

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted both remotely and in-person
The public could view/comment through Pinelands Commission YouTube link:
www.youtube.com/c/PinelandsCommission

Richard J. Sullivan Center
15C Springfield Rd
New Lisbon, New Jersey 08064
May 31, 2024 – 9:30 a.m.

MINUTES

Members in Attendance: Jerome Irick, Chair Laura E. Matos

Members in Attendance (Zoom): Alan W. Avery, Jr., Mark S. Lohbauer, Douglas Wallner

Members Absent: Theresa Lettman

Other Commissioners Present: Jessica Rittler Sanchez (*as a non-member of the Committee, Commissioner Rittler Sanchez did not vote on any matter*)

Staff Present: Gina Berg, John Bunnell, Ernest Deman, April Field, Lori Friddell, Susan R. Grogan, Dawn Holgersen, Brad Lanute, Paul Leakan, Amber Mallm, and Stacey P. Roth. Also in attendance was Alexis Franklin with the Governor's Authorities Unit (Zoom).

1. Call to Order

Chair Matos called the meeting to order at 9:32 a.m.

2. Adoption of minutes from the April 26, 2024 CMP Policy & Implementation Committee Meeting

Commissioner Lohbauer moved the adoption of the April 26, 2024 meeting minutes. Commissioner Avery seconded the motion. Commissioners Avery, Lohbauer, Matos and Wallner voted to adopt the minutes. Commissioner Irick abstained. The motion passed.

Chair Matos requested a moment of silence in recognition of the recent loss of Albert Horner, an artist, photographer, champion and supporter of the New Jersey Pinelands.

3. Update on Open Public Records Act Legislation

Legal and Legislative Affairs Chief, Stacey Roth, presented an update on the pending Open Public Records Act (OPRA) legislative amendment (S2930). Ms. Roth reviewed the history and basic requirements of the current OPRA law and the role of the records custodian. She explained the definition of a government record in context of the OPRA law and that a public record is not limited to paper. She said a public record includes all media forms and applies to email. She noted the many exemptions to OPRA and that many of the exemptions have been determined by case law. ([presentation attached](#))

Commissioner Irick inquired as to what would be considered private correspondence.

Ms. Roth explained that the law is designed to provide transparency and pertains to records made, maintained or received as a result of official business; and would therefore apply to private emails and social media provided the material related to government business.

Ms. Roth presented the legislative history of S2930, the proposed amendments within and the potential impact on the Commission's processes and record custodians.

Ms. Roth noted that the legislation is very controversial.

Commissioner Rittler Sanchez stated that many Mayors are still opposed.

Ms. Roth outlined the amendment's definition of a commercial purpose and that the new law would change the time frames associated with obtaining a government record for resale or financial benefit. She noted that the definition excludes news media, educational or governmental organizations, labor organizations, political or non-profit groups.

Ms. Roth reviewed changes to the exemption requirements pertaining to personal identifying information. She explained that the more restrictive exemptions result partially from the institution of "Daniel's Law."

Ms. Roth explained proposed changes that require government records be made available to the public on websites. She said the custodian must provide detailed links to the location of the record within the website. She presented an overview of the public access requirements for government records, including the agency's requirement to convert a record to the medium requested and the reasonable special service fees applicable.

Ms. Roth's presentation further outlined the requirement for a public agency to adopt the OPRA request form established by the Government Records Council, the parameters of a proper request, the ability to complete an anonymous records request and the conditions allowing an agency to deny a request.

Commissioner Rittler Sanchez inquired if OPRA requests and responses are required to be posted to the website. Ms. Roth responded that they do not, however the OPRA form and information on how to complete a request should be accessible on the agency website.

Ms. Roth stated that the recurring theme within the proposed OPRA amendments is to improve transparency and the process of communication between the custodian and the requestor to find and provide the records.

Ms. Roth reviewed the OPRA requirements regarding response time and disruptive repeated requests. Ms. Roth said the law would not allow the same request to be sent to multiple agencies. Regarding legal proceedings, Ms. Roth said that OPRA cannot be used in place of a pending discovery request or if matters may pertain to a court order.

Commissioner Irick said that the subject matter could be heard by multiple agencies.

Ms. Roth agreed. She explained that the requestor would need to identify the record specific to the agency and, while hard to implement, the intent is to reduce duplicative requests.

Ms. Roth reviewed proposed amendments to response times, including commercial requests, extensions and archival storage retrieval. She further stated that a custodian is not required to provide records created or received by another agency.

