

CHAPTER 4

DISTRICT ZONING REGULATIONS

Authority

N.J.S.A. 13:17-1 et seq., specifically 13:17-6(i).

Source and Effective Date

R.2004 d.76, effective February 17, 2004.
See: 35 N.J.R. 4458(a), 36 N.J.R. 1033(a).

Chapter Expiration Date

Chapter 4, District Zoning Regulations, expires on February 17, 2009.

Chapter Historical Note

Chapter 4, District Zoning Regulations, was adopted as R.1970 d.46, effective May 1, 1970. See: 1 N.J.R. 17(b), 2 N.J.R. 8(b), 2 N.J.R. 52(a).

Chapter 4, District Zoning Regulations, was replaced by new District Zoning Regulations as R.1972 d.221, effective November 9, 1972. See: 4 N.J.R. 13(c), 4 N.J.R. 311(c).

Pursuant to Executive Order No. 66(1978), Subchapter 6, General Provisions, expired on October 5, 1983, and was subsequently adopted as new rules by R.1983 d.507, effective November 7, 1983. See: 15 N.J.R. 1506(b), 15 N.J.R. 1873(b).

Pursuant to Executive Order No. 66(1978), Chapter 4, District Zoning Regulations, was readopted as R.1988 d.281, effective May 26, 1988. See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).

Public Notice: Routine program implementation. See: 25 N.J.R. 1010(a).

Pursuant to Executive Order No. 66(1978), Chapter 4, District Zoning Regulations, was readopted as R.1993 d.176, effective March 29, 1993. See: 24 N.J.R. 4503(a), 25 N.J.R. 1887(a).

Pursuant to Executive Order No. 66(1978), Chapter 4, District Zoning Regulations, was readopted as R.1998 d.77, effective January 5, 1998. See: 29 N.J.R. 3704(a), 30 N.J.R. 566(a).

Chapter 4, District Zoning Regulations, was readopted as R.2003 d.9, effective December 9, 2002. See: 34 N.J.R. 2539(a), 35 N.J.R. 258(a).

Chapter 4, District Zoning Regulations, was repealed and new rules were adopted by R.2004 d.76, effective February 17, 2004. See: Source and Effective Date.

Subchapter 12, Affordable Housing, was adopted as new rules by R.2007 d.57, effective February 5, 2007. See: 38 N.J.R. 3762(a), 39 N.J.R. 548(a).

Law Review and Journal Commentaries

A Complex Sport: Processing Land Use Applications Before the HMDC. James K. Pryor, 150 N.J.L.J. 49 (1997).

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19:4-11.7 Affordable housing

(a) When a payment in lieu of constructing affordable housing units is made to satisfy the provisions of N.J.A.C. 19:4-12, the amount of the payment shall be determined and collected as follows:

1. The payment shall be calculated in accordance with the per-unit rates provided in Table 11-1. When the calculated obligation results in a fraction of a unit, that figure shall be rounded to the nearest hundredth decimal place and multiplied by the per-unit payment rate.

Table 11-1

Payments in Lieu of Construction

<u>Municipality</u>	<u>Per Unit Amount</u>
Carlstadt	\$147,072
East Rutherford	\$141,433
Jersey City	\$140,690
Kearny	\$142,887
Little Ferry	\$142,186
Lyndhurst	\$144,924
Moonachie	\$146,008
North Arlington	\$144,268
North Bergen	\$142,867
Ridgefield	\$153,596
Rutherford	\$145,328
Secaucus	\$144,128
South Hackensack	\$143,178
Teterboro	\$143,255

2. The NJMC shall not issue a certificate of completion or occupancy certification for the development that generated the affordable housing obligation until such payment is received in full or until a guaranteed payment plan is effectuated.

New Rule, R.2007 d.57, effective February 5, 2007.
See: 38 N.J.R. 3762(a), 39 N.J.R. 548(a).

SUBCHAPTER 12. AFFORDABLE HOUSING**19:4-12.1 Purpose**

This subchapter sets forth methods by which the NJMC shall assist constituent municipalities of the Hackensack Meadowlands District with meeting their fair share housing obligations in accordance with the New Jersey Council on Affordable Housing (COAH)'s rules at N.J.A.C. 5:94 and ensuring continuing uniform housing affordability controls pursuant to the HMFA's rules at N.J.A.C. 5:80-26.

19:4-12.2 Words and phrases defined

The words used in this subchapter shall be as defined by the NJMC in N.J.A.C. 19:4-2 or by COAH in N.J.A.C. 5:94, as amended or updated.

19:4-12.3 Applicability

(a) This subchapter shall apply to any zoning certificate application filed with the NJMC pursuant to N.J.A.C. 19:4-4.2 on or after February 5, 2007 except where otherwise exempted pursuant to N.J.A.C. 19:4-12.4.

1. The NJMC shall not issue a certificate of completion and/or occupancy certification unless the project is in compliance with all the requirements of this subchapter and N.J.A.C. 19:4-11.7.

19:4-12.4 Exemptions

(a) Zoning certificate applications for the following are exempt from the requirements of this subchapter:

1. Development limited to one or two market-rate dwelling units;
2. Development by municipal government; or
3. Development that would not generate a municipal affordable housing obligation pursuant to the application of standards published by COAH as N.J.A.C. 5:94, Appendix E.

(b) If a property is located within any of the following zones or Redevelopment Areas, any zoning certificate applications not otherwise exempt under (a) above shall be exempt from satisfying within the development the affordable housing growth share requirements in N.J.A.C. 19:4-12.5; however, such development shall provide for the municipal growth share obligation in accordance with one or more of the alternative methods of compliance in N.J.A.C. 19:4-12.14:

1. Environmental Conservation;
2. Parks and Recreation;
3. Aviation Facilities;
4. Light Industrial B;
5. Intermodal A;
6. Intermodal B;
7. Heavy Industrial;
8. Public Utilities; and
9. Redevelopment Areas that do not permit residential uses.

19:4-12.5 Growth share obligation

(a) The applicant shall satisfy the growth share obligation generated