

PILESGROVE TOWNSHIP

2021 Master Plan Reexamination Report

"The primary goals in Pilesgrove Township are the preservation of the Township's agricultural character and the development of a desirable and livable community."

July 2021

Adopted by the Planning Board Resolution # _____

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2021 Master Plan Reexamination Report

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1. Introduction and Overview

The Township can best be described as a "Right to Farm" rural community where its people and land use have a past, present, and future tied to Agriculture. The US Census Bureau shows a Township population of 4,016 in 2010, and an estimated population for 2019 of 4,011.

“Pilesgrove Township was the first of Salem County’s municipalities to be formally established. This took place in 1706, at which time the Township consisted of some 126 square miles in area. The first and major reduction in area occurred just before the Revolutionary War in 1769 when upwards of 90 square miles were set off as Pittsgrove Township. This large section, making up the eastern extremity of the County, was later divided into Pittsgrove and Upper Pittsgrove. Almost a century after the first division occurred, the Borough of Woodstown was formed at the center of the Township. This happened in 1882 and further reduced the Township area by approximately 1 ½ square miles. These divisions have left the Township with about 34.9 square miles or 22,340 acres.”
[1971 Pilesgrove Township: Its People & Their Environment]

Planning issues, objectives, policies, and assumptions involving but not limited to: Conservation and preservation of farmland, environmental resources of local and global significance; Water resource protection and quality; Regional coordination; Infrastructure availability; and Residential and non-residential growth have all been consistently evaluated by the Township relative to the future of Pilesgrove and residents’ quality of life.

Planning History and Pilesgrove Township Master Plan:

1958 Township Zoning Ordinance

1971 Pilesgrove Township: Its People and Their Environment

1974 Plan For Pilesgrove Township

1991 Master Plan, Part 1 & 2

1992 Pilesgrove Township Master Plan: Part 3 & 4

1993 Pilesgrove Township Master Plan: Part 5

1994 Pilesgrove Township Land Development Ordinance

2001 Master Plan & Land Development Regulation Reexamination Report

2004 Farmland Preservation Plan Element

2004 Conservation and Recreation Plan Element

2005 Environmental Resource Inventory (JEC & DVRPC).

2005 Land Use Plan Revision

2005 Land Use Plan Element

2005 Storm Water Plan Element

2006 Conservation, Open Space, and Recreation Plan Element: Plan Amendment/Update

2007 Housing Plan Element

2007 Land Use Plan Element Amendment 2007-1

2007 Farmland Preservation Plan Update

2008 Farmland Preservation Plan Update

2008 Housing Plan Element Plan Update

2010 Housing Plan Element Plan Update

2011 Master Plan Reexamination Report and Amendment
2012 Housing Plan Element Amendment 2012-001
2012 Conservation, Open Space & Recreational Plan Element
2012 Farmland Preservation Plan Element Update

The extensive examination of the Township's 1994 Master Plan in 2002 resulted in the preparation and adoption of the 2005 Land Use Plan update. The Township's master plan documents consistently maintain a focus on preserving the agricultural character of the community.

2005 Land Use Plan Goal Statement (noted to relate to the entire Master Plan):

"The primary goals in Pilesgrove Township are the preservation of the Township's agricultural character and the development of a desirable and livable community."

The 2011 Master Plan Reexamination Report (MPRR) contained updates to the goals, objectives, and assumptions of the municipal master plan. The 2011 report as adopted by the Township maintained consistency with prior master plan documents which restated the Land Use Goal Statement of preserving the agricultural character of the Township. Various recommendations contained with the report resulted in subsequent land development ordinance revisions.

Consistent with the recommendations of prior reexaminations of the Township master plan, this report has determined that the existing master plan and regulations in Pilesgrove Township continue to be in general conformance with the community's planning objectives. The fundamental land use policies remain sound. This report recommends that the Township consider initiating grant research and financial planning to secure funds to update various master plan elements.

2. **2021 General Periodic Examination of the Municipal Master Plan and Development Regulations (NJSA 40:55D-89).**

Prior to the adoption of the 2011 Master Plan Reexamination Report, the State of New Jersey was in the process of developing, drafting, and/or adopting various changes to the Municipal Land Use Law and/or rules/regulations to guide development of renewable energy projects. Subsequent the adoption of the MPRR, the Township adopted ordinance updates consistent with the new requirements and master plan. The following items/issues were the general problems and objectives relating to land development in 2011.

A. **2011 Master Plan Reexamination Report identified Major Problems and Objectives relating to land development.**

1. Pilesgrove natural resources and agricultural lands contribute to the well-being of all New Jersey citizens. The Township, surrounding region, and State recognize the importance of conserving and preserving agricultural lands, which is historically reflected in numerous plans, regulations, and laws. As New Jersey moves closer to build-out, it is critical that available land be appropriately developed in accordance with local plans and zoning. Compatible mixed uses should be continually evaluated as a means to conserve land and implement efficient land use policies. Standalone energy facilities have the potential to contribute to sprawl by taking up land available for housing, commercial, recreation, and industrial uses. By incorporating energy conservation techniques and renewable energy generation technology into new and existing buildings, land will be used more efficiently while enhancing and providing multiple benefits to the general welfare of the community.

The need to preserve the rural and agricultural character of the Township has significantly increased. Renewable energy technology, State and Federal incentives, and changes in the Municipal Land Use Law have resulted in the landowners facing significant development pressure from companies seeking to construct regional renewable energy power stations.

2. Pilesgrove Township has adopted conservation design and clustering ordinances. Farmland preservation efforts have continued without the implementation of a Transfer of Development Rights program.
3. Infrastructure to support higher densities for the most part remains unavailable to the Township. Compact development areas, growth and development may remain stalled without the necessary support infrastructure.
4. The affordable housing component of the Bailey Comer Redevelopment Plan is presently under construction. It is anticipated a commercial developer may submit plans for review and approval within the next 6-12

months. Issues regarding sewer connections and available capacity may impact redevelopment timelines.

5. There has been an increasing need to further clarify and refine the land development regulations regarding lighting and landscaping requirements.
6. Township plans for Preservation and Managed Growth will continue to require municipal coordination with neighboring municipalities, County and State.
7. During the preparation of this report, it was announced that the Office of Smart Growth was being shifted from the Department of Community Affairs to the Department of State as the "Office of Planning Advocacy". The Township should continue its coordination with the new office to ensure a direct line of communication between the Township and State.
8. The Historic Preservation Plan element objective has been reduced since 2007. Under the direction by the Planning Board this optional master plan element could be prepared with the assistance of the joint environmental commission. During the preparation of this report, it was recommended by the Planning Board that in the future - if this plan were undertaken - a priority would be to define the area character of Sharptown.
9. The recreational areas within Pilesgrove and surrounding area are generally meeting the needs of Township residents. Once released, U.S. Census 2010 figures and continued monitoring of recreation area use will be useful in preliminarily determining if additional recreation areas and facilities are needed.

B. 2011-2021: The extent to which identified Problems and Objectives have been reduced or have increased since the adoption of the 2011 Report.

The goal Statement as referenced in the 2005 Land Use Plan remains valid, "*...the preservation of the Township's rural and agricultural character and development of desirable and liveable community.*"

1. Pilesgrove natural resources and agricultural lands contribute to the well-being of all New Jersey citizens. The Township, surrounding region, and State recognize the importance of conserving and preserving agricultural lands, which is historically reflected in numerous plans, regulations, and laws. As New Jersey moves closer to build-out, it is critical that available land be appropriately developed in accordance with local plans and zoning. Compatible mixed uses should be continually evaluated as a means to conserve land and implement efficient land use policies. Standalone energy facilities have the potential to contribute to sprawl by taking up land available for housing, commercial, recreation, and industrial uses. By incorporating energy conservation techniques and renewable energy generation technology into new and existing buildings, land will be used more efficiently while enhancing and providing multiple benefits to the general welfare of the community.

The need to preserve the rural and agricultural character of the Township has significantly increased. Renewable energy technology, State and Federal incentives, and changes in the Municipal Land Use Law have resulted in the landowners facing significant development pressure from companies seeking to construct regional renewable energy power stations.

The Goal Statement of the Township remains valid and as changes to State and Federal incentives occur for large scale renewable energy facilities, the Township and landowners will continue to face increasing pressure to consider permitting development of installations on large tracts of land which will change the character of the community.

