Park is designated a “Park” under the State Plan, it is not also an Environmentally Sensitive Planning Area. Therefore, expiration of the portion of the Cape May Point Village Center within Cape May Point State Park was tolled by the Permit Extension Act of 2008, while the areas of the center outside the state park were not saved from expiration.

On September 8, 2009, the Department published notice of its acceptance, pursuant to N.J.A.C. 7:7E-5B.3, of new and changed Community Development Boundaries for all centers and cores in the CAFRA area that were subject to expiration under the provisions of the State Planning Commission rules as modified by enactment of the Permit Extension Act of 2008, including the boundary for the Cape May Point CAFRA village as described above (see 41 N.J.R. 3245(a)).

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The impervious cover limit for a CAFRA-regulated development within the Cape May Point CAFRA village is 60 percent. The impervious cover limit for CAFRA-regulated development outside the existing CAFRA center, within the Coastal Environmentally Sensitive Planning Area, is three percent. In accordance with N.J.A.C. 7:7E-5B.4, the amount of impervious cover allowed on a site in a CAFRA center is calculated based on the total land area of the site rather than the net land area (net land area excludes certain environmentally sensitive areas such as wetlands, wetland buffers and dunes). Allowing the impervious cover limit to be calculated on total land area rather than net land area increases the amount of impervious cover allowed on the site if the site contains any of the environmentally sensitive areas identified in the Coastal Zone Management rules.

The Cape May Point Village Center that the State Planning Commission designated on July 22, 2009 and that is herein accepted by the Department as the Cape May Point CAFRA Village Center, encompasses approximately 210 acres, nearly all of it developed land, where there is predominantly residential development and a small commercial center. The community development boundary excludes beaches, dunes and other sensitive coastal resources from the Village Center. In addition, the center boundary excludes the small portion of the Cape May Point State Park that was formerly within the State Planning Commission designated center and CAFRA center as described previously. The inclusion of a portion of the Cape May Point State Park in the village center is not appropriate as the State Plan has a unique designation for parks. Moreover, centers are compact forms of development based on factors such as population density, infrastructure, and employment base, and thus State Parks are not appropriately designated as centers.

Ocean City CAFRA regional center description

A majority of the Ocean City barrier island is currently designated as a coastal regional center under the Coastal Zone Management rules, N.J.A.C. 7:7E, Appendix 3. The existing coastal center encompasses 3,801.07 acres or 5.94 square miles and is located within the Coastal Environmentally Sensitive Planning Area. The coastal center

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boundary excludes bay islands and Corson's Inlet State Park. The impervious cover limit for CAFRA-regulated development in the Ocean City coastal regional center is 80 percent. The impervious cover limit for CAFRA-regulated development outside the coastal center and within the Coastal Environmentally Sensitive Planning Area is three percent. In accordance with N.J.A.C. 7:7E-5B.4, the amount of impervious cover allowed on a site in a CAFRA center is calculated based on the total land area of the site rather than the net land area (net land area excludes certain environmentally sensitive areas such as wetlands, wetland buffers and dunes). Allowing the impervious cover limit to be calculated on total land area rather than net land area increases the amount of impervious cover allowed on the site if the site contains any of the environmentally sensitive areas identified in the Coastal Zone Management rules.

The Ocean City Regional Center that the State Planning Commission designated on November 24, 2009 and that is herein accepted by the Department as the Ocean City CAFRA regional center encompasses approximately 2,340 acres or 3.56 square miles. Ocean City is primarily a residential resort community that accommodates a substantial summer visitor population. Nearly the entire center is developed, with residential dwellings and a resort/commercial district. The Ocean City Regional Center includes almost the entire upland portion of the City. The Ocean City Regional Center does not include the beaches, dunes, bay islands, wetlands, or Corson's Inlet State Park.

CAFRA Center Designation

The Department has reviewed the Cape May Point Village Center and Ocean City Regional Center community development boundaries designated by the State Planning Commission and finds that they encompass existing development and exclude environmentally sensitive features. The State Planning Commission designated centers concentrate the pattern of coastal residential, and resort development and protect beaches, dunes and other coastal resources. The land within the Cape May Point Village Center and Ocean City Regional Center is within a sewer service area approved by the

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Department which is included within the existing Cape May County Wastewater Management Plan.

The Department has determined that the designation of the Cape May Point Village center and Ocean City Regional Center as the Cape May Point CAFRA village and Ocean City CAFRA regional center, respectively, is consistent with the purposes of the CAFRA and the Coastal Zone Management rules. These CAFRA centers are consistent with the CAFRA decision-making process established at N.J.A.C. 7:7E-1.5(b)1ii, specifically because the centers are designed to concentrate rather than disperse the pattern of coastal residential, commercial, industrial and resort development. Both the Cape May Point CAFRA village center and Ocean City CAFRA regional center are located within the Coastal Environmentally Sensitive Planning Area. These designations meet the policy objectives of the Coastal Environmentally Sensitive Planning Areas established at N.J.A.C. 7:7E-5B.2(f) as they seek to protect environmentally sensitive features by guiding development into centers and maintaining low intensity development patterns elsewhere. This policy also seeks to carefully link the location, character and magnitude of development to the capacity of natural and built environments to support new growth. Additionally, this policy seeks to accommodate development at higher intensities in the Coastal Environmentally Sensitive Planning Area barrier island centers, compatible with development patterns in existing centers, and discourage the development of public infrastructure facilities outside of centers.

