

# C-1, LEAGUE OF MUNICIPALITIES WARNING TO VILLAGES

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## IMPLICATIONS REGARDING THE PINELANDS/DEP MOU ON WASTEWATER MANAGEMENT REGULATIONS

### Introduction

In May 2012, an MOU between the New Jersey DEP and the Pinelands Commission was ratified that identified Pinelands villages, towns and regional growth centers as sewer service areas. This memorandum should be a call to action for all affected Pinelands' municipalities. It involves the possibility that impacted municipalities will have to review and update their master plans and land use ordinances to reflect the realities of this agreement.

Outside funding assistance and resources to help municipalities pay for these planning and ordinance reviews are limited. Typically, such reviews and updates are paid for from municipal budgets. However, since there are obvious environmental implications associated with such updates eligible municipalities may want to contact the office of ANJEC (Association of New Jersey Environmental Commissions) to explore its Sustainable Land Use Planning Grants. The New Jersey Office of Planning Advocacy (formerly Office of Smart Growth) may also be a source of technical assistance and information on any pending grant opportunities. At the Federal level, HUD offers Sustainable Community Grants, but typically, these grants are aimed at multi-municipal jurisdictions or regional entities – although a consortium of affected municipalities may wish to explore this opportunity.

But regardless of how municipal action might be funded, affected municipalities need to take a number of steps as soon as possible to thoroughly examine the implications of this important regulatory change. At a minimum, these steps should include the following:

Finding of Fact. There should be a meeting between municipal officials – including the municipal planner and engineer – and the appropriate county wastewater planning agency, the New Jersey DEP, and the Pinelands Commission to review each agency's interpretation of the rule change and an analysis of what that change means for the affected municipality, given current zoning, land development and other municipal land use regulation. For example, municipalities may have zoning ordinances in place that allow development at much greater densities than those communities would actually desire, given an historic belief that the Pinelands Commission would never actually allow such densities. That belief may no longer be valid.

Master Plan Re-Examination or Update. Once there is a clear understanding of the specific, land development implications on a particular municipality and/or its affected Pinelands village, town, or growth center, the municipal planning board should undertake immediately a thorough review of its master plan. This is particularly important for municipalities where public wastewater treatment is currently available or reasonably accessible. The purpose of the master plan review would be to determine whether the development patterns proposed for future land use are still desirable at their proposed locations. This would certainly include residential, commercial, industrial and other land uses that may be permitted at greater development densities with public sewer connections. While more

significant development densities may in fact be desirable in many communities – particularly when it comes to allowing commercial and industrial development – there may be other aspects of municipal planning that subsequently require more attention. Road and traffic impacts take on greater significance. The implications for affordable housing obligations may increase as a result of greater residential density patterns. Impacts of new development on historic towns and villages may alter significantly the historic character or cultural qualities of a community. Inasmuch as the master plan provides the philosophical and statutory basis for zoning and other land use regulation, the status of the master plan is particularly important. So, after a discussion of the plan, municipal officials will need to decide whether the document should be re-examined; significantly revised; or whether a new plan may be warranted.

### Zoning and Land Use Regulation

The municipal zoning ordinance, subdivision and site plan regulations, design regulations and related land use ordinances are intended to implement the vision, goals and objectives of the municipal master plan. Therefore, following any revisions, updates or rewrites to the master plan, the municipality should follow with any necessary revisions to its land use ordinances. These ordinances will provide the “teeth” necessary to manage and control any sewered development that occurs within the new sewer service areas as defined in the Pinelands and DEP MOU. Attention to development densities are just one of the issues that should be addressed in any necessary revisions to municipal land use regulations. With greater densities come a need for additional amenities and services. Should there be requirements, for examples, that densely developed residential properties connect to existing biking and hiking trails? Should new development be clustered? Are mixed use developments appropriate? To what extent should strict design standards be established in particular neighborhoods or downtowns to foster a consistent look or feel to a community? All of these issues and others are relevant.

### Summary

All of these issues, seen perhaps as somewhat foreign to many Pinelands towns and villages accustomed to slow and heavily regulated development, are now suddenly very important. A case could be made that there exists a pent-up demand for new development in many Pinelands areas that are close to the beach communities and accessible to many South Jersey recreational amenities.

Affected municipalities should move quickly in order to retain control over their land use futures. The alternative is to have a developer define that future by way of a proposal that meets current land use densities and development guidelines even though they may not reflect what the municipality really desires.

The bottom line is that action now is critical to assess the impact of this important regulatory change on your community. Communities must weigh the cost of paying for the necessary plan amendments and regulatory changes that may be necessary versus the cost of risking development projects that could be imposed on them which they may not want.