Since the Master Plan was last examined, the Township adopted updates to the Planned Light Industrial (PLI) Zone to accommodate and facilitate development of large-scale renewable energy facilities; however, landowners continue to face pressure from companies seeking to construct regional renewable power stations on farmland and open space.

The following goal was included at the time of the 1971 report and is of note relative to the ongoing development pressure that existing non-preserved farms are faced with:

“A second primary goal that goes hand-in-hand should be to encourage the continued agricultural use of productive farm lands that are

contributing significantly to the economy and highly desirable open character of the Township. Policies to be followed in quest of this important goal include the enactment and uniform enforcement of planning regulations aimed at protecting valuable agricultural areas from undesirable development en-croachment; the support of taxing and service procedures aimed at maintaining a viable agricultural industry; the support of research and other programs aimed at long range maintenance of a healthy and economically rewarding agricultural economy; and the encouragement of supplementary open space uses for agricultural lands; such as farm vacation enterprises, the provision of camping facilities, fish pond developments, riding clubs, nature trails, etc. to act as a greater incentive to present farm operators in maintaining open land operations.”

2. The Land Use Plan allows for a diversity of housing types while recognizing the physical characteristics of the Township and the inherent capabilities and limitations of the land; however, consistency with the Water Quality Management Planning Rules and lack of available infrastructure may result in a need for various amendments to the municipal Master Plan, zoning map and ordinances (NJAC 7:15-5.8).

It is anticipated that controlled compact growth and development involving infrastructure limitations, development rights, multi-jurisdictional levels of government and agencies and with changing regulatory controls will continue to require a complex coordinated effort to secure approvals.

At the time that this report was being prepared, the 2020 US Census data had not been released; however, The New Jersey Department of Community Affairs maintains construction records for each municipality. Since the last reexamination report, the Township has added sixteen (16) new dwellings to the Township. During the period 2011-2019 approximately \$5.9 million was reported for construction of new homes and \$15.5 million was reported for home additions and alterations.

Housing Units Authorized by Building Permits AND Housing Units Authorized by Building Permits New Construction (2011-2019)						
Year	1 & 2 Family		Multi-family		Mixed Use	
	Housing Units by Building Permit	New Construction	Housing Units by Building Permit	New Construction	Housing Units by Building Permit	New Construction
2011	2	2	0	0	0	0
2012	5	4	0	0	0	0
2013	2	2	0	0	0	0
2014	3	3	0	0	0	0
2015	4	4	0	0	0	0
2016	0	0	0	0	0	0
2017	0	0	0	0	0	0
2018	1	1	0	0	0	0
2019	0	0	0	0	0	0
Total	17	16	0	0	0	0

Source: https://www.nj.gov/dca/divisions/codes/reporter/building_permits.html

During the period 2011-2019, approximately \$5.4 million was reported for construction of new non-residential structures and \$26 million was reported for additions and alterations to non-residential property. According to the Township construction office, in 2011 - of the approximately \$26 million reported for additions and alterations to non-residential property- \$15.5 million was for the construction of the solar project adjacent the old landfill site.

The appendix includes a breakdown of the 2011-2019 estimated cost of construction authorized by building permits and square feet of office; retail; and other nonresidential space authorized by building permits.

3. Pilesgrove Township has adopted conservation design and clustering ordinances. Farmland preservation efforts have continued without the implementation of a Transfer of Development Rights program.

Since the adoption of the clustering ordinance several years ago, approximately 2-4 proposed subdivisions have utilized the development option. To date, none of these approved subdivisions have been constructed. It is recommended as part of this report that the Township research expanding the existing master plan and ordinance to permit non-contiguous clustering. It is worth noting that the Township has considered clustering as a tool to further preservation efforts as early as 1971.

4. Infrastructure to support higher densities for the most part remains unavailable to the Township. Compact development areas, growth and development may remain stalled without the necessary support infrastructure.

The status of infrastructure availability remains the same in 2021 as in 2011.

5. The affordable housing component of the Bailey Comer Redevelopment Plan is presently under construction. It is anticipated a commercial developer may submit plans for review and approval within the next 6-12 months. Issues regarding sewer connections and available capacity may impact redevelopment timelines.

The affordable housing residential component to the Bailey Corner redevelopment has been complete and occupied for several years. The commercial redeveloper has razed the structures that existed on the property; however, a formal site plan has not yet been submitted to the Township for approval. Mixed use of the commercial component to facilitate development of affordable age-restricted units could be provided in an amended redevelopment plan which would need support of the Township Committee. The commercial section of the redevelopment area maintains a limited allocation of sewer capacity that was assigned to the prior commercial buildings on the site. The lack of available sewer capacity beyond the limited existing assigned capacity constrains mixed use opportunities for the property.

6. There has been an increasing need to further clarify and refine the land development regulations regarding lighting and landscaping requirements.

Since the adoption of the last reexamination report, minor revisions to chapter 145-28 to clarify requirements for street and shade trees have been adopted. Section 145-26 of the code requires all site lighting to be shown on proposed site plans to demonstrate meeting the minimum requirements established within the code. Minor revisions to this section of the ordinance may be needed relative to ownership, operation, and maintenance of street lighting.

7. Township Plans for Preservation and Managed Growth will continue to require municipal coordination with neighboring municipalities, County and State.

Township farmland preservation efforts continue to be coordinated with various levels of government for efficiency and to avoid conflicts. There have not been any zone changes or amendments since the last report that have the potential create conflict with neighboring municipalities.

8. During the preparation of this report, it was announced that the Office of Smart Growth was being shifted from the Department of Community Affairs to the Department of State as the "Office of Planning Advocacy". The Township should continue its coordination with the new office to ensure a direct line of communication between the Township and State.

As noted on the New Jersey State website, “The efforts of the Office of Planning Advocacy are currently focused on the Plan Endorsement process for those municipalities that have expressed an interest in extending their Center designation”. In prior years it had been indicated that the current 2001 State Development & Redevelopment Plan would be updated, the future of a new State Plan is uncertain at this time. The Township should continue monitoring and coordinating with the Office of Planning Advocacy regarding the status of the State Plan.

9. The Historic Preservation Plan element objective has been reduced since 2007. Under the direction by the Planning Board, this optional master plan element could be prepared with the assistance of the joint environmental commission. During the preparation of this report, it was recommended by the Planning Board that in the future if this plan were undertaken a priority would be to define the area character of Sharptown.

At the time of the preparation of this report, the Planning Board did not feel it necessary to prepare a Historic Preservation Plan Element of the Master Plan any time in the near future. As Pilesgrove Township has been in existence since 1706, at the time of this report, agricultural activities had been contributing to the character of the Township for over 314 years.

10. The recreational areas within Pilesgrove and surrounding area are generally meeting the needs of Township residents. Once released, U.S. Census 2010 figures and continued monitoring of recreation area use will be useful in preliminarily determining if additional recreation areas and facilities are needed.

Since the adoption of the last reexamination report the Township moved forward preserving a large tract of land adjacent the existing Marlton Park. This successful preservation effort was coordinated with the State, County, and Borough of Woodstown. The additional land area that has been preserved provides ample space for additional active and passive recreational opportunities for not just the Township residents but also the wider Salem County community. It is recommended that this parcel be considered for rezoning to PPE.

C. 2021 Significant Changes in the Assumptions, Policies, and Objectives forming the basis for the Master Plan or Development Regulations and changes in State, County and Municipal policies and objectives.

Since the adoption of the last reexamination report, the State has modified State laws that have the potential to directly impact land use within the Township. On February 22, 2021 the Governor signed bill A21 "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act"; legalizes personal use cannabis for certain adults, subject to State regulation; decriminalizes small amount marijuana and hashish possession; removes marijuana as Schedule I drug. The comprehensive newly signed laws address Licensing of Cannabis Businesses and updating Certain Medical Cannabis Alternative Treatment Centers' Permitted Operations.

One of the listed initial intents A21 is as follows:

It is the intent of the people of New Jersey to adopt a new approach to our marijuana policies by controlling and legalizing a form of marijuana, to be referred to as cannabis, in a similar fashion to the regulation of alcohol for adults.

