§ 57-0136. Penalties and enforcement.

1. Violations. (a) All of the rights and remedies provided for in this section are in addition to all of the rights and remedies available to the villages and towns located within the "Central Pine Barrens Area" as specifically defined in subdivision ten of section 57-0107 of this title. All of the rights and remedies provided for in this section are in addition to all of the rights and remedies available to the attorney general as provided for in state law.

(b) With respect to any land use conduct within the Central Pine Barrens Area that violates any provision of an applicable village or town law, the responsibility for enforcement of such violation shall lie with the applicable village or town in the first instance as provided for in the laws of the respective town or village. The applicable village or town shall provide written notice to the commission of all such enforcement efforts. In the event the applicable village or town does not commence an enforcement action within sixty days from the receipt of a written notice to the applicable village or town of any land use conduct within the Central Pine Barrens Area that may violate any provision of an applicable village or town law, the commission, or the attorney general at the request of the commission or upon his or her own initiative, may institute enforcement action for such violation as set forth in subdivisions two, three and four of this section.

(c) With regard to any violation of this title, the land use plan adopted by the commission, any regulation promulgated by the commission, or any order, determination or permit condition issued by the commission, there shall be independent jurisdiction among the village or town in which such violation occurred or is occurring to investigate and prosecute such violation as set forth in subdivisions two, three and four of this section. The commission or the attorney general at the request of the commission or upon the attorney general's own initiative shall also have independent jurisdiction to investigate and prosecute such violation as set forth in subdivisions two, three and four of this section.

The party initiating such a prosecution shall consult with the other governmental entities named in this section before initiating such an

action, except in a case involving a threat of irreparable harm or imminent violation or repeated violations of this title, the land use plan adopted by the commission, any regulation promulgated by the commission, or any order, determination or permit condition issued by the commission.

(d) With regard to any land use conduct within the Central Pine Barrens Area that is a violation of the applicable village or town law in addition to being a violation of the specific requirements of this title, the land use plan adopted by the commission, or the terms or conditions of any order, permit or determination issued by the commission, the commission, or the attorney general at the request of the village or town, may jointly institute with the village and town an enforcement action as set forth in subdivisions two, three and four of this section. In such event, any penalties or fines collected shall be deposited with the applicable village or town to be maintained in a segregated account to be used exclusively for the acquisition of real property or transferable development rights interests or capital projects associated with enhancement and/or restoration of the natural resources and ecosystems located within the Central Pine Barrens Area.

2. Civil penalties. (a) For a violation that takes place in the "core preservation area" as defined in subdivision eleven of section 57-0107 of this title, any person who violates any provision of this title, the land use plan adopted by the commission, any regulation promulgated by the commission, or the terms or conditions of any order, permit, or determination issued by the commission pursuant to this title shall be liable for a civil penalty of not more than twenty-five thousand dollars for each violation and an additional civil penalty of not more than one thousand dollars for each day that such violation continues.

(b) For a violation that takes place in the "compatible growth area" as defined in subdivision twelve of section 57-0107 of this title, any person who violates any provision of this title, the land use plan adopted by the commission, any regulation promulgated by the commission, or the terms or conditions of any order, permit, or determination issued by the commission pursuant to this title shall be liable for a civil penalty of not more than ten thousand dollars for each violation and an additional civil penalty of not more than one thousand dollars for each

day that such violation continues.

3. Criminal penalties. (a) For a violation that takes place in the "core preservation area" as defined in subdivision eleven of section 57-0107 of this title, any person who willfully or intentionally violates any provision of this title, the land use plan adopted by the commission, any regulation promulgated by the commission, or the terms or conditions of any order, permit, or determination issued by the commission pursuant to this title shall be guilty of a misdemeanor punishable by a fine of not more than twenty-five thousand dollars for each violation and an additional fine of not more than one thousand dollars for each day that such violation continues.

(b) For a violation that takes place in the "compatible growth area" as defined in subdivision twelve of section 57-0107 of this title, any person who willfully or intentionally violates any provision of this title, the land use plan adopted by the commission, any regulation promulgated by the commission, or the terms or conditions of any order, permit, or determination issued by the commission pursuant to this title shall be guilty of a misdemeanor punishable by a fine of not more than ten thousand dollars for each violation and an additional fine of not more than one thousand dollars for each day that such violation continues.

4. Additional remedies. (a) Alternatively, or in addition to an action seeking civil penalties or criminal fines or imprisonment as provided by subdivisions two and three of this section, the commission, the Suffolk county district attorney or the attorney general may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this title, the land use plan adopted by the commission, any regulation promulgated by the commission, or the terms or conditions of any order, permit, or determination issued by the commission pursuant to this title. The court in which the action or proceeding is brought may order the person responsible for the violation to take such affirmative measures as are necessary to correct or remediate the violation. Such an action or proceeding may also seek restitution for any such violation.

(b) In addition to the penalties set forth in subdivisions two and

three of this section, a police officer or peace officer may immediately impound any all-terrain vehicle, as defined in section twenty-two hundred eighty-one of the vehicle and traffic law, provided that such seizure is conducted pursuant to section five hundred eleven-b of the vehicle and traffic law. A five hundred dollar surcharge may be added to any such impoundment.