Executive Director (ED) Grogan inquired if it is at the agency's discretion to provide a copy of a record from another agency.

Ms. Roth responded that the intent is to be transparent and if the record is not subject to exemption, it could be provided.

ED Grogan said it would be difficult to determine record exemptions for another agency.

Ms. Roth reviewed amendments to agency actions when records requests are denied, as well as associated attorney fees and penalties. She said advocates are against these changes. She noted that in the event of a finding of a willful violation of OPRA, the public agency is now subject to civil penalties rather than the records custodian. She further explained that a requestor who fails to certify that the request is for a commercial purpose is subject to civil penalties.

Commissioner Irick asked for an example of a commercial purpose.

Ms. Roth gave the example of a data company requesting every application submitted so they can use it for consulting.

Ms. Roth reviewed that a court protective order may be issued for requests that substantially interrupt the performance of government function.

ED Grogan stated that the proposed bill appropriates funding to the New Jersey Department of Community Affairs (NJDCA) to provide grants to public agencies to help promote public access to records. She referred to the Commission's application tracking system as an example of a project intended to make public access easier.

ED Grogan stated, regarding the proposed legislation, that while this is one of many things happening outside of the Commission, it is going to have an impact on Commission operations. Staff will need to be aware of changes so that they can be incorporated into the Commission's OPRA process.

Chair Matos opened the floor to questions.

Commissioner Irick inquired if an agency is required to post and make public the name of the records custodian.

Ms. Roth stated she was not aware if that was an obligation, but she will further investigate.

Commissioner Irick commended the Commission for being diligent regarding record requests and public access.

Commissioner Rittler Sanchez inquired what the major sticking point is for non-profit groups.

Ms. Roth stated it would predominately be the changes to the attorney fees and penalties.

Commissioner Lohbauer inquired if the Commission provided comments to the Governor's office.

Ms. Roth stated that no opportunity was made for comment and that the legislation moved quickly.

Commissioner Lohbaurer stated that he was surprised how quickly it moved considering that there are controversial provisions. He noted, for example, a commercial benefit will need to be defined by litigation down the road and he would be concerned that a non-profit organization's publication of information derived from an OPRA request could be viewed as an opportunity for commercial benefit.

Ms. Roth said that a lot will likely be decided through litigation.

Commissioner Lohbauer thanked Ms. Roth and said that the Pinelands Commission has been very responsive to the public and has a great records policy and approach to transparency.

There being no further questions or comments, Chair Matos closed the discussion.

4. Overview of New Jersey Department of Environmental Protection (NJDEP) Model Tree Removal Ordinance

Chief Planner Brad Lanute presented an overview of the NJDEP Model Tree Removal Ordinance. (presentation attached)

Mr. Lanute reviewed the NJDEP requirement that all municipalities with a Tier A MS4 Stormwater Permit adopt and enforce a tree removal and replacement ordinance to reduce stormwater runoff and pollutants and promote infiltration of rainwater into the soil. He said that the NJDEP has provided municipalities with a model ordinance for that purpose. Mr. Lanute provided background on the MS4 permitting program regulation required by both federal and state regulations to address water quality.

Commissioner Irick inquired if all municipalities are governed by the MS4 permit.

Mr. Lanute explained that all Pinelands municipalities are classified as Tier A. He reviewed the NJDEP reclassification of all Tier B municipalities to Tier A.

Mr. Lanute presented some of the Tier A MS4 stormwater permit requirements, including adoption of a stormwater pollution prevention plan, local public education and outreach, creation of watershed improvement plans, and the need to provide for minimum standards via adoption of pollution prevention ordinances. He reviewed the required pollution prevention ordinances, noting that former Tier B permittees will need to adopt these ordinances. Mr. Lanute specifically noted the new ordinances required for privately owned salt storage and tree removal and replacement. Mr. Lanute stated that the privately owned salt storage ordinance does not pertain to the Commission rules, however the tree removal and replacement ordinances do require review.

He reviewed the minimum requirements of the Tree Removal ordinance, which must address both tree removal and replacement. Mr. Lanute further stated that the NJDEP has stressed that the model ordinance is a guidance document and offers municipalities flexibility in crafting their ordinance. He said municipalities with existing tree removal ordinances can submit the ordinance to the NJDEP to see if they meet the requirements of the MS4 permit. Mr. Lanute explained the ordinance addresses regulated tree removal activities and DBH (diameter at breast height) thresholds.