Notable sections of the law include the following:

- 1) Municipalities have 180-days (until August 21, 2021) to take action on adopting an ordinance to prohibit or limit any of the six (6) Classes of cannabis licenses from being issued within municipal boundaries.
- 2) If a municipality does not adopt an ordinance specifically prohibiting certain classes of cannabis licenses within 180-days (August 21, 2021), those licenses will be become permitted by right within industrial zones and other non-residential zones. Municipalities can limit the number and class of licenses within their boundaries.
- 3) Municipalities cannot prohibit cannabis items or related items that is in transit or being delivered within municipal boundaries.
- 4) Municipalities can implement local licensing requirements and collect local taxes.
- 5) Once a municipality permits certain cannabis operations that action remains valid for 5 years. After this 5-year period, a municipality has another 180-day window to prohibit or limit cannabis operations, but this action only applies prospectively. Municipalities that initially opt-out can opt-in at any time.
- 6) An application for a cannabis retailer shall not include in that application a proposed site that would place the retailer's premises in or upon any premises in which operates a grocery store, delicatessen, indoor food market, or other store engaging in retail sales of food, or in or upon any premises in which operates a store that engages in licensed retail sales of alcoholic beverages, as defined by subsection b. of R.S.33:1-1; any application presented to the commission shall be denied if it includes that form of proposed site.

These significant changes in State policies and laws results in Pilesgrove Township needing to evaluate if the cannabis industry and associated businesses should be integrated into the community, and if so, how should it be integrated into the master plan and zoning code. The Township should update the relevant sections of the code as determined necessary by both the Governing Body and Planning Board to reference new laws and/or adopted municipal

policies and ordinances with regard to cannabis type uses. The New Jersey League of Municipalities has prepared a detailed legislative briefing on the new laws which can be found at their website at <https://www.njlm.org/969/Cannabis-Legalization> a copy of the brief is also included as an Appendix to this report.

Marijuana: Medical and Recreational:

The “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” primarily concerns the development, regulation, and enforcement of activities associated with the personal use, by persons 21 years of age or older, of legal cannabis or cannabis resin (the terms provided to distinguish the legalized products from unlawful marijuana or hashish). This would be accomplished through the expansion of the scope and duties of the Cannabis Regulatory Commission, created by P.L.2019, c.153 (C.24:6I-5.1 et al.) to oversee the State’s medical cannabis program, which is primarily set forth in the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I1 et al.).

The new law establishes six “marketplace” classes of licensed businesses as follows:

- | | |
|-------------------------------------|---------------------------------------|
| Class 1 Cannabis Cultivator license | Class 2 Cannabis Manufacturer license |
| Class 3 Cannabis Wholesaler license | Class 4 Cannabis Distributor license |
| Class 5 Cannabis Retailer license | Class 6 Cannabis Delivery license |

“Cannabis cultivator” means any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator license.

Section 37.b.(1) includes the following with regarding to the Class 1 license.

In no case shall a cannabis cultivator operate or be located on land that is valued, assessed or taxed as an agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

“Cannabis manufacturer” means any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 Cannabis Manufacturer license.”

“Cannabis wholesaler” means any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity shall hold a Class 3 Cannabis Wholesaler license.

“Cannabis distributor” means any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis

establishment to another class of licensed cannabis establishment and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 Cannabis Distributor license.

“Cannabis retailer” means any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. This person or entity shall hold a Class 5 Cannabis Retailer license.

“Cannabis delivery service” means any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity shall hold a Class 6 Cannabis Delivery license.

Section 31 of the new law includes provisions for Municipal Regulations or Ordinances which includes but is not limited to the following:

a. A municipality may enact ordinances or regulations, not in conflict with the provisions of P.L.2021, c.16 (C.24:6I-31 et al.):

- (1) governing the number of cannabis establishments, distributors, or delivery services, as well as the location, manner, and times of operation of establishments and distributors, but the time of operation of delivery services shall be subject only to regulation by the commission; and,
- (2) establishing civil penalties for violation of an ordinance or regulation governing the number of cannabis establishments, distributors, or delivery services that may operate in such municipality, or their location, manner, or the times of operations.

b. A municipality may prohibit the operation of any one or more classes of cannabis establishment, or cannabis distributors or cannabis delivery services, but not the delivery of cannabis items and related supplies by a delivery service, within the jurisdiction of the municipality through the enactment of an ordinance, and this prohibiting ordinance shall apply throughout the municipality, even if that municipality or parts thereof fall within any district, area, or other geographical jurisdiction for which land use planning, site planning, zoning requirements or other development authority is exercised by an independent State authority, commission, instrumentality, or agency pursuant to the enabling legislation that governs its duties, functions, and powers, even if this development authority is expressly stated or interpreted to be exclusive thereunder; the local prohibiting ordinance applies, notwithstanding the provisions of any independent State authority law to the contrary. Only

an ordinance to prohibit one or more classes of cannabis establishment, or cannabis distributors or cannabis delivery services enacted pursuant to the specific authority to do so by this section shall be valid and enforceable; any ordinance enacted by a municipality prior to the effective date of this section addressing the issue of prohibiting one or more types of cannabis-related activities within the jurisdiction of the municipality is null and void, and that entity may only prohibit the operation of one or more classes of cannabis establishment, or cannabis distributors or cannabis delivery services by enactment of a new ordinance based upon the specific authority to do so by this section. **The failure of a municipality to enact an ordinance prohibiting the operation of one or more classes of cannabis establishment, or cannabis distributors or cannabis delivery services within 180 days** after the effective date of P.L.2021, c.16 (C.24:6I-31 et al.), **shall result in any class of cannabis establishment, or a cannabis distributor or cannabis delivery service that is not prohibited from operating within the municipality as being permitted to operate therein as follows:** the growing, cultivating, manufacturing, and selling and reselling of cannabis and cannabis items, and operations to transport in bulk cannabis items by a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, or as a cannabis distributor or cannabis delivery service **shall be permitted uses in all industrial zones** of the municipality; and the selling of cannabis items to consumers from a retail store by a cannabis retailer **shall be a conditional use in all commercial zones or retail zones**, subject to meeting the conditions set forth in any applicable zoning ordinance or receiving a variance from one or more of those conditions in accordance with the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.).

At the end of a five-year period following the initial failure of a municipality to enact an ordinance prohibiting the operation of one or more classes of cannabis establishment, or cannabis distributors or cannabis delivery services, and every five-year period thereafter following a failure to enact a prohibiting ordinance, the municipality shall again be permitted to prohibit the future operation of any one or more classes of cannabis establishment, or cannabis distributors or cannabis delivery services through the enactment of an ordinance during a new 180-day period, but this ordinance shall be prospective only and not apply to any cannabis establishment, distributor or delivery service operating in the municipality prior to the enactment of the ordinance.

c. (1) When the commission receives an application for initial licensing or renewal of an existing license for any cannabis establishment, distributor, or delivery service pursuant to section 19 of P.L.2021, c.16 (C.24:6I-36), , or endorsement for a cannabis consumption area pursuant to section 28 of P.L.2019, c.153 (C.24:6I-21), the commission shall provide, within 14 days, a copy of the application to the municipality in which the establishment, distributor, delivery service, or consumption area is to be located, unless the municipality has prohibited the operation of the particular class of business for which licensure is sought pursuant to subsection (b) of this section, or in the case of an application seeking a consumption area endorsement, prohibited the operation of cannabis retailers. The municipality shall determine whether the application complies with its local restrictions on the number of cannabis establishments, distributors, or delivery services, or their location, manner, or times of operation, and the municipality shall inform the commission whether the application complies with its local restrictions.

(2) A municipality may impose a separate local licensing or endorsement requirement as a part of its restrictions on the number of cannabis establishments, distributors, or delivery services, or their location, manner, or times of operation. A municipality may decline to impose any local licensing or endorsement requirements, but a local jurisdiction shall notify the commission that it either approves or denies each application forwarded to it.

In addition to the above, the comprehensive new law at section 40 includes a limited optional local cannabis transfer and use tax.

