

7:50-4.1 Applicability

- (a) For the purposes of this subchapter only, the following shall not be considered development except for development of any historic resource designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154:

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- 21.** 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 Commission pursuant to N.J.A.C. 7:50-5.4(c)6;

7:50-5.4 Height limitations

- (a) In all Pinelands Management Areas other than Regional Growth Areas and Pinelands Towns and in the Parkway Overlay District, no structure, including radio and television transmission and other communication facilities which are not accessory to an otherwise permitted use, shall exceed a height of 35 feet, except as provided in (b) below.
- (b) The height limitation in (a) above shall not apply to any of the following structures, provided that such structures are compatible with uses in the immediate vicinity and conform to the objectives of N.J.A.C. 7:50-6, Part X: antennas which do not exceed a height of 200 feet and which are accessory to an otherwise permitted use, silos, barns and other agricultural structures, church spires, cupolas, domes, monuments, water towers, fire observation towers, electric transmission facilities and supporting structures, windmills, smokestacks, derricks, conveyors, flag poles and masts, or aerials, solar energy facilities, chimneys and similar structures required to be placed above the roof level and not intended for human occupancy.
- (c) The height limitation in (a) above shall not apply to the antenna and any supporting structure of a local communication facility of greater than 35 feet, provided that:
1. There is a demonstrated need for the facility to serve the local communication needs of the Pinelands, including those related to public health and safety, as well as a demonstrated need to locate the facility in the Pinelands in order to provide adequate service to meet these needs;
 2. The supporting structure is designed to accommodate the needs of any other local communications provider which has identified a need to locate a facility within an overlapping service area;
 3. The antenna utilizes an existing communications or other suitable structure, to the extent practicable. Should there be more than one such existing communications or other suitable structure available for use, the antenna shall utilize that structure which offers the least potential for visual impacts on those uses and resources listed in 4ii. through v. below;
 4. If an existing communications or other suitable structure cannot be utilized, the antenna and any necessary supporting structure is located such that it:
 - i. Meets technical operating requirements;
 - ii. Minimizes visual impacts as viewed from publicly dedicated roads and highways and from other areas frequented by the public by, in order of decreasing priority:
 - (1) Avoiding, to the maximum extent practicable, any direct line of sight from low intensive recreation facilities and campgrounds; and
 - (2) Minimizing the length of time that an antenna structure is visible from publicly dedicated roads and highways;
 - iii. Avoids, to the maximum extent practicable, visual impacts as viewed from the wild and scenic rivers and special scenic corridors listed in N.J.A.C. 7:50-

6.105(a), the Pine Plains and area necessary to maintain the ecological integrity of the Pine Plains, as depicted on the Special Areas Map, Figure 7.1;

- iv.** Maintains a distance of at least five miles from the Forked River Mountains and otherwise minimizes visual impacts as viewed from the Forked River Mountains, as depicted on the Special Areas Map, Figure 7.1;
 - v.** Minimizes visual impacts as viewed from existing residential dwellings located on contiguous parcels through adherence to the buffer and setback requirements established in the certified land use ordinances of the municipality in which the facility is proposed to be located;
 - vi.** If proposed in the Preservation Area District, Forest Area, Special Agricultural Production Area, or Rural Development Area, is located in one of the following areas:
 - (1)** In a certified municipal commercial or industrial zone. If the facility is proposed in the Rural Development Area, it may also be located on the parcel of an existing commercial or industrial use, whether or not that use is included in a certified municipal commercial or industrial zone. If the facility is proposed in an industrial zone within the Forest Area or Preservation Area District where resource extraction is the primary permitted use, the facility shall be located on the parcel of an approved resource extraction operation in accordance with (c)4vi(3) below;
 - (2)** On developed publicly owned lands within 500 feet of an existing structure, provided that the facility will be located on previously disturbed lands that have not subsequently been restored and that no facility will be located on State, county, or municipal conservation lands, State recreation lands or county and municipal lands used for low intensity recreational purposes;
 - (3)** On the parcel of an approved resource extraction operation, provided that the facility will be located on previously disturbed lands that have not subsequently been restored;
 - (4)** On the parcel of an existing first aid or fire station; or
 - (5)** On the parcel of an existing landfill, provided that the facility will be located on previously disturbed lands that have not subsequently been restored.
 - vii.** Should there be more than one location which meets the requirements set forth in 4i. through vi. above, the antenna and any necessary supporting structure shall be sited at that location which will have the least visual impact on those uses and resources described in 4ii, iii. and v. above.
- 5.** The antenna and any supporting structure does not exceed 200 feet in height but, if of a lesser height, shall be designed so that its height can be increased to 200 feet if necessary to accommodate other local communications facilities in the future;

6. If the facility is proposed to be located in any Pinelands management area other than a Regional Growth Area or a Pinelands Town, a comprehensive plan for the entire Pinelands Area must be submitted to the Pinelands Commission for certification.