He reviewed the application process, explaining that the model ordinance provides flexibility to municipalities to either integrate the application process with existing reviews or to establish a

separate application process. He further noted that municipalities are allowed to impose application fees.

Mr. Lanute said that municipal ordinances are required to include a list of tree species that are acceptable to be planted and that the Pinelands Commission maintains a list of native Pinelands plants on its website. The list can serve as a resource for municipalities.

He reviewed two replacement alternatives as outlined in the model ordinance. This first allows tree replacement in a separate area approved by the municipality. The second alternative establishes a fee per removed tree to be placed into a fund for continued tree maintenance and planting. He explained that the ordinance allows municipalities to implement their own planning and community outreach and to incorporate their own best practices in how funds are allocated.

Mr. Lanute reviewed exemptions within the model ordinance.

Commissioner Wallner inquired about exemptions for invasive species and pest trees.

Commissioner Rittler Sanchez inquired if diseased trees were included in exemptions.

Mr. Lanute stated that some municipalities have included these types of exemptions in their ordinances.

Commissioner Irick inquired about monitoring and review requirements of municipal ordinances.

ED Grogan stated that the ordinances will be reviewed for consistency with the Pinelands Comprehensive Management Plan (CMP).

Mr. Lanute explained how the CMP regulations intersect with the tree removal and replacement ordinances and what staff is looking for during review. He said that all Pinelands municipalities have incorporated the CMP minimum vegetation standards. He said Commission staff have reviewed two tree removal ordinances and found that they raise no substantial issue with respect to CMP standards. He said that staff will review to ensure that the authorized species list in the ordinance is consistent with the species listed in the CMP or on the Commission's "Native Pinelands Plants for the Landscape" fact sheet. He stated that Commission review will also ensure that agricultural exemptions are met and will consider impacts on realistic development potential in regional growth areas, particularly where PDC opportunities exist. Mr. Lanute said the Commission will communicate with municipalities as they go through the process.

ED Grogan stated that the Commission will also coordinate discussion with the NJDEP since there are a significant number of issues to address that are not specified in the model ordinance, such as how municipalities will set up and allocate funds. She noted that the ordinance also applies to larger development and is vague in setting up those standards.

Chair Matos inquired if staff had any recommendations to provide on the three draft ordinances received.

Mr. Lanute stated that the first two we received are good examples and the Commission has room to provide recommendations from requirements to best practices.

Chair Matos stated it is best to be proactive with municipalities.

ED Grogan explained that this is one small piece of the MS4 permitting, and that the Commission is trying to help the towns as much as possible.

Commissioner Rittler Sanchez inquired regarding thresholds for development impacted by the ordinance.

ED Grogan said exemptions and fee issues will be important to the implementation of this ordinance, and there are many issues for towns to consider.

Commissioner Lohbauer said there did not appear to be any consideration given to carbon sequestration capacity as a rationale when considering tree removal. He further stated that he would like to see the Climate Committee consider this in reviewing the model ordinance.

ED Grogan responded that this ordinance is coming from NJDEP as authorized under the MS4 stormwater permit requirement. She said that the Commission will need to see how this is implemented over the next few months.

Commissioner Irick stated that he would like to see exemptions considered for the farming community, cemeteries and provisions for inherently beneficial uses.

There being no further questions or comments, Chair Matos closed the discussion.

5. Long-Term Economic Monitoring Work Plan for National Park Service Task Agreement

Gina Berg, the Commission's Director of Land Use Programs, presented the proposed projects that are being considered for funding through the economic monitoring side of the National Park Service agreement and their anticipated schedules and reporting. (presentation attached)

Ms. Berg reviewed the project to evaluate the economic impacts of climate change on Pinelands Villages and selected Regional Growth Areas. She said the project will build on work from the Climate Committee and would assign economic value to the affected parcels.

Regarding the Pinelands Development Credit (PDC) supply and demand project, Ms. Berg said staff intend to develop a methodology that can be implemented easily. She said geospatial analysis has been used to determine potential credits and that this project would standardize and set up certain ground rules for the analysis.