40. Optional Local Cannabis Transfer Tax and User Tax.

a. (1) A municipality may adopt an ordinance imposing a transfer tax on the sale of cannabis or cannabis items by a cannabis establishment that is located in the municipality. At the discretion of the municipality, the tax may be imposed on: receipts from the sale of cannabis by a cannabis cultivator to another cannabis cultivator; receipts from the sale of cannabis items from one cannabis establishment to another cannabis establishment; receipts from the retail sales of cannabis items by a cannabis retailer to retail consumers who are 21 years of age or older; or any combination thereof. Each municipality shall set its own rate or rates, but in no case shall a rate exceed: two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; and two percent of the receipts from each sale by a cannabis retailer.

(2) A local tax ordinance adopted pursuant to paragraph (1) of this subsection shall also include provisions for imposing a user tax, at the equivalent transfer tax rates, on any concurrent license holder, as permitted by section 33 of P.L.2021, c.16 (C.24:6I-46), operating more than one cannabis establishment. The user tax shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to paragraph (1) of this subsection, from the license holder's establishment that is located in the municipality to any of the other license holder's establishments, whether located in the municipality or another municipality.

b. (1) A transfer tax or user tax imposed pursuant this section shall be in addition to any other tax imposed by law. Any transaction for which the transfer tax or user tax is imposed, or could be imposed, pursuant to this section, other than those which generate receipts from the retail sales by cannabis retailers, shall be exempt from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.). The transfer tax or user tax shall be collected or paid, and remitted to the municipality by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the municipality by the cannabis retailer selling the cannabis item to that consumer. The transfer tax or user tax shall be Stated, charged, and shown separately on any sales slip, invoice, receipt, or other Statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item.

(2) Every cannabis establishment required to collect a transfer tax or user tax imposed by ordinance pursuant to this section shall be personally liable for the transfer tax or user tax

imposed, collected, or required to be collected under this section. Any cannabis establishment shall have the same right with respect to collecting the transfer tax or user tax from another cannabis establishment or the consumer as if the transfer tax or user tax was a part of the sale and payable at the same time, or with respect to non-payment of the transfer tax or user tax by the cannabis establishment or consumer, as if the transfer tax or user tax was a part of the purchase price of the cannabis or cannabis item, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time; provided, however, that the chief fiscal officer of the municipality which imposes the transfer tax or user tax shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.

(3) No cannabis establishment required to collect a transfer tax or user tax imposed by ordinance pursuant to this section shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and Stated to another cannabis establishment or the consumer, or that the transfer tax or user tax will be refunded to the cannabis establishment or the consumer.

c. (1) All revenues collected from a transfer tax or user tax imposed by ordinance pursuant to this section shall be remitted to the chief financial officer of the municipality in a manner prescribed by the municipality. The chief financial officer shall collect and administer any transfer tax or user tax imposed by ordinance pursuant to this section. The municipality shall enforce the payment of delinquent taxes or transfer fees imposed by ordinance pursuant to this section in the same manner as provided for municipal real property taxes.

(2)(a) In the event that the transfer tax or user tax imposed by ordinance pursuant to this section is not paid as and when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year.

(b) A municipality shall file in the office of its tax collector a Statement showing the amount and due date of the unpaid balance and identifying the lot and block number of the parcel of real property that comprises the delinquent cannabis establishment's premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.

The 2020 Pandemic:

The COVID-19 Pandemic that impacted the world during the preparation of this report had an immediate impact on people's lives. The State of New Jersey along with many other States across the country implemented public safety policies that restricted people's movements and all sectors of the economy were impacted in one way or another.

Certain businesses were not permitted to open and there were/are various travel restrictions in place. During this period, many businesses that could, implemented remote work for their staff, and businesses that could remain open added curbside pickup services that were not available previously. Also, during this period, many people shifted to buying items online for home delivery that previously would have been purchased in store. Ever since online shopping became readily available for many items bricks and mortar locations have faced consistent pressure from online markets.

The overall final impact from COVID-19 to shoppers buying behavior regarding home delivery of items that in the past were purchased in-store is yet to be known. It is assumed that some consumers will continue to buy online for home delivery that did not do so prior to the pandemic; and, it is also assumed that businesses that adopted curbside pickup and delivery services may need or want to continue to do so.

It is assumed that shopping centers and retail locations that do not have drive-through pickup readily available may reconfigure site circulation to accommodate this new way of doing business. Due the higher volume of online purchasing that occurred during the pandemic, the result was an increase in demand for modern warehouses designed to accommodate processing of orders that contained multiple items for packing and delivery. Demand is on the rise for both micro-distribution centers and modern warehouse space.

Electric Vehicles:

At the time that this report was being drafted, one of the largest producers of internal combustion motor vehicles in the United States announced a goal to shift to producing only Electric Vehicles (EV) by 2035. Other vehicle manufacturers are also increasing efforts to produce more EV in the future. There are generally three (3) types of electric motor vehicles: Hybrid Electric; Plug-in Hybrid Electric; and All Electric. The Hybrid electric type vehicles still utilize an internal combustion engine, whereas the All Electric does not.

The following assumptions are made regarding the foreseeable future.

1. The number of EV are expected to significantly increase on roadways within the next 10-20 years.
2. Depending on EV cost to buy and own compared to traditional internal combustion engines and the type and number of EV models available, it is assumed that there will be a modest increase in the number of EV on the roads beginning to occur 5-6 years from now.
3. If there is a significant drop in the number of internal combustion engine vehicles on the road, there will still be a need for locations to fuel those vehicles.
4. It is assumed diesel motors will continue to be the primary motor driving the heavy vehicle and trucking industry until a better alternative has been proven.

5. Driverless and autonomous vehicle technology will continue to evolve and within the next 10-20 years, it may be common to see driverless or drone vehicles on the roads 20 years from now.

Smart Buildings:

Although vehicles are expected to become major users of available electricity in the future, it is assumed as technology continues to be integrated into devices and structures for convenience and efficiency, homes, businesses, and industry will continue to become more energy efficient. It is also assumed in the future more people will work remotely and travel less for work and as such, individual use of vehicles for work commuting will be reduced.

See Appendix 2 for a commentary by Rand Scheule, PP, AICP on other State level changes that have the potential to impact land use in Pilesgrove Township.

D. 2021 Recommended changes for the Master Plan and Development Regulations, including Objectives, Policies and Standards, or whether a New Plan or Regulations should be prepared.

The “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” that was signed into law on February 22, 2021 contains a provision that gives municipalities a 180-day municipal ordinance deadline to decide how certain local regulations can control or restrict cannabis businesses. If no municipal action is taken by August 21, 2021 on ordinance adoption that prohibits or limits cannabis licensing operations then State laws will directly impact zoning permitted and conditional uses related to cannabis within Pilesgrove Township.

At the time of the adoption of this report, the Planning Board did not have specific recommendations for the Governing Body as to which classes of licenses would be appropriate for any particular zone - as either principal permitted or conditional uses. During the preparation of the report, the new cannabis laws were discussed with the Agricultural Advisory Committee. The Agricultural Advisory Committee recommended to the Planning Board that more time and information was needed prior to the deadline to carefully assess any potential new ordinances and impacts associated with incorporating cannabis uses into the Master Plan zoning code. As noted above, the ordinance prohibiting certain license from the Township (if determine appropriate) **must be adopted by August 21, 2021 (within 180-days from February 22, 2021).**

Master Plan Recommendations:

It is recommended that the following master plans elements be updated:

Farmland Preservation Element: The existing farmland preservation plan mapping should be updated to show all areas preserved since the mapping was last prepared. Additionally, the economic and financial plan component should be updated and evaluated. SADC’s PIG regulations at NJAC 2:76-17A.4(b) require the plans be updated every 10 years.

Stormwater Management Plan Element: Since the adoption of the last reexamination report the Township has adopted ordinance amendments that include minor increases to lot coverage within certain zones. At the time this report was being drafted, the Township was preparing NJDEP required amendments to the existing stormwater control ordinance. Consistent with new State requirements regarding stormwater control updates, the Township adopted an updated stormwater control ordinance in 2021. It is recommended that the Planning Board prepare and consider adopting minor amendments to existing Stormwater Management Plan Element for clear consistency between the ordinance and the plan.

