

III. Chapter 6 Amendments

6.3.1.1 Development yield factors and computation for single family residentially zoned property

6.3.1.1.4 If zoning allows one (1) dwelling unit per forty thousand (40,000) square feet, the development yield factor is 0.80 Pine Barrens Credit per acre except for Southampton Town old filed map parcels for which it is 1.00 PBC per acre. *(Source: Commission Credit allocation appeal decision of 2/27/02)*

6.3.1.1.5 If zoning allows one (1) dwelling unit per sixty thousand (60,000) square feet, the development yield factor is 0.60 Pine Barrens Credit per acre except for Southampton Town old filed map parcels for which it is 0.66 PBC per acre. *(Source: Commission Credit allocation appeal decision of 2/27/02)*

6.3.1.1.6 If zoning allows one (1) dwelling unit per eighty thousand (80,000) square feet, the development yield factor is 0.40 Pine Barrens Credit per acre except for Southampton Town old filed map parcels for which it is 0.50 PBC per acre. *(Source: Commission Credit allocation appeal decision of 2/27/02)*

6.3.1.1.7 If zoning allows one (1) dwelling unit per one hundred twenty thousand (120,000) square feet, the development yield factor is 0.27 Pine Barrens Credit per acre except for Southampton Town old filed map parcels for which it is 0.33 PBC per acre. *(Source: Commission Credit allocation appeal decision of 2/27/02)*

6.3.1.1.9 If zoning allows one (1) dwelling unit per two hundred thousand (200,000) square feet, the development yield factor is 0.16 Pine Barrens Credit per acre except for Southampton Town old filed map parcels for which it is 0.20 PBC per acre. *(Source: Commission Credit allocation appeal decision of 2/27/02)*

6.3.1.1.12 A fractional allocation of a Pine Barrens Credit shall be rounded upward to the nearest one hundredth ($1/100\text{th} = 0.01$) of a Pine Barrens Credit..

6.3.1.1.13 If zoning allows one (1) dwelling unit per thirty thousand (30,000) square feet, the development yield factor is 1.20 Pine Barrens Credits per acre. *(Source: Commission resolution of 9/17/97)*

These development yield factors and sample computations are summarized in Figure 6-1 and Figure 6-1a, and sample computations are shown in Figure 6-2.

Figure 6-1: Pine Barrens Credit Program development yield factors for <u>single family</u> residentially zoned property		
Provision	If zoning allows:	Then the development yield factor (*) is:

6.3.1.1.1	1 (one) dwelling unit per 10,000 sq ft	2.70 PBCs per acre(**)
6.3.1.1.2	1 (one) dwelling unit per 15,000 sq ft	2.00 PBCs per acre(**)
6.3.1.1.3	1 (one) dwelling unit per 20,000 sq ft	1.60 PBCs per acre(**)
6.3.1.1.4	1 (one) dwelling unit per 40,000 sq ft	0.80 PBC per acre(**) <u>except Southampton Town old filed map parcels which receive 1.00 PBC per acre</u>
6.3.1.1.5	1 (one) dwelling unit per 60,000 sq ft	0.60 PBC per acre(**) <u>except Southampton Town old filed map parcels which receive 0.66 PBC per acre</u>
6.3.1.1.6	1 (one) dwelling unit per 80,000 sq ft	0.40 PBC per acre(**) <u>except Southampton Town old filed map parcels which receive 0.50 PBC per acre</u>
6.3.1.1.7	1 (one) dwelling unit per 120,000 sq ft	0.27 PBC per acre(**) <u>except Southampton Town old filed map parcels which receive 0.33 PBC per acre</u>
6.3.1.1.8	1 (one) dwelling unit per 160,000 sq ft	0.20 PBC per acre(**)
6.3.1.1.9	1 (one) dwelling unit per 200,000 sq ft	0.16 PBC per acre(**) <u>except Southampton Town old filed map parcels which receive 0.20 PBC per acre</u>
6.3.1.1.10	1 (one) dwelling unit per 400,000 sq ft	0.08 PBC per acre(**)
<u>6.3.1.1.13</u>	<u>1 (one) dwelling unit per 30,000 sq ft</u>	<u>1.20 PBC per acre(**)</u>

(*) These development yield factors are augmented by section 6.3.1.1.12: fractional allocations are rounded upward to the nearest one hundredth ($1/100 = 0.01$) of a Pine Barrens Credit (PBC).

(**) One acre equals 43,560 sq ft.

“Southampton Town old filed map parcels” are defined in Southampton Town Code Section 330-53, including any amendments by the Town to this provision in the future.