The Department has determined that the designation of these centers, coordinated with Cape May Point's and Ocean City's Master Plans, resource protection ordinances, zoning ordinances and development review documents, fulfills the policy objectives for the Coastal Environmentally Sensitive Planning Area. The Department has also reviewed plans, reports, maps and other materials submitted by the Borough and the City, local and State open space inventories, county and municipal plans and ordinances, coastal and freshwater wetlands inventories, and Landscape Project maps in order to determine the consistency of the Cape May Point Village Center and Ocean City Regional Center

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changed State Plan Policy Map designations with the purposes of the CAFRA and the Coastal Zone Management rules.

The Borough and City have each prepared new Wastewater Management Plan chapters dated February 15, 2010 that reflect the village and regional center community development boundaries, respectively, and have submitted the chapters to the Department and Cape May County for inclusion in the county-wide Wastewater Management Plan. The Department has reviewed the new chapters and found that they would fulfill the requirements of the Water Quality Management Planning rules (N.J.A.C. 7:15) for a municipal Wastewater Management Plan and could be approved if included in and submitted as part of the Cape May County county-wide plan. As such, the Department concludes that these submissions are acceptable and satisfy the requirements for Plan Endorsement and CAFRA Center designation, although both municipalities may be required to submit additional information as part of the County's comprehensive wastewater management planning process. Cape May County is preparing a new comprehensive regional Wastewater Management Plan, but has not yet begun working with County municipalities.

Both the Cape May Point CAFRA village and Ocean City CAFRA regional center provide some opportunities for development, including redevelopment projects, to accommodate future growth in accordance with smart growth principles. The Department is accepting the community development boundaries formally approved by the State Planning Commission as the boundaries for these two centers. The existing Ocean City coastal center boundary in Appendix 3 will be superseded by the Ocean City CAFRA regional center boundary. The impervious cover limit for CAFRA-regulated development within the Cape May Point CAFRA village will be 60 percent once this notice is effective. The impervious cover limit for CAFRA-regulated development within the Ocean City CAFRA regional center will be 80 percent once this notice is effective. In CAFRA centers, the impervious cover limit is calculated based upon total land area rather than net land area thus increasing development potential (see N.J.A.C. 7:7E-5B.4).

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Full text of the changed rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

APPENDIX 3
BOUNDARIES OF NON-MAINLAND COASTAL CENTERS IN THE CAFRA
AREA

For purposes of N.J.A.C. 7:7E-5 and 5B, this appendix sets forth the boundaries of the non-mainland coastal centers in the CAFRA area.

In accordance with N.J.A.C. 7:7E-5.3(c), the impervious cover allowed on a site within a Department-delineated coastal center must be placed on the net land area of the site, as determined under N.J.A.C. 7:7E-5.3(d). The placement of impervious cover on a site in a coastal center may be further restricted by other provisions of this chapter, including the Special Area rules at N.J.A.C. 7:7E-3.

The appendix is organized as follows: Counties are listed alphabetically. Within each county, the municipalities are listed alphabetically. Within each municipality, the non-mainland coastal centers are listed alphabetically.

I. (No Change.)

II. Cape May County coastal centers on barrier islands, spits and peninsulas

A. (No Change.)

B. [Ocean City coastal regional center

1. The coastal regional center boundary follows the municipal boundary of Ocean City, but does not include any bay islands or Corson's Inlet State Park.

C.] Sea Isle City coastal town

1. (No change.)

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III. – IV. (No change.)

APPENDIX 5 CAFRA CENTERS

This non-regulatory appendix contains the list of CAFRA centers the boundaries of which have been accepted by the Department under N.J.A.C. 7:7E-5B.3(b), and which are incorporated into and shown on the CAFRA Planning Map. As required under N.J.A.C. 7:7E-5B.4(b), an applicant shall refer to the CAFRA Planning Map in order to determine the location of a site for the purposes of determining the applicable impervious cover limits under this chapter.

The Department will update the list of CAFRA centers, in this Appendix by notice of administrative change as part of the New Jersey Register notice required in N.J.A.C. 7:7E-5B.3(b). The appendix is organized as follows: Counties are listed alphabetically. Within each county, the municipalities are listed alphabetically. Within each municipality, the CAFRA centers are listed alphabetically.

I. (No change.)

II. Cape May County CAFRA Centers

A. – C. (No change.)

D. City of Ocean City

1. Ocean City regional center

Recodify existing D. through F. as E through G

III. - VI (No change.)

Date

Bob Martin, Commissioner