Land Use Plan / Housing Plan / Farmland Preservation Plan: Although there has been little development activity since the last reexamination report, and only two or three clustered development applications have been submitted for approval in the last 9-10 years, the overall strategic planning scheme for the Township remains “the preservation of the agricultural character”, it is recommended that the Township prepare a comprehensive evaluation of the feasibility of implementing non-contiguous clustering to further preservation efforts. The evaluation should include updating the Land Use Plan, Housing Plan, and Farmland Preservation Plan elements (the update should include 2020 Census information when it is released). The 2011 report specifically included a series of policies, goals, objectives, and assumptions incorporated into the municipal Master Plan, one of those listed was that the Township continue to explore non-contiguous clustering options.

“The Township will continue to explore the benefits and impacts associated with non-contiguous clustering and transfer of development right programs. It is anticipated there may be a need to adjust zoning district regulations, boundaries and classifications if sewer service is secured and these programs are implemented.”

The following amendments are recommended to the Land Use Plan and Zone Map.

- a. Auburn Road. The SR (CL) area along the municipal boundary with Woodstown and North of Marlton Park (PPE) should be reclassified as PPE or AR-1. Block 26, Lot 4 and Block 10, Lot 1.
- b. US Route 40 and Fox Road. The following properties fronting US Route 40, East of the Fox Road intersection should be reclassified as either HC or NC. Block 80, Lots 1; 2.03 (vacant place of worship, recently approved as retail); 2.04 (veterinary); and 2.01 (approved office development). The HC-3 zone along US Route 40 in this area could be expanded along either side of highway (to replace a section of RR) for continuity of the zone.
- c. US Route 40 and Harrison Lake Road. The following properties fronting US Route 40, West of the Harrison Lake Road intersection should be reclassified as from PPE to RR. Block 41, Lots 10, 11, 12, 13, & 14.
- d. Kings Highway and US Route 40. The area shown as RR (CL) situated along both sides of Kings Highway located behind the former Richmans Ice cream property should have the PRD-1 development option removed as it is no longer valid as a significant portion of the property has been preserved by a non-profit.

- e. Consistent with the recommendations contained within the 2011 MPRR, the zone map should be amended to show block 20 lots 1 and 5 within the SR district.
- f. The overlay shown on the Zone Map as “JCOAH” should be removed. Any residential development within the underlying zone and overlay for this area is required to pay the Township affordable housing fee. No affordable units were required or have been approved within the JCOAH overlay, and as such, the JCOAH overlay is not a component to the Township affordable housing plan.

On February 4, 2021 the governor signed S2607, which amended the Municipal Land Use Law. This amendment requires that a land use plan element of the master plan adopted after the effective date of S2607 (signed February 4, 2021) include a climate change-related hazard vulnerability assessment.

The climate change-related hazard vulnerability assessment shall:

- (i) analyze current and future threats to, and vulnerabilities of, the municipality associated with climate change-related natural hazards, including, but not limited to increased temperatures, drought, flooding, hurricanes, and sea-level rise;
- (ii) include a build-out analysis of future residential, commercial, industrial, and other development in the municipality, and an assessment of the threats and vulnerabilities identified in subparagraph (i) of this subparagraph related to that development;
- (iii) identify critical facilities, utilities, roadways, and other infrastructure that is necessary for evacuation purposes and for sustaining quality of life during a natural disaster, to be maintained at all times in an operational State;
- (iv) analyze the potential impact of natural hazards on relevant components and elements of the master plan;
- (v) provide strategies and design standards that may be implemented to reduce or avoid risks associated with natural hazards;
- (vi) include a specific policy Statement on the consistency, coordination, and integration of the climate-change related hazard vulnerability assessment with any existing or proposed natural hazard mitigation plan, floodplain management plan, comprehensive emergency management plan, emergency response plan, post-disaster recovery plan, or capital improvement plan; and
- (vii) rely on the most recent natural hazard projections and best available science provided by the New Jersey Department of Environmental Protection;

S2607 also requires the Department of Environmental Protection (DEP), upon request by a planning board, to provide technical assistance, as practicable, to a municipality preparing a climate change-related hazard vulnerability assessment.

Land Development Recommendations:

1. The list of permitted uses in all zones should be evaluated as part of updating the land development ordinance.
2. Agricultural Buffer. The Board has recommended that the agricultural buffer ordinance be amended to clarify that when relief is requested from the design standards it be treated as a design exception.
3. Consideration should be given to adopting a grading plan review ordinance and the triggers that would be set to require such an approval through the construction permitting process.
4. Landscaping and berms. The landscaping standards of the ordinance should be amended to provide greater emphasis on using berms within the design of landscape plans. The new or revised ordinance should provide design standards with regard to minimum width, height, and types of native plantings.
5. Ordinance 145-41.A.(3) should be amended to replace LM with PLI for consistency with the ordinance. The PLI zone replaced the LM zone a number of years ago.
6. Sheds. The ordinance can be further amended to clarify what is a garden shed versus a detached garage, for example, if it has a door large enough to drive a car through, is it a detached garage and not a garden shed. There are different standards for review with regard to a detached garage and a shed. The height limits and setback limits are different, which can be problematic if the square footage is the same; however, it is noted a garage that is intended to store a parked car has less potential to create nuisance problems than a shed that is used for hobbies that create noise such as wood work etc.

E. 2021 Planning Board recommendations concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.)

Since the adoption of the last reexamination report, the Township designated a second redevelopment area (non-condemnation) known as the former Richmans Ice Cream property at the intersection of US Route 40 and Kings Highways. Township Committee serves as the redevelopment entity for both redevelopment areas.

At this time, the Planning Board does not recommend investigating additional areas within the Township for redevelopment area designation.

F. **2021 Recommendations of the Planning Board concerning locations appropriate for the development of public electric vehicle infrastructure, including but not limited to: commercial districts, areas proximate to public transportation and transit facilities and transportation corridors, and public rest stops; and recommended changes, if any, in the local development regulations necessary or appropriate for the development of public electric vehicle infrastructure.**

The Planning Board has recommended that all zones be permitted to install electric vehicle (EV) charging stations as a permitted accessory use-structure. Additionally, in all zones where motor vehicle service stations are permitted, EV charging stations should be permitted as part of their fueling operations. The zoning ordinance should be updated as needed to accommodate or clarify EV charging as a permitted or accessory use. The ordinance could be updated to confirm that conversion of a traditional gas pump fueling station to an EV fueling station should not trigger site plan review unless a change is made to site circulation or additional stations area added. The parking ordinance may also need updating to clarify that parking spaces equipped to charge EV should be counted toward the overall parking onsite when the space does not restrict other vehicles from parking within the space.

Appendix

1. New Jersey Construction Reporter
2. State Level Changes by Randall Scheule, PP, AICP, Board Planner
3. New Jersey League of Municipalities: [Cannabis Law Legislative Briefing 031821 \(njlm.org\)](https://www.njlm.org/cannabis-law-legislative-briefing-031821)

1. New Jersey Construction Reporter

Estimated cost of construction authorized by building permits 2011 through 2019					
Year	Residential		Non-Residential		Total
	New Construction	Additions & Alterations	New Construction	Additions & Alterations	
2011	\$ 486,575	\$ 710,805	\$ 298,114	\$ 15,577,361	\$ 17,072,855
2012	\$ 478,352	\$ 731,126	\$ 515,646	\$ 1,224,667	\$ 2,949,791
2013	\$ 401,125	\$ 1,612,138	\$ 2,901,271	\$ 651,514	\$ 5,566,048
2014	\$ 782,200	\$ 4,530,795	\$ 130,548	\$ 1,215,336	\$ 6,658,879
2015	\$ 144,150	\$ 3,294,221	\$ 217,511	\$ 1,095,791	\$ 4,751,673
2016	\$ 1,093,675	\$ 619,267	\$ 123,147	\$ 1,707,647	\$ 3,543,736
2017	\$ 1,079,500	\$ 1,607,831	\$ 172,200	\$ 1,795,512	\$ 4,655,043
2018	\$ 928,590	\$ 1,599,287	\$ 130,195	\$ 880,436	\$ 3,538,508
2019	\$ 502,000	\$ 813,897	\$ 959,600	\$ 2,123,202	\$ 4,398,699

Note: The DCA report for 2016 inadvertently listed Pilesgrove Township estimated cost of construction authorized by building permits for Pittsgrove Township. This has been confirmed with the Township Construction Office, this table includes the corrected numbers for Pilesgrove Township.