(Source for 6.3.1.1.13: Commission resolution of 9/17/97)

(Source for Southampton Town old filed map development yields: Commission Credit allocation appeal decision of 2/27/02)

**Figure 6-21a Pine Barrens Credit allocation examples
for single family residentially zoned property**

Example 1: A 1.00 acre parcel zoned one unit per 40,000 square feet.
 $1.00 \text{ acre} \times 0.80 \text{ Pine Barrens Credit per acre} = 0.80 \text{ PBC}$

Example 2: A 3.25 acre parcel zoned one unit per 40,000 square feet.
 $3.25 \text{ acres} \times 0.80 \text{ PBC per acre} = 2.60 \text{ PBCs}$

Example 3: A 7.89 acre parcel zoned one unit per 80,000 square feet.
 $7.89 \text{ acres} \times 0.40 \text{ PBC per acre} = 3.156 \text{ PBCs}$
This is then rounded upward to 3.16 PBCs as per section 6.3.1.1.12.

Example 4: A 10.53 acre parcel zoned one unit per 120,000 square feet.
 $10.53 \text{ acres} \times 0.27 \text{ PBC per acre} = 2.8431 \text{ PBCs}$
This is then rounded upward to 2.85 PBCs as per section 6.3.1.1.12.

Example 5: A 0.25 acre parcel zoned one unit per 200,000 square feet.
 $0.25 \text{ acre} \times 0.16 \text{ PBC per acre} = 0.04 \text{ PBC}$
This is then increased to the minimum allocation of 0.10 PBC as per section 6.7.6.7.

6.3.3.4 Partially improved parcels shall receive a decreased allocation based upon the extent of improvement. Furthermore, there shall be a proportional decrease in allocation based upon the receipt of all discretionary permits for improvement of a parcel or hardship permits issued by the Commission. The Pine Barrens Credit allocation for a parcel of land shall be reduced by one (1) Pine Barrens Credit for each existing single family unit

on the parcel or equivalent as such equivalent is described in the document entitled *Standards for Approval of Plans and Construction for Sewage Disposal Systems for Other Than Single Family Residences*, approved by the Suffolk County Department of Health Services, Division of Environmental Quality, on June 15, 1982, revised March 5, 1984 and December 1, 2009, and as implemented prior to February 5, 1988, as amended from time to time (hereinafter referred to as the "Suffolk County Health Department Standards"). *(Staff recommendation.)*

6.4.2.2.2 Brookhaven total yield

Under the Brookhaven transfer of development rights program, the total yield in all eligible one (1) and two (2) acre residentially zoned receiving districts shall be equal to the square footage of the total parcel contained within the receiving site divided by the minimum square footage allowed under the Brookhaven Town Code in the appropriate residential zone. The minimum lot size in such eligible residentially zoned receiving districts shall allow for the construction of necessary roads and recharge basins, and the possible dedication of open space.

Notwithstanding the above, the minimum lot size shall be as necessary to assure compliance with Section 6.5.2 of this Plan. However, such decrease in the minimum lot size below the formula set forth above shall only be authorized where absolutely necessary to comply with Section 6.5.2 of this Plan, and in no instance shall the minimum average lot size be less than 30,000 square feet in A-1 zoning districts and 60,000 square feet in A-2 zoning districts. *(Source: Staff correction. Average lot size is the appropriate regional measurement.)*

6.4.2.2.3 Brookhaven approval subject to criteria

This “as of right” increase shall be allowed, subject to the approval of the Town of Brookhaven Planning Board during the subdivision and site plan approval processes, based upon the criteria set forth below and those contained within Section 85-450(D) of the Brookhaven Town Code *(Source: Staff recommendation for clarification.)*

6.4.4.1 Overview of the Southampton Pine Barrens Credit Program

The Pine Barrens Credit Program in Southampton is designed to redirect development from all residentially zoned lands within the Core Preservation Area and to preserve other key areas within the Compatible Growth Area.

Two primary approaches are to be used:

1. Redirection of development to other areas of the Town on an as of right basis through

- residential overlay districts, and
2. Use of innovative planning areas referred to as Planned Development Districts to creatively accommodate Pine Barrens Credits through a variety of development schemes. These approaches would convert Pine Barrens Credits to highly tax ratable uses such as resort and tourism, commercial and retail, senior housing and care centers, and medical centers.

The zoning and total acreage of residential lands which would be eligible for Pine Barrens Credit allocation are shown in Figure 6-6.

Figure 6-6: Southampton zoning and Pine Barrens Credit illustration						
Statutory zone	R-20 acreage	R-40 acreage	CR-60 acreage	R-80 acreage	CR-120 acreage	CR-200 acreage
Core Preservation Area	13	16	169	0	265	3367
Compatible Growth Area	48	0	10	42	221	1015
Totals	61	16	179	42	486	4382
<i>Note:</i> R-20 is a Residence District with a 20,000 square feet minimum lot size. CR-60 is a Country Residence District with a 60,000 square feet minimum lot size.						