Ms. Berg discussed the cultural resource projects in the work plan. She reviewed the ground penetrating radar survey projects, noting upcoming equipment upgrades. She said that the field school planned in the prior year work plan did not get approved by the federally recognized tribe, but that a field school may be coordinated at the Whitesbog Village in the coming year. Ms. Berg reviewed the Pinelands Byway activities. The activities include assisting municipalities to identify grant opportunities and providing for printing and distribution of the Pinelands calendar. She outlined the new Cultural Resource maps project, which includes the digitalization of historic maps, as well as a data sharing agreement with the State Historic Preservation Office.

Ms. Berg discussed the Local Conformance and Zoning system project. She said this would be the second year of a two-year project and reviewed the status of work completed. She projected the internal system to be completed by January 2025 and launch of the public external portion by April 2025.

With regard to the Economy of Parks and Open Space project, Ms. Berg said the project is being carried over from prior fiscal year funding. The purpose of the project is to evaluate the economic impact of land preservation.

Commissioner Irick said that he supports amendments to require PDCs to be redeemed for utility improvements and extensions projects separate from the larger development. He asked if that could be considered. He said his concern is that there is insufficient demand for PDCs.

Ms. Berg said it would not fall under the umbrella of this project.

ED Grogan explained that the intent behind the PDC supply and demand analysis is to allow the Commission to consider whether there is a balance between supply and demand.

Commissioner Irick said that while the PDC program has been a valuable tool, he believes it does not generate sufficient demand to create high PDC values.

There being no further questions or comments, Chair Matos closed the discussion.

6. Public Comment

No public comments were made.

Chair Matos opened comments to Commissioners.

Commissioner Rittler Sanchez thanked staff for their presentations.

Commissioner Lohbauer thanked Chair Matos for the tribute to Al Horner.

Chair Matos stated a more formal tribute for Mr. Horner will be arranged for the upcoming full Commission meeting.

Commissioner Wallner inquired on the status of the Black Run rule proposal.

ED Grogan stated it is part of the CMP amendments currently being worked on.

7. Adjournment

There being no other business, Commissioner Lohbauer moved to adjourn the meeting. Commissioner Wallner seconded the motion. All voted in favor. The meeting was adjourned at 11:33 a.m.

Certified as true and correct:



Lori Friddell
Land Use Programs Technical Assistant

Date: June 10, 2024

OPRA and Recent Legislative Amendments (s2930)

Pinelands Commission
CMP Policy and Implementation
Committee Meeting
May 31, 2024



OPRA Basics


What is OPRA?

1. The New Jersey Open Public Records Act, N.J.A.C. 47:1A-1 *et seq.* (P.L.2001, c.404)
2. OPRA went into effect in July 2002
 - a. It replaced the former Right to Know Law
 - b. Expanded the definition of a "public record"



OPRA Basics

What does OPRA Do?

- Provides process by which requestors may gain access to government records maintained by public agencies in NJ.
 - Makes government records accessible for inspection, copying or examination by the public, unless record is exempt under OPRA or any other law
- 

OPRA Basics

What is a Government Record?

- Any record that has been made, maintained, or kept on file, or has been received in the course of official business
- Not limited to paper records.
 - e.g. tape recordings, microfilm, electronically stored records, emails, text messages, data sets stored in a database, books, maps, photographs, etc.



OPRA Basics

How does OPRA work?

- Requestor submits an OPRA request to the records custodian of the agency.
- OPRA required agency to have an OPRA request form, but requestor is not required to use it, but request must be in writing.
- Request may be submitted by hand delivery, mail, or transmitted electronically (e.g. Email)

Records Custodian

- Reviews OPRA request
- Determines scope of Request
- Works with Requester to Narrow Broad Requests
- Locates Responsive Records
- Reviews Records for exemptions



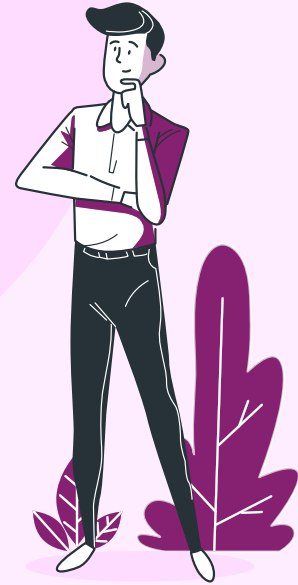


Records Custodian

- Responds to Request within no more than 7 business days
- Must permit access to a government record and provide a copy of the record in the medium requested if the agency maintains the record in that medium
- If the public agency does not maintain the record in the medium requested, the custodian shall either convert the record or provide a copy in some other meaningful medium
- May deny request if does not identify records with sufficient specificity