Square feet of Office; Retail; and other nonresidential space authorized by building permits (2011-2019)

Year	Office	Retail	Assembly (A-1; A-2; A-3; A-4; & A-5)	Multifamily dormitories	Hotel/motel	Education	Industrial	Hazardous	Institutional	Storage	Signs, fences, utility & misc
2011	0	0	0	0	0	0	0	0	0	0	17,093
2012	0	0	0	0	0	0	0	0	0	0	40,962
2013	0	0	0	0	0	16,471	0	0	0	0	6,144
2014	0	0	0	0	0	0	0	0	0	0	11,820
2015	0	0	363	0	0	0	0	0	0	0	21,327
2016	610	8,320	0	0	0	0	0	0	0	0	7,150
2017	0	0	4,224	0	0	0	0	0	0	0	7,748
2018	0	0	0	0	0	0	0	0	0	5,760	4,200
2019	8,186	0	0	0	0	0	0	0	0	6,000	7,069

2. STATE LEVEL CHANGES

By

**Randall Scheule, PP, AICP
SCHEULE PLANNING SOLUTIONS, LLC**

This section discusses legislative and regulatory changes at the State level that may affect land use and development policies in the Township.

Municipal Land Use Law

Solar Panels.

The MLUL (NJS 40:55D-38.1) was amended in 2014 to specify that an ordinance requiring approval by the planning board of either subdivision of site plans, or both, shall not include solar panels in any calculation of impervious surface or impervious cover.

Statement of Strategy.

Legislation (S2873/A4185) was adopted on January 8, 2018 which requires any new land use element to incorporate a Statement of strategy concerning the following issues:

1. Smart growth which, in part, shall consider potential locations for the installation of electric vehicle charging stations;
2. Storm resiliency with respect to energy supply, flood-prone areas, and environmental infrastructure, and;
3. Environmental sustainability.

A law was passed in January 2018 requires the Land Use element of a municipality's Master Plan Land Use Element to address "smart growth which in part, shall consider potential locations for the installation of electric vehicle charging stations, storm resiliency with respect to energy supply, flood-prone areas, and environmental infrastructure, and environmental sustainability issues."

Bill S-606 was signed into law by Governor Murphy on November 6, 2019 and is intended to encourage municipalities to plan for electric vehicle infrastructure by amending the MLUL to require the inclusion of existing and proposed locations of public electric vehicle charging infrastructure as a component of the land use element of the master plan. The new law also requires that a circulation plan element, an optional element of the master plan, to similarly identify the existing and proposed locations of public electric vehicle charging infrastructure. In addition, a green buildings and environmental plan element, also an optional master plan element, must "consider, encourage and promote the development of public electric vehicle charging infrastructure in locations appropriate for their development..." Similar information is now required a part of the master plan reexamination report and any redevelopment plan. The Township should review these policy requirements accordingly and consider how its various

master plan components should address this emerging technology.

Effective February 4, 2021 New Jersey municipalities must plan for climate change in updates of their master plans. The law ([A-2785/S-2607](#)) requires a climate change-related hazard vulnerability assessment which shall consider environmental effects and extreme weather-related events associated with climate change, including, but not limited to, temperature, drought, and sea-level rise; and contain measures to mitigate reasonably anticipated natural hazards, including, but not limited to, coastal storms, shoreline erosion, flooding, storm surge, and wind.

Municipalities must now identify critical facilities, such as roads and utilities, that might be affected by a natural disaster; make plans to sustain normal life in the face of anticipated natural hazards; and, integrate climate vulnerability with existing plans such as emergency management or flood-hazard strategies.

The law also requires local planners to “rely on the most recent natural hazard projections and best available science provided by the New Jersey Department of Environmental Protection” when master plans are updated.

Performance Guarantees.

The MLUL was amended on January 16, 2018 providing an update to performance and maintenance guarantee regulatory controls. Prior to the adoption of this amendment, municipalities were permitted to require developers to post performance guarantees to ensure that certain types of improvements were included. The amendment stipulates that municipalities may only require developers to post performance guarantees that cover improvements being dedicated to a public entity. However, municipalities may require a performance guarantee for privately owned perimeter buffer landscaping. The several types of improvements that were previously subject to performance guarantees but have since been exempted include culverts, storm sewers, erosion control and sedimentation control devices and landscaping, among other on-site improvements.

The MLUL now authorizes municipalities to require two additional types of guarantees including temporary certificate of occupancy guarantees, and safety and stabilization guarantees. The former authorizes municipalities to require developers to furnish a guarantee in favor of the municipality in an amount equal to 120% of the cost of installation of improvements which are required to be completed prior to the issuance of a permanent certificate of occupancy. The latter provides the municipality a source of funding to return property to a safe and stable condition or to implement measures to protect the public from access to an unsafe or unstable condition.

ADDITIONAL POLICY CHANGES AT THE STATE LEVEL

[Permit Extension Act](#)

On September 6, 2008 the Permit Extension Act at [N.J.S.A. 40:55D-136.1](#) et seq. was signed into law. The purpose of the Act was to revive and extend State, County and local government approvals in an effort to provide the regulated community, developers, property owners, and the real estate sector with relief in recognition of the ongoing economic downturn. In 2010, 2012, and 2014 the Act was amended to further extend some approvals.

The Permit Extension Act signed by Governor Murphy on July 1, 2020 extends the term of certain permits and approvals by at least 6 months from the COVID-19 Extension Period, which is defined in the Act as the time period beginning on March 9, 2020, and continuing for as long as the public health emergency declared by the Governor in response to COVID-19 is in effect.

On July 1, 2020, Governor Murphy signed the [Permit Extension Act of 2020](#) (“PEA”) into law. The PEA extends certain governmental permits, approvals, and deadlines for the duration of the “COVID-19 Extension Period.” The Extension Period begins on March 9, 2020 and continues until the end of the COVID-19 public health emergency. The PEA also provides an additional 6 months of tolling.

The PEA applies to numerous environmental permits and other governmental approvals including: approvals of soil erosion and sediment control plans, waterfront development permits, CAFRA permits and center designations, septic approvals, approvals for applications pursuant to the Municipal Land Use Law (“MLUL”), etc.

For the PEA to apply, the approval must have been in effect on March 9, 2020. Within 30 days of the PEA’s enactment, State agencies, such as the New Jersey Department of Environmental Protection, must publish a notice of the tolling approvals in the New Jersey Register. In addition, the approvals subject to extension under the PEA must be “registered with” the agency within 30 days of the notice in the New Jersey Register.

As to the MLUL, the PEA extends the 45-day period for a municipal completeness certification under [N.J.S.A. 40:55D-10.3](#) to the later of: 120 days after March 9, 2020 or 60 days after the application is submitted to the municipal agency. This extension applies to applications awaiting certification as of March 9, 2020 and applications submitted during the COVID-19 Extension Period.

In addition, the time periods for a municipal agency to grant or deny any application for development under the MLUL is extended by 120 days for applications awaiting a completeness certification or pending before a municipal agency as of March 9, 2020. As to applications submitted during the COVID-19 Extension Period, the time period is extended to the later of: 120 days after March 9, 2020 or 60 days after the application is certified as complete by the municipal agency.

Local Redevelopment and Housing Law (LRHL)

In 2013, an amendment to the Local Redevelopment Housing Law was approved by the State Legislature which permits the option of designating a redevelopment area with or without condemnation powers.

“The governing body of a municipality shall assign the conduct of the investigation and hearing to the planning board of the municipality. The resolution authorizing the planning board to undertake a preliminary investigation shall State whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area other than the use of eminent domain (hereinafter referred to as a "Non - Condemnation Redevelopment Area") or whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area, including the power of eminent domain (hereinafter referred to as a "Condemnation Redevelopment Area").

The LRHL amendment also establishes additional notice requirements when designating an area in need of redevelopment, provides guidelines regarding challenges to condemnation redevelopment designations, and allows for additional options for designating an area in need of rehabilitation.