Pine Barrens Credits would be allocated to owners of these lands using the method outlined in this chapter of this Plan. However, in the case of old filed map lots, allocation of Pine Barrens Credits does not include a yield factor, since these lots were platted with infrastructure allowances. This coincides with the Town's existing old filed map regulations and results in a slightly higher allocation of Pine Barrens Credits for these lots, as defined within Section 6.3.1.1 and Figure 6-1. Southampton Town old filed map parcels are defined in Southampton Town Code Section 330-53, and that definition is adopted in this Plan for purposes of the Pine Barrens Credit Program, including any amendments by the Town to this provision in the future. (*Source: Commission Credit allocation appeal decision of 2/27/02*)

Within the Core Preservation Area, it is vital to have as much of the Town's industrially zoned land protected by acquisition as possible, due to the difficulty in allocating Pine Barrens Credits. The Town therefore requests the prioritization of these lands for acquisition through the present state and county programs, especially since many of these parcels fall within ecologically sensitive areas such as the dwarf pine plains. However, the Town does recognize that some

owners of industrially zoned land may wish to sell or utilize Pine Barrens Credits for such development. In such cases, the Commission may exercise the right to allocate Pine Barrens Credits on a plan basis.

6.6.2.2 To purchase Pine Barrens Credits from ~~property~~ owners of eligible sending area parcels which have received Credits and from successive owners of Credits to further the objectives of the Pine Barrens Protection Act. *(Source: Staff recommendation for clarification.)*

6.6.2.9 ~~To purchase, at its discretion, nonresidential Pine Barrens Credits.~~ *(Source: Staff recommendation, as there is no distinction among Credits, and preceding powers of Board cover this situation.)* To issue Letters of Interpretation (LOIs) to owners of eligible sending area parcels, and to establish appropriate administrative procedures for such issuance, including, but not limited to, defining what documentation is acceptable for LOI application information. *(Source: Clarification and current administrative practice of the Clearinghouse.)*

6.7.3 Detail of Step 1: Obtaining a Letter of Interpretation

6.7.3.1 A property owner requests a Letter of Interpretation on a form to be supplied by the Clearinghouse. The Clearinghouse will utilize a current survey made in the last ten (10) years, if such a survey is available and provided, to establish the acreage figure to be utilized in the formula determining Credit allocation. If such a survey is available, the survey's acreage figure shall be used, regardless of the acreage shown on the tax bills. If such a survey is unavailable, the acreage figure will be obtained from the publicly available tax bill information. *(Source: Clearinghouse resolution of 3/14/06.)*

6.7.3.3 The property owner has thirty (30) days from the date of the Letter of Interpretation to appeal the allocation to the Commission in writing. Extensions of this deadline for filing an appeal may be granted at the Commission's discretion upon written request of the property owner.

6.7.4 Detail of Step 2: Applying for a Pine Barrens Credit Certificate *(Source: Staff recommendation.)*

6.7.4.1 After receiving a Letter of Interpretation, a property owner may request a Pine Barrens Credit Certificate from the Clearinghouse by submitting:

1. The Letter of Interpretation, and
2. A title report ~~which covers a time period extending back a minimum of thirty (30) years for the parcel of land, and~~

3. ~~A proposed conservation easement, for which the Clearinghouse may propose sample language, and~~ (Source: *Current practice is for Clearinghouse to provide initial draft of easement.*)
4. A completed Pine Barrens Credit Certificate Application Form, which shall be supplied by the Clearinghouse.

6.7.4.3 The Clearinghouse will provide to the applicant a conservation easement to sign once acceptable title has been established to the satisfaction of the Clearinghouse. (Source: *Current administrative practice of Commission.*)

~~6.7.4.4 The Clearinghouse will utilize a current survey made in the last ten (10) years, if such a survey is available and provided, to establish the acreage figure to be utilized in the formula determining Credit allocation. If such a survey is available, the survey's acreage figure shall be used, regardless of the acreage shown on the tax bills. If such a survey is unavailable, the acreage figure will be obtained from the publicly available tax bill information.~~ (Source: *Clearinghouse resolution of 3/14/06.*)

6.7.4.54 The Commission will issue, and update as necessary, a policy on titles and title insurance for use by the Clearinghouse. (Source: *Current administrative practice of Commission.*)

6.7.5.3 The conservation easement will then be recorded with the Suffolk County Clerk, and a copy of it submitted along with proof of its ~~recording~~ recording, to the Clearinghouse. The title report must be updated to ensure that there has been no conveyance of the property since the report was received and that no liens have been placed upon the property.