Recent OPRA Amendments

S 2930





S 2930

- Introduced - March 4, 2024
- Reported out of Senate Budget & Appropriations Committee, with Amendments – March 11, 2024
- Recommitted – April 8, 2024
- Reported from Committee – May 9, 2024
- Passed by Senate – May 13, 2024
- Received in Assembly, Substituted for A 4054, Passed by Senate – May 13, 2024

Definitions

“Commercial Purpose” – direct or indirect use of any part of a government record for sale, resale, rent, or lease of a service, or any use by which a user expects a profit either through commission, salary, or fee, not including use of a government record for any purpose by:

1. News media
2. News, journalistic, educational, scholarly, or governmental organization
3. Person authorized to act on behalf of candidate, political, political party or legislative leadership committee
4. Labor Organizations
5. Non-profit entity that does not sell, resell, solicit, rent or lease a government record to an unaffiliated third-party for a fee



Definitions

“Personal identifying information” – information that may be used, alone or in conjunction with any other information, to identify a specific individual.

Personal identifying information shall include:
name, social security number, credit card number, debit card number, bank account information, month and day of birth, personal email address, personal telephone number, street address of person’s primary or secondary home, or drivers license number



Public Access

- Government records are to be made available to the public on a publicly available website to the extent feasible
 - No fee if request is fulfilled by pointing requestor to documents on website
 - Custodian must provide address along with the location on the website of a search bar, menu button, tab, link and landing page which contains the requested record.
 - Establishes a process if requestor can not find the record on the website.



Public Access

- If the public agency does not maintain the requested government record in the medium requested, the custodian must convert the record to the medium or format requested, if the medium or format is available to the public agency and does not require a substantial amount of manipulation or programming of information technology, or the services of a third-party vendor
- If the public agency does not maintain the record in the medium or format requested, and such medium/format is not available without a substantial amount of manipulation or programming, there is no obligation to convert the record, but must supply record in the electronic format maintained



Public Access

- Agency may charge a reasonable special service fee, in addition to the actual costs of duplication, based on cost of use of information technology and labor cost of personnel for programming, clerical and supervisory assistance required.
- Requestor shall be provided with an explanation for and itemized list of the fees or charges and has opportunity to review and object to any fee before being charged
- Rebuttable presumption that fees or charges are reasonable



Public Access

- Public agency must adopt the OPRA request form established by the Government Records Council

Form shall include space for requestor's name, address, email address and telephone number, a brief description of the government record sought and a space for the requestor to certify whether record will be used for commercial purpose

Requestor may use the adopted form, a letter or an email as long as it includes all the information required by the adopted form



Public Access

Custodian may deny a letter or email request if:

It contains substantially more information than required on the form and requires more than reasonable effort to clarify the information

It is incomplete, except an anonymous request shall not be considered incomplete

Requestor has not certified if record will be used for a commercial purpose



Public Access

Public agency who has adopted electronic government request forms shall provide directions on how to submit government records requests, including any forms, on its website

Clarifies electronic response permitted to electronic records requests if government records are available electronically

Public agency may make available on its website an online form, portal or software for transmitting requests

GRC form may be submitted electronically or by fax



Public Access

Each submission of form or email record request shall be made to the custodian of not more than one public agency

Submission of repeated requests to multiple custodians in the same agency for the same record in the same public agency, while an identical or substantively similar request is pending, permits denial of the request

If a request will substantially disrupt agency operation, the request may be denied after the requestor is informed and attempts to reach a reasonable solution with the requestor are ineffective



Public Access

Requests by parties to a legal proceeding, including attorneys and agents:

- May not request a record if that record is the subject of a court order, including a pending discovery request

- Must certify whether the record is being sought in connection with a legal proceeding and identify the proceeding

- Not applicable to a labor organization or contractor signatory of a CBA seeking information material to enforcement of a State or Federal statutes or regulations, when request is not sought in connection with or furtherance of a pending discovery request

Public Access

A custodian is not required to complete a request for mail, email, text messages, text message, correspondence, or social media postings and messages, if the request does not identify:

- a specific job title or accounts to be searched
- a specific subject matter
- and is not confined to a reasonable time period
- or the request would require research and the collection of information from the contents of records or the creation of new records setting forth that research and information



Public Access

Response Times:

No more than 7 business days after custodian receives request or 14 business days for a request for commercial purposes

For a commercial requestor, who would like to receive a record within 7 business days, the custodian shall provide the record and may charge a special service fee not exceeding two times the cost of production