State Strategic Plan

In October of 2011, the Draft State Strategic Plan (SSP) was developed as an update to the current State Development and Redevelopment Plan (SDRP). The intent of the SSP is to increase focus on polices aimed to foster job growth, support effective regional planning, and preserve the State’s critical resources. The four overarching goals that serve as the blueprint of the Plan are summarized as follows:

- Goal 1: Targeted Economic Growth. Enhance opportunities for attraction and growth of industries of Statewide and regional importance;
- Goal 2: Effective Planning for Vibrant Regions. Guide and inform regional planning so that each region of the State can experience appropriate growth according to the desires and assets of that region;
- Goal 3: Preservation and Enhancement of Critical State Resources. Ensure that strategies for growth include preservation of the State’s critical natural, agricultural, scenic, recreation, and historic resources.
- Goal 4: Tactical Alignment of Government. Enable effective resource allocation, coordination, cooperation, and communication amongst governmental agencies on local, regional, and State levels.

Unlike the existing SDRP, the SSP did not contain any mapping. Thus far in its draft form, the SSP appears to have a greater emphasis on the State’s overall economic framework and provide information and goals for New Jersey’s various industry clusters. When and if the SSP is formally adopted, the Township should examine how its Master Plan is consistent with the SSP.

Vacant and Abandoned Properties

The New Jersey Land Bank Law was signed into law on July 10, 2019. This legislation allows municipalities to designate a land bank entity to obtain vacant, abandoned and neglected properties for productive reuse purposes. It is intended to provide municipalities with a tool to revitalize and reuse properties for the public benefit.

Under the New Jersey Land Bank Law, municipalities will be allowed to designate a non-profit organization or a public entity as the municipality's land bank entity. The public entities which a municipality may designate as a land bank entity include redevelopment entities, County improvement authorities, and departments and agencies of the municipality itself. Land bank entities will be permitted to acquire properties on its own and act as a municipality's agent to purchase liens at a tax sale, carry out lien foreclosures, and take individual abandoned properties. In addition, land bank entities will further be required to develop and maintain an online, publicly accessible database of current and former land bank properties. The community advisory board must issue an annual report on the accuracy, integrity, accessibility, and comprehensiveness of the land bank entity's online database.

Electronic Waste Management Act

As of 2011, the New Jersey Department of Environmental Protection requires that televisions, computers, electronic tables, e-book readers, and monitors be recycled at designated recycling collection points. These electronic devices are no longer able to be discarded in the regular waste stream as most contain lead, mercury, cadmium, nickel, zinc, brominated flame retardants, and other potentially hazardous materials.

State Agriculture Development Committee

Farmland Preservation Plans

Recent amendments to the SADC's PIG regulations at NJAC 2:76-17A.4(b) effective August 3, 2020, require the municipal planning board, in consultation with the municipal agricultural advisory committee to review and readopt the comprehensive farmland preservation plan at least every 10 years. The readopted plan shall, at a minimum, provide updates to the elements required at NJAC 2:76-17A.4(a)2, 3, 4, and 7 and to the project area inventory described at NJAC 2:76-17A.5.

Rural Microenterprise Activity on Preserved Farmland

The State Agriculture Development Committee has adopted amendments January 25, 2018 at NJAC 2:76-22.1 through 22.12 and 22.14, and new rules at NJAC 2:76-22.12 and 22A to implement legislation (P.L. 2015, c. 275) that allows a farmer who owns a qualifying preserved farm to apply for a special permit to conduct a rural microenterprise within certain parameters. Rural microenterprises are certain types of appropriately scaled businesses or activities that are compatible with the agricultural use of the farm. The Act also promotes and incentivizes the preservation of historic and culturally significant agricultural structures.

Winery Special Occasion Events on Preserved Farmland

On October 26, 2017 SADC approved for adoption proposed rules at NJAC 2:76-27 to implement P.L. 2014, c.16 that allows special occasion events to be held at wineries located on preserved farms under certain circumstances. The rules formalize existing procedures for implementing the winery pilot program that was established pursuant to the legislation. The rules also establish the standards for verifying compliance with the legislation's income limit, including audit procedures. The rules became effective on November 20, 2017 upon publication in the New Jersey Register.

Agricultural Management Practice for On-Farm Direct Marketing Facilities, Activities and Events; and Revised Right to Farm Procedural Rules

On January 31, 2014 SADC approved for adoption proposed rules that establish an agricultural management practice (AMP) for On-Farm Direct Marketing Facilities, Activities and Events, NJAC 2:76-2A.13, and revise the Right to Farm procedural rules, NJAC 2:76-2.3, 2.4, 2.5, 2.7, 2.8, 2.9 and 2.10.

The AMP establishes performance-based standards for commercial farms seeking to qualify for right-to-farm protection for on-farm direct marketing facilities, activities and events that are used to facilitate and provide for direct farmer-to-consumer sales, such as farm stands, farm stores, community-supported agriculture and pick-your-own operations, and associated activities and events that fit within the scope of the Right to Farm Act. The intent of the AMP is to provide Statewide standards on which farmers, municipalities, CADBs and the public can rely, while also providing flexibility to commercial farm owners and operators.

The rule proposal also includes procedural changes to streamline the Right-to-Farm process, i.e., the site-specific agricultural management practice (SSAMP) process and the Right to Farm complaint process. The proposed amendments clarify the roles of CADBs and the SADC in the Right to Farm review process in a manner consistent with the Right to Farm Act. The proposal also includes a new rule, NJAC 2:76-2.8, to identify hearing requirements for CADBs and the SADC when they are considering SSAMP requests and RTF complaints. The proposed rules became effective on April 7, 2014, upon publication in the New Jersey Register.

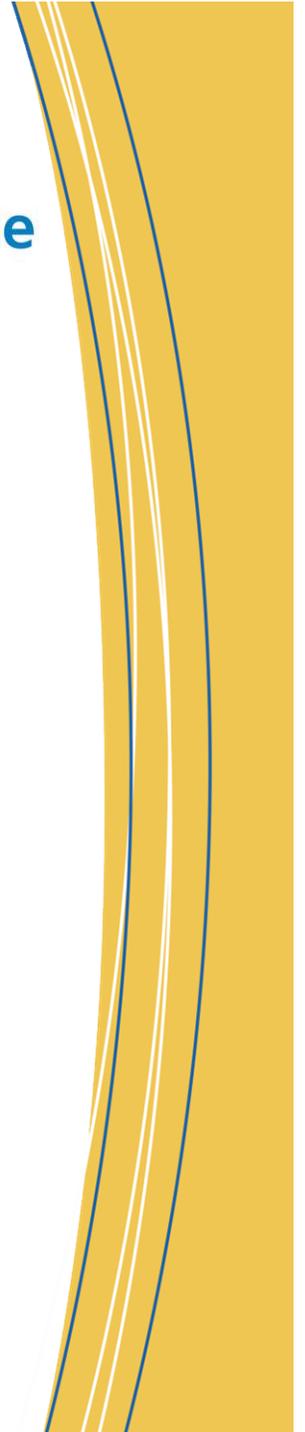
3. New Jersey League of Municipalities:

[source: [Cannabis Law Legislative Briefing 031821 \(njlm.org\)](https://www.njlm.org/cannabis-law-legislative-briefing-031821)]



Legislative Briefing: Marijuana Legalization

March 18, 2021
12 Noon – 1 p.m.



Agenda

- Overview of New Laws
 - [P.L. 2021, c. 16](#) “New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act”
 - [P.L. 2021, c. 19](#), which regraded and decriminalization of certain future marijuana and hashish offenses
 - [P.L. 2021, c. 25](#) “clean-up bill” underage possession or consumption of marijuana, hashish, and alcohol
- Questions

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Classes of Licenses

- Class 1 – Cannabis Cultivator
- Class 2 – Cannabis Manufacturer
- Class 3 – Cannabis Wholesaler
- Class 4 – Cannabis Distributor
- Class 5 – Cannabis Retailer
- Class 6 – Cannabis Delivery Service

Cannabis Cultivator (Class 1 License)

- **Cannabis grower**
 - Grows, cultivates, or produces cannabis in New Jersey, and sells.
 - Sells and may transport to other cannabis growers, processors, wholesalers or retailers, but not consumers.

Cannabis Manufacturer (Class 2 License)

- **Cannabis manufacturer**
 - Processes cannabis items in New Jersey by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling.
 - Optionally transporting these items to other cannabis processors, wholesalers or retailers, but not to consumers.

Cannabis Wholesaler (Class 3 License)

- **Cannabis wholesaler**
 - Purchases or otherwise obtains, stores, sells, or otherwise transfers.
 - May transport cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

Cannabis Distributor (Class 4 License)

- **Cannabis distributor**
 - Transports cannabis items in bulk intrastate from one licensed cannabis establishment to another licensed establishment.
 - May engage in temporary storage as necessary to carry out transportation activities.

