§ 57-0123. Implementation of the Central Pine Barrens comprehensive land use plan.

1. Within three months after the land use plan has been adopted by the commission, each town board and village board with jurisdiction within the Central Pine Barrens area shall adopt and amend as necessary land use and zoning regulations, by local law or ordinance, rule or regulation to conform their land use regulations to the land use plan. Such action shall not be subject to the provisions of article eight of this chapter if it is in conformance with the conditions and thresholds of the land use plan. At least thirty days before adoption thereof, the town or village board shall submit the proposed regulations to the commission for its review and approval. Within ten days of receipt of such proposed regulations, the commission shall review and approve such proposed regulations, or if it does not approve them, return them with comments on what needs to be done to make them approvable. For each jurisdiction, the land use plan shall be deemed to be implemented upon adoption by the town or village board of approved land use regulations. The interim regulation provisions of subdivisions eight, nine, and ten of section 57-0121 of this title shall remain in effect for each town or village until it has adopted approved land use regulations to conform to the adopted comprehensive management plan. Within villages that were incorporated on or before June 30, 1993, whose land use and zoning regulations are approved by the commission consistent with the land use plan pursuant to section 57-0121 of this title, development which conforms to such land use and zoning regulations and does not have significant adverse impacts on the goals of the land use plan shall not be subject to review by the commission. After town or village land use regulations have been approved and upon a finding that a town or village has changed such regulations in a manner substantially inconsistent with the land use plan or has administered its approved land use regulations in a manner substantially inconsistent with the land use plan, the commission shall withdraw approval of such land use regulations and the provisions of subdivisions eight, nine and ten of section 57-0121 of this title shall be reinstituted. Such withdrawal of approval shall be made not before fourteen days after the commission holds a public hearing in the affected town or village on the proposed withdrawal.

Notice of such hearing shall be published in a newspaper having general circulation in the Central Pine Barrens area and notice of such hearing shall also be given by registered mail to the affected supervisor or mayor.

2. (a) The commission shall have jurisdiction to review and approve all proposed development in critical resource areas and developments of regional significance as identified in the land use plan and proposed developments found by the commission after petition by a commissioner to have significant adverse impact on the land use plan. Any commissioner may petition the commission to assert review jurisdiction over a proposed development outside of a critical resource area or which is other than a project of regional significance which has a significant adverse impact on the goals of the land use plan. If the commissioner by majority vote asserts jurisdiction, such project or action shall be subject to review by the commission. For the purposes of review and identification of projects coming under the jurisdiction of the commission by virtue of critical resource area or area of regional impact or at the request of any commission member, the commission shall designate the responsible planning entity or staff for the purposes of advising the commission with respect to such applications or projects. To the fullest extent possible, the commission shall consolidate and coordinate its review with the appropriate local government. A person, the state or a public corporation proposing development in a critical resource area or development of regional significance shall apply to the commission for approval of the development. Applications shall be made to the commission on forms and in such manner as the land use plan and commission shall designate.

(b) The commission must make a decision within one hundred twenty days of the receipt of a complete application. If the commission fails to make a decision within one hundred twenty days, the development shall be deemed to be approved by the commission, unless extended by mutual agreement of the applicant and the commission. The commission must make a decision within one hundred twenty days of asserting jurisdiction over a project that is before the commission based on the petition by a commissioner. If the commission fails to make a decision within one hundred twenty days of the date of asserting jurisdiction, the

development shall be deemed to be approved by the commission, unless extended by mutual agreement of the applicant and the commission.

3. (a) Subsequent to the adoption of the land use plan, the provisions of any other law, ordinance, rule or regulation to the contrary notwithstanding, no application for development within the Central Pine Barrens area shall be approved by any municipality or county or agency thereof or the commission, and no state approval, certificate, license, consent, permit, or financial assistance for the construction of any structure or the disturbance of any land within such area shall be granted, unless such approval or grant conforms to the provisions of such land use plan; provided, however, that the commission by majority vote is hereby authorized to waive strict compliance with such plan or with any element or standard contained therein, for an application for development of any person, upon finding that such waiver is necessary to alleviate hardship for proposed development in the core preservation area according to the conditions and finding of extraordinary hardship or compelling public need pursuant to subdivision ten of section 57-0121 of this title, or for an application for development by the state or public corporation or proposed for land owned by the state or public corporation finding that such waiver is necessary to alleviate hardship for proposed development in the core preservation area according to the conditions and finding of compelling public need pursuant to subdivision ten of section 57-0121 of this title, and every application is consistent with the purposes and provisions of this article and would not result in substantial impairment of the resources of the Central Pine Barrens area.