Public Access

Custodian is entitled to a reasonable extension of any response deadline for unforeseen circumstances that necessitate additional time to fulfill request

Custodian must notify requestor of the time extension within seven business days

If a record is in storage or archived, the requestor must be so advised within 7-14 business days and also when the record will be made available, which shall be no more than 21 business days from the date the requestor is advised



Public Access

The custodian is not required to:

Provide a record created, maintained or received by another public agency, but must direct requestor to that agency with seven business days

Complete an identical request for a record from the same requestor if the information hasn't changed

A requestor has fourteen business days to retrieve records following notice that the records are available



Attorney Fees

Sets 45-day deadline for filing of action by a requestor, who did not submit an anonymous request, for denial of records request

Reasonable attorney fees may be awarded to requestor who prevails in challenge to records request denial

Court or GRC may award attorney's fees to a prevailing party in any proceeding. An award of reasonable attorney's fees is required if the public agency unreasonably denied access, acted in bad faith or knowingly or willfully violated the law



Penalties

If a public official, officer, employee or custodian is found to have knowingly and willfully violated OPRA and to have unreasonably denied access under the totality of the circumstance, the public agency shall be subject to civil penalties

A requestor who is found to have intentionally failed to certify that a records request is for a commercial purpose shall be subject to civil penalties



Penalties

Court protective order may be issued, following filing of verified complaint, if Court finds by clear and convincing evidence that a requestor has sought records with the intent to substantially interrupt the performance of government function

Protective order may limit the number and scope of requests the requestor may make or order such other relief including, referral of the matter to mediation or waiver of the required response time

The complaint shall be accompanied by a declaration of facts by the public agency demonstrating that it has complied with the law and made a good faith effort to reach an informal resolution



Miscellaneous

The bill encourages and allocates funds to assist public agencies with moving documents online, with the goal of making such records searchable via an online database

The bill appropriates \$4 million to NJDCA to provide grants to public agencies to assist in accomplishing the above objective



Miscellaneous

Act takes effect 90 days following the date of enactment

Bill is awaiting Governor's action

Bill is very controversial, especially the changes to the Attorney's Fee provisions

Questions?

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Overview of the NJDEP Model Tree Removal/Replacement Ordinance



**CMP Policy & Implementation
Committee**

5/31/2024

Presentation Overview

- What's the requirement?
- Tier A MS4 Stormwater Permit
- The NJDEP model ordinance
- Related CMP regulations
- Status of Pinelands municipalities
- What staff is looking out for during review

What's the Requirement?

- By May 1, 2024, all municipalities with a Tier A MS4 Stormwater Permit are required to adopt and enforce an ordinance to control tree removal and replacement to reduce stormwater runoff and pollutants, and to promote infiltration of rainwater into the soil
- This requirement was added during the 2022 Tier A MS4 Master Permit renewal
- The NJDEP has prepared a model ordinance

Tier A MS4 Stormwater Permit

- The MS4 permitting program is required by both federal and state regulations to address water quality
- The permit authorizes certain new and existing stormwater and non-stormwater discharges to surface water and ground water from small MS4 Systems



Tier A MS4 Stormwater Permit

- All Pinelands municipalities are classified as Tier A
- As part of the 2022 permit renewal the DEP reclassified all 101 Tier B municipalities to Tier A, including 13 Pinelands Municipalities



Tier A MS4 Stormwater Permit

Some of the Permit Requirements

- Stormwater pollution prevention plan
- Local public education and outreach
- Watershed improvement plan
- Provide minimum standards for (i.e., ordinances):
 - Construction site stormwater runoff
 - Post construction stormwater management in new development and redevelopment
 - Pollution prevention/good housekeeping for municipal operators
 - MS4 Mapping, and Scouring, and Illicit Discharge Detection and elimination

Tier A MS4 Stormwater Permit

Pollution Prevention Ordinances:

- Pet Waste
- Wildlife Feeding
- Litter Control
- Improper Disposal of Waste
- Yard Waste
- Private Storm Drain Inlet Retrofitting
- Privately-Owned Salt Storage
- Tree Removal/Replacement

Former Tier B
permittees need
to adopt by
5/1/2024

All permittees
need to adopt by
5/1/2024

Tree Removal-Replacement Model Ordinance

- At minimum, municipalities must adopt an ordinance that addresses both removal and replacement, and it must apply to all lands of the municipality
- The NJDEP has stressed that the model ordinance is a guidance document and serves as a template that can be used in whole or in part by municipalities
- Municipalities can use existing ordinances if they meet the minimum requirements of the MS4 permit