Cannabis Retailer (Class 5 License)

- **Cannabis retailer**
 - Purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacture or cannabis wholesalers, and sells these to consumers from a retail store.
 - May use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers.
 - Must accept consumer purchases to be fulfilled from its retailer store that are presented by a cannabis delivery services to be delivered to the consumer.

Cannabis Delivery (Class 6 License)

- **Cannabis delivery service**
 - Provide courier services for consumer purchases of cannabis items fulfilled by cannabis retailer.
 - Make deliveries of cannabis items and related supplies to consumers.
- **Delivery**
 - Transportation of cannabis items and related supplies to a consumer.
 - Includes the use by a licensed cannabis retailer of any 3rd-party technology platform to receive, process, and fulfilling orders by consumers.
 - Provided that any physical acts in connection with filling the order and delivery must be accomplished by a certified cannabis handler performing work for or on behalf of the licensed cannabis retailer.

Local Cannabis Tax

- By ordinance
- Cannot exceed:
 - 2% cannabis cultivator
 - 2% cannabis manufacture
 - 1% cannabis wholesaler
 - 2% cannabis retailer
- Percentage based on receipts on each sale

Local Cannabis Tax

- Paid directly to municipality (CFO) in manner prescribe by municipality.
- Delinquencies same as property taxes.
- Does not apply:
 - Transfers involving distributors for purpose of bulk transportation.
 - Delivery services to consumers.

License Applicant

- An applicant must:
 - Have at least 1 significantly involved person who lives in NJ for at least 2 years at the date of the application, and provide proof they are 21 or older.
 - Must meet the requirements of any rule or regulations adopted the Commission.
 - The owner, unless they hold less than 5%, any director, any officer, and employee undergo a criminal history record background check.

License Background Check

- Each person must submit to being fingerprinted.
- No check of criminal history record background information unless written consent of applicant.
- If a person refuses, cannot be considered for the license.
- Each person must bear the cost of the criminal history record background check including all costs to administer and process.

Applications

- Must include, amongst others items:
 - Quality control & quality assurance.
 - Recall plans.
 - Water management & waste disposal plans.
 - Odor mitigation practices.
 - Safety & Security plan.
 - Community Impact, Social Responsibility & Research Statement.

License Process

- Submitted to Cannabis Regulatory Commission.
- Commission is required to forward a copy of the application to the municipality within 14 days.
- Municipality must determine whether the application complies with local restrictions on times of operation, location, manner, and the number of cannabis businesses.

License Process

- Municipality must inform the Commission whether the application complies with local restrictions on times of operation, location, manner, and the number of cannabis businesses.
- Commission must approve a license that meets the requirements of this law.
 - Unless they find by clear and convincing evidence that the applicant would be manifestly unsuitable to perform the activities for the license class sought.

- Commission cannot consider:
 - Any conviction of a crime or offense involving a controlled dangerous substance or controlled substance analog that occurred prior to the effective date of the bill.
 - Any offense that is now legal under this bill.
- Commission must consider any conviction involving:
 - Fraud
 - Deceit
 - Embezzlement
 - Employing a minor in a drug distribution scheme
 - Similar indictable offense in this or another jurisdiction involving the use of a minor to dispense or distribute a controlled dangerous substance or controlled substance analog.

Cannabis Regulatory Commission

- Members:
 - Dianna Houenou, Commission Chair
 - Krista Nash
 - Maria Del Cid
 - William Wallace
 - Sam Delgado
- Determines date on which retailers can begin retail sales.
- Adopt rules and regulations
 - Initial rules within 180 days (August 22, 2021)

Cannabis Regulatory Commission

- Adopt rules:
 - Governing licenses eligibility, application, and evaluation.
 - Number of permissible licenses of each type.
 - Security requirements for licensees.
 - Labeling & packaging requirements.
 - Cannabis retailer employee eligibility requirements.
 - Advertising & marketing limitations.

Municipal Regulations & Ordinances

- May enact ordinances that:
 - Govern times of operation, location, manner, & number of type of cannabis businesses.
 - Establish civil penalties for ordinance violation.
 - Permit consumption areas for retail licenses with municipal endorsement.
- Cannot prohibit cannabis delivery services (Class 6 Licenses).
- Nulls and voids any ordinance previously enacted ordinances prohibiting cannabis related activities.

Cannabis Consumption Areas

- Retailer or medical dispensary.
- On premise consumption of personal use may occur.
- Apply to Cannabis Control Commission but municipality would review and endorse
 - Indoor: Structurally enclosed separate from retail or dispensing area.
 - Outdoor: Exterior structure on same premise, either separate from or connected to.
 - May transfer cannabis items purchased from the establishment to consumption area.

Limitations of Locations

- Grocery stores
- Delis
- Indoor food markets
- Other stores engaging in retail food
- Premises licensed for retail sales of alcoholic beverages

Opt-Out Ordinance

- 180 days from February 22, 2021.
- Prohibiting one or more types of cannabis businesses.
- Otherwise:
 - Class 1-4 & Class 6 would be permitted use in all industrial zones.
 - Retail selling of cannabis (Class 5) conditional use in all commercial zones or retail zones.
- Must wait 5 years to adopt ordinance to opt-out.

Microbusinesses

Microbusiness

- Person or entity licensed.
- Cannabis grower, processor, wholesaler, distributor, retailer, or delivery service.
- Has no more than 10 employees.
- Operate in space of no more than 2,500 square feet area.
 - Except a grower can operate in space of no more than 2,500 square feet measured on a horizontal plane and grow no higher than 24 feet above that plan.
- Process no more than 1,000 cannabis plants each month.
 - Except a distributor's possession for transportation.
- Cannabis cultivator cannot acquire and process more than 1,000 pounds of cannabis in dried form each month.
- Cannabis wholesaler cannot acquire for resale more than 1,000 pounds each month.
Cannabis retailer cannot acquire for sale more than 1,000 pounds each month.

Impact Zones

- Any municipality.
- Based on past criminal marijuana enterprises contributing to higher concentrations of law enforcement activity, unemployment, and poverty within part parts, or throughout, that:
 - Has a population of 120, 000 or more.
 - Based upon data from calendar year 2019 ranks in the top 40% of municipalities for marijuana or hashish related arrest.
 - Has a crime index of 825 or higher in the annual Uniformed Crime Report.
 - Has a local unemployment rate that ranks in the top 15% of all municipalities for the calendar year next preceding that effective date.
 - Is located within a county of the third class, based upon most recent census population data, that meets all criteria above except having an 825 or higher crime index.
 - Is located in a county of the second class, based population date of the most recent census and meets other crime and population standards.

Municipal Regulations & Ordinances

- Repeals statute N.J.S.A. 40:48-1.2
 - Effectively prohibits municipalities from adopting an ordinance prohibiting underage consumption of alcohol & cannabis on private property.

Underage possession or consumption

- Alcoholic beverage, marijuana, hashish, or any cannabis item
- 1st violation
 - Written warning, without notification to parent or guardian. (A-5427/S-3545 currently being considered, would allow for parent/guardian notification.)
- 2nd violation
 - Written warning,
 - Information and materials on social services must be provided to offender.
 - If offender is under 18 notice is provided to parent or guardian.
- 3rd or subsequent violation
 - A write up.
 - Information and materials on social services must be provided to offender.
 - Write up comes with a referral to these social service organization allowing the organization to reach out to the individual, or the parent or guardian if individual is under 18.

Underage possession or consumption

- Under legal age:
 - Not capable of giving lawful consent to search to determine possession or consumption violation.
- Police officer not permitted to request a consent to search.
- Odor would not constitute:
 - Reasonable articulable suspicion to initiate an investigatory stop.
 - probable cause to initiate search of person or their personal property.
- Plain sight would not constitute probable cause to initiate search of person or their personal property.

Resources

- NJLM sample [opt-out ordinance](#)
- Attorney General [Marijuana Decriminalization & Legalization Resource Page](#)
- Upcoming Seminars:
 - April 9 MLUL and Cannabis
- [NJLM Cannabis page](#) (frequently updated)

Questions



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