(b) The commission by majority vote is also authorized to waive strict compliance with such plan or with any element or standard contained therein, upon finding that such waiver is necessary to alleviate hardship for development proposed by any person, the state or a public corporation in the compatible growth area according to the conditions and findings of hardship pursuant to subdivision nine of section 57-0121 of this title, is consistent with the purposes and provisions of this title and would not result in substantial impairment of the resources of the Central Pine Barrens area.

(c) The commission must make a decision within the time periods

established pursuant to subdivision ten of section 57-0121 of this title. If the commission fails to make a decision within the aforesaid time periods, the development shall be deemed to be approved by the commission, unless extended by mutual agreement of the applicant and the commission. The aforesaid time period and the processing and review of an application shall be suspended by the commission with notice to the applicant where a proceeding pursuant to section 57-0136 of this title is pending against the applicant with respect to the property at issue or otherwise arising out of the ownership or use of such property.

4. Notwithstanding any inconsistent provisions in article eight of this chapter and within towns and villages with approved land use regulations, actions wholly within the Central Pine Barrens area in conformance with the conditions and thresholds of the land use plan and the generic environmental impact statement thereof shall require no further environmental impact statement with respect to impacts addressed in such generic environmental impact statement. Further project-specific compliance with article eight of this chapter may be required. Upon ratification by the towns and adoption of the land use plan by the commission, the consistency provisions of article fifty-five are no longer required.

5. Notwithstanding any other provision of law, any state agency may provide in implementing a ranking system for allocating funds for infrastructure, land acquisition, farmland preservation or park assistance projects a preference not to exceed the equivalent of an advantage of five percent for such projects which are identified in a land use plan.

6. For the county of Suffolk, and each town or village implementing regulations wholly within the Central Pine Barrens area approved by the commission, there may be defense by and shall be indemnity from the state in the event of legal actions or proceedings brought against any such municipalities or their agents, servants, officials or employees that may result from the municipal acquisition of land consistent with the land use plan or comprehensive management plan or the adoption or implementation of any land use control including, but not limited to,

the provisions of a zoning law, ordinance, or regulation consistent with this title or required by the minimum standards and criteria of the land use plan. Indemnity shall not apply to any such claim in which a final court determination results in a finding of intentional wrongdoing, recklessness, or an unlawful discriminatory practice including the finding that the land use control was intended to exclude a particular group or individual, or gross negligence on the part of such municipality or its agents, servants, officials, or employees. Actions or proceedings brought under subdivisions two, two-a, three-b, four, paragraphs (a) and (b) of subdivision five and subdivisions six, seven, fourteen, and eighteen of section two hundred ninety-six of the executive law and 42 U.S.C. 55 1981, 1983, 1988 shall be indemnified by the state only so far as the grievance alleged in such action or proceeding was the result of an act consistent with this title or the plan.

(a) Such indemnity shall apply only to the extent that any such claim exceeds any insurance coverage obtained by the commission from revenues in the Pine Barrens fund.

(b) Such indemnity shall be conditioned upon (i) delivery by the governing body or its agent against whom the legal action or proceeding was commenced to the attorney general or an assistant attorney general at an office of the department of law in the state the original or a copy of any summons, complaint, process, notice, demand or pleading within fifteen days after such document is served upon such governing body or its agent, and (ii) the full cooperation of the governing body or its agents against whom the action or proceeding was commenced in the defense of such action or proceeding and in defense of any action or proceeding against the state based upon the same act or omission, and in the prosecution of any appeal.

(c) There shall be no indemnity in the event of a settlement between or among the parties to such legal action or proceeding in those instances in which the attorney general is not providing the defense for the governing body or its agents, unless such settlement is approved by the commission with the concurrence of the attorney general.

7. Notwithstanding any other provision of law to the contrary and in addition to any existing authority therefor, a town or village in

implementing regulations approved by the commission and acting in furtherance of the land use plan may enter into an agreement to condition a zoning amendment.