Tree Removal-Replacement Model Ordinance

Purpose

To reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil and protect the environment, public health, safety, and welfare

Ordinance Structure

Definitions

Regulated Activities

- Application Process
- Tree Replacement Requirements
- Replacement Alternatives

Exemptions

Enforcement, Violations, and Penalties

Tree Removal-Replacement Model Ordinance

Regulated tree removal activities

The removal of

- any street tree with a DBH of 2.5" or more
- any non-street tree with DBH of 6" or more

Application Process

The model ordinance provides flexibility to integrate with existing reviews (e.g., site plan approvals, building permit approvals,...etc.) or to establish a separate application process

Municipalities may impose application fees

Tree Removal-Replacement Model Ordinance

Tree Replacement Requirements

Trees removed must be replaced in kind with a tree that has an equal or greater DBH than the tree removed OR meet the criteria below

Tree Removed (DBH)	Tree Replacement Criteria
2.5" (street trees) or 6" (non-street trees) to 12.99"	1 tree w/ min caliper of 1.5" per tree removed
13" to 22.99"	2 trees w/ min calipers of 1.5" per tree removed
23" to 32.99"	3 trees w/ min calipers of 1.5" per tree removed
33" or greater	4 trees w/ min calipers of 1.5" per tree removed

Tree Removal-Replacement Model Ordinance

Tree Replacement Requirements

Replacement trees must be:

- Planted within 1 year of removal of the original tree(s)
- Monitored by the applicant for 2 years and replaced as needed within 1 year

Replacement trees are not permitted to be planted in temporary containers or pots

Tree Removal-Replacement Model Ordinance

Tree Replacement Requirements

Municipalities are required to supplement the model ordinance with either:

- a list of tree species that are acceptable to be planted; or
- a list of tree species that are not acceptable to be planted



Tree Removal-Replacement Model Ordinance

Replacement Alternatives

If the municipality determines that some or all required replacement trees cannot be planted on the property where removal occurred, then the applicant shall either:

- Plant replacement trees in a separate area(s) approved by the municipality.
- Pay a fee of [*amount to be set by municipality*] per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

Tree Removal-Replacement Model Ordinance

Exemptions

- Hazard trees may be removed with no fee or replacement requirement
- Residents who remove less than four (4) trees per acre with DBH less than 33 inches within a five-year period.

Tree Removal-Replacement Model Ordinance

Exemptions

- Tree farms in active operation, nurseries, fruit orchards, and garden centers
- Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the municipality

Tree Removal-Replacement Model Ordinance

Exemptions

- Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.
- Any trees removed pursuant to a NJDEP or EPA approved environmental clean-up, or NJDEP approved habitat enhancement plan;
- Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;

Relevant CMP Regulations

N.J.A.C. 7:50-6 Part II Vegetation

- All clearing and soil disturbance activities, whether or not an application for development is required, shall be limited to that which is necessary to accommodate an activity, use or structure which is permitted by the CMP
- Where practical, all clearing and soil disturbance activities associated with an activity, use or structure other than agriculture, forestry and resource extraction, shall avoided wooded areas and revegetate or landscape areas temporarily cleared or disturbed during development

Relevant CMP Regulations

N.J.A.C. 7:50-6 Part II Vegetation

Except for forestry and resource extraction, each application for public development or major development shall contain a landscaping or revegetation plan containing:

- Existing vegetation
- Limits of clearing
- Proposed vegetation and landscaping

Relevant CMP Regulations

N.J.A.C. 7:50-6 Part II Vegetation

Landscaping or revegetation plan standards:

- Permanent lawn or turf areas must be limited to those specifically intended for active human use such as play fields, golf courses and lawns associated with a residence or other principal non-residential uses.
- Native shrubs and trees authorized in the CMP shall be used for revegetation and landscaping (with some exceptions for non-natives)

Adoption Status of Pinelands Municipalities

- All Pinelands municipalities have incorporated the CMP minimum vegetation standards
- Some Pinelands municipalities have adopted additional vegetation and tree-specific ordinances beyond what the CMP requires
- Commission staff have reviewed two ordinances responding to the MS4 requirement and found that they raised no substantial issue with respect to CMP standards
- Drafts have been received from three municipalities