6.7.6.1 Expiration of the Letters of Interpretation

A Letter of Interpretation shall expire ~~one (1) year~~ two (2) years ~~three(3) years~~ following its issuance. A property owner is not required to apply for a Pine Barrens Credit Certificate upon receipt of a Letter of Interpretation. However, if such application is not made within ~~one (1) year~~ two (2) years ~~three(3) years~~, the Letter of Interpretation will expire and the property owner will be required to reapply for a new Letter of Interpretation. (Source: *Staff recommendation based upon practical experience with PBC Program administration.*)

6.7.6.3 Notification of the Clearinghouse of Pine Barrens Credit usage

A Pine Barrens Credit Certificate shall state that the recipient of the certificate and any party purchasing the Pine Barrens Credits described in the certificate must notify the Clearinghouse of any transaction involving the sale of the Pine Barrens Credits or utilization of the Pine Barrens Credits as security for a loan. The original Certificate must be sent to the Clearinghouse when all or any portion of the Credits associated with that Certificate are conveyed, transferred, sold or

used as security prior to redemption. The Clearinghouse shall then issue one or more new Certificate(s), as appropriate, in the name(s) of the new Credit owner(s). *(Source: Current administrative practice of Commission.)*

6.7.6.4 Tax status of the subject property

No Pine Barrens Credit Certificates shall be issued for any parcel of land until all real property taxes and ad valorem levies have been paid in full as certified by the town's tax receiver.

6.7.6.6 Issuance of a full Pine Barrens Credit for certain roadfront parcels

The Pine Barrens Credit Clearinghouse may elect to allocate one (1) full Pine Barrens Credit for a parcel of land consisting of at least 4,000 square feet with frontage on an existing public improved road, including the improved service roads of Sunrise Highway (NY State Route 27), the Long Island Expressway (Interstate 495), and similarly limited access highways . Parcel frontage on the main lines of Sunrise Highway (NY State Route 27), the Long Island Expressway (Interstate 495), and similarly limited access highways shall not qualify a parcel for this provision. *(Sources: Commission resolution of 4/22/98; Commission Credit allocation appeal decision of 3/8/00 for Gazza appeal; Clearinghouse policy since 11/20/95 Letters of Interpretation issuance.)*

6.7.6.7 Minimum Pine Barrens Credit allocation

No fewer than 0.10 (one tenth) Pine Barrens Credit shall be allocated by the Clearinghouse or the Commission for any parcel of land which is eligible for a Credit allocation, regardless of its size or road accessibility. *(Source: Staff recommendation for clarification.)*

6.8 Registry, Reports, and Other Publicly Accessible Information of for Pine Barrens Credits

6.8.1 Establishment and maintenance of the Pine Barrens Credit Registry

The Board shall establish and maintain a registry of Pine Barrens Credits and a publicly available set of reports, which shall include, at a minimum, the following information:

1. The name, property, contact, and address of every owner to whom a Pine Barrens Credit certificate is issued pursuant to the Plan, the date of its issuance, the tax district, section, block and lot identification of the parcel of land to which the Pine Barrens Credit has been assigned, the number of Pine Barrens Credits or fraction thereof assigned to each parcel, the total number of Pine Barrens Credits assigned, and the total acreage to which Pine Barrens Credits have been assigned, and
2. The name and address of every person to whom a Pine Barrens Credit is sold or otherwise

conveyed, the date of the conveyance, and the consideration, if any, received therefore, and

3. The name and address of any person who pledged a Pine Barrens Credit as security on any loan or other obligation, and the name and address of the lender, and
43. The name and address of any person who has sold or otherwise transferred a Pine Barrens Credit, the location of the land to which purchaser(s) to whom the Pine Barrens Credit was transferred, and the date of the sale; and
54. A record of every redemption of a Pine Barrens Credit including, at a minimum, the person(s) redeeming the Credit(s), the tax district, section, block and lot identification of the parcel(s) of land on which the Credits have been redeemed, the school district(s) from which and to which the transfer occurred, the redeeming agency, and the date of redemption; and
65. ~~An annual report of t~~The total number of Pine Barrens Credits purchased and transferred. This report shall list the municipality and school district of each tract of land for which Pine Barrens Credits were issued and the municipality and school district to which the Pine Barrens Credits were transferred. *(Source: Current administrative practice of Commission.)*

6.8.3 Distribution of the annual report

The Board shall make available an annual report of the Pine Barrens Credit Program and the activities of the Board as part of the Commission's annual report required under ECL Article 57. ~~in the form of an annual report the information included in the registry to each municipality located in whole or in part in the Central Pine Barrens and, upon request, to any other person.~~ *(Source: Current administrative practice of Commission.)*