If the facility is proposed to be located in a Military and Federal Installation Area, submission of such a plan shall only be required if the facility is to be located outside the substantially developed area of the installation.

Said plan shall include five and 10 year horizons, a review of alternative technologies that may become available for use in the near future, and the approximate location of all proposed facilities.

Said plan shall also demonstrate that the facilities to be located in the Preservation Area District, Forest Area, Special Agricultural Production Area and Pinelands Villages of Bamber Lake, Beckerville, Belcoville, Belleplain, Brookville, Chatsworth, Dorothy, Eldora, Elwood, Estell Manor, Green Bank, Jenkins, Lower Bank, North Dennis, Sweetwater, Warren Grove and Weekstown are the least number necessary to provide adequate service, taking into consideration the location of facilities outside the Pinelands that may influence the number and location of facilities needed within the Pinelands.

Said plan shall also demonstrate likely consistency with (c)1, 3, and 4 above and note the need to demonstrate consistency with (c)2, 3, 4 and 5 when the actual siting of facilities is proposed when an application for development is submitted to the Commission pursuant to N.J.A.C. 7:50-4.

If a proposed new facility cannot be sited in accordance with the requirements of 4vi above or the minimum environmental standards established in N.J.A.C. 7:50-6, or if a proposed new facility would have a significant visual impact on those uses and resources described in 4ii. through v. above, the plan shall specify how the use of alternatives which would meet the technical operating and adequate service requirements identified for the new facility could result in reduced visual impacts, including but not limited to stealthing, multiple shorter facilities, use of sites not listed in 4vi above and alternate technologies. The Commission may require the implementation of the alternative that is technically and economically feasible, and that will result in the greatest avoidance or minimization of visual impacts during its review of the plan or any application for development of a local communications facility submitted pursuant to N.J.A.C. 7:50-4.

Where more than one entity is providing the same type of service or has a franchise for the area in question, the plan shall be agreed to and submitted jointly by all such providers, where feasible, and shall provide for the joint construction and use of the least number of facilities that will provide adequate service by all providers for the local communication system intended.

Shared service between entities, unless precluded by Federal law or regulation, shall be part of the plan when such shared services will reduce the number of facilities to be otherwise developed.

- i. Upon receipt of the comprehensive plan, or amendments to a previously approved plan, the Executive Director shall give notice of and set the date, time, and place for a public hearing for consideration of the plan. The public hearing

shall be held by the Executive Director within 60 days following receipt of the comprehensive plan in accordance with the provisions of N.J.A.C. 7:50-4.3.

- ii. Upon completion of the public hearing, the Executive Director shall review the comprehensive plan and the record of the hearing and shall, within 90 days following receipt of the plan, submit a report to the Commission setting forth proposed findings and a recommended order as to whether the plan is in conformance with the minimum standards of this section.
 - iii. Upon receipt of the report of the Executive Director, the Commission shall review the findings, conclusions, and recommendation of the Executive Director and shall, within 120 days following receipt of the plan, approve, approve with conditions or disapprove the plan. If the plan is disapproved or conditionally approved, the Commission shall specify the changes necessary in order to secure Commission approval of the plan.
 - iv. Upon Commission approval of a comprehensive plan, the Commission shall review any proposed development in accordance with the standards of N.J.A.C. 7:50-5.4(c)1 through 3, 4i through v and 5, the approved plan, and the other standards of this Plan.
 - v. Applicants may propose amendments to an approved plan from time to time. Any such amendments shall be sent by the applicant via certified mail to all of the local communications providers who provide the same type of service or have a franchise within the Pinelands Area for their review and comment. Operators with newly awarded franchises that did not participate in the development of the original plan shall be given the opportunity to participate in the proposal of amendments. In the event that any provider declines to participate in the amendment process, the Commission may proceed with its review of the amendment. The Commission may consider in its review of the amendment any information submitted by other local communications providers, particularly information which demonstrates that a proposed amendment would impact the location of, or necessity for, a local communications facility included in a comprehensive plan previously approved by the Commission pursuant to (c)6 above. All amendments shall be reviewed by the Commission according to the requirements set forth in (c)6 above and according to the procedures set forth in (c)6i through iii above.
7. A certification is submitted to the Commission and the appropriate municipality every five years that the facility is still in use and that its current height cannot be decreased because of operational needs. Any facility shall be removed and restoration of the parcel shall be completed in accordance with N.J.A.C. 7:50-6.24 through 6 within 12 months of the original user or users ceasing operations, unless the Commission determines that the facility is necessary for additional users that otherwise would qualify for the construction of a new local communications facility pursuant to this section. Any oversized facility shall be reduced within 12 months of the certification.
- (d) Computer simulation models, photographic juxtaposition and other similar techniques may be used by the Commission in determining compliance with the visual impact standards set forth in (c)4ii, iii and iv above.