What staff is looking out for during ordinance review

- Ensuring that the authorized species list is consistent with those species listed in the CMP or listed on the “Native Pinelands Plants for Landscape” fact sheet posted on the Commission website.
- Ensuring that an appropriate exemption is provided for agriculture
- Consider impacts to the realistic development potential in Regional Growth Areas, particularly where PDC opportunities exist:
 - What alternatives to planting on site are provided
 - Are any payment in lieu of planting fees reasonable



Long Term Economic Monitoring Work Plan

P&I Committee

May 31, 2024

Proposed Projects



Economic Impacts of Climate Change on Pinelands Villages and Selected Regional Growth Areas



Pinelands Development Credit Supply and Demand



Cultural Resources Projects – Historic Cemeteries, Pinelands Byway, Cultural Resource Maps



Local Conformance and Zoning System



Economy of Parks and Open Space (carry over)

Economic Impacts of Climate Change on Pinelands Villages and Selected Regional Growth Areas

Focus

Focus on areas for recommended actions by Climate Committee

Analyze and tabulate

Analyze and tabulate loss reductions

Data

Assessment & valuation datasets
Permitted uses/ zoning
Previously mapped risks
Environmental standards

Report

Generate report of residential units, commercial SF, etc.
and value

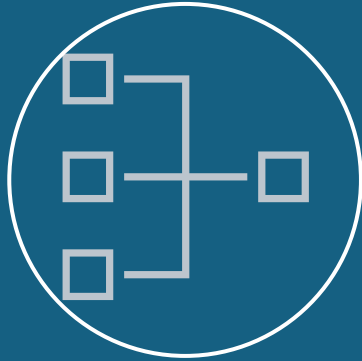
Schedule

October 2024 – September 2025

Pinelands Development Credit Supply and Demand



Refine geospatial
analysis for easier
repetition



Set data
aggregation
standards

- Regional growth parcels
- PDC supply rounding rules



Add corrections
with recent
allocations in PDC
LOIs



Document
methodology



Report

Schedule: October 2024 – June 2025



Cultural Resource Projects

- Ground Penetrating Radar Surveys
 - Historic cemeteries
 - Whitesbog village
 - Equipment upgrades
 - Field school*
- Pinelands Byway Activities
 - Assist with identifying grants or other opportunities for Byway municipalities
 - Attend cultural resource seminar(s)
 - Print and distribute Pinelands calendar
- Cultural Resource Maps
 - Data sharing agreement with State Historic Preservation Office
 - Share archaeological data
 - Verify data shared on NJ Cultural Resource Inventory

Local Conformance & Zoning System

- 2nd year of a two-year project
- Completed transfer of old system to new system
- Completed internal system attributes & structure
- Continuing
 - QA/QC
 - User interface design
 - Historical document digitization
- Internal system: January 2025
- Identify content and format for external audience
- Launch public facing resources through website: April 2025

<i>Original Certification Dates</i>		<i>Resolution Numbers</i>
Barnegat	4/8/83	83-29
Bass River	7/9/92	82-41
Beachwood	5/6/83	83-41
Berlin Bor.	6/3/83	83-50
Berlin Twp	6/3/83	83-51
Buena Borough	10/4/85	85-60
Buena Vista	7/12/91	91-97
Chesilhurst	2/4/83	83-18
Corbin City	10/8/82	82-67
Dennis	9/9/83	83-77
Dover	3/1/91	91-??
Egg Harbor City	2/6/87	87-13
Eagleswood	4/8/83	83-28
Egg Harbor Township	10/1/93	93-139
Estell Manor	8/5/83	83-70
Evesham	7/8/83	83-57
Folsom	11/3/89	89-143
Franklin	11/5/82	82-82
Galloway	3/6/87	87-19
Hamilton	3/8/85	85-10
Hammonton	11/9/84	84-73
Jackson	7/8/83	83-58
Lacey	11/1/91	91-154
Lakehurst	2/4/83	83-15
Little Egg	1/7/83	83-03
Manchester	7/8/83	83-59
Maurice River	12/3/82	83-92
Medford	5/6/83	83-37
Medford Lakes	2/4/83	83-19
Monroe	9/9/83	83-76
Mullica	2/3/84	84-11

Economy of Parks and Open Space

Carry over from prior fiscal year
funding

Economic impacts/benefits of
land preservation

Identify relevant datasets and
analysis tools

Report September 2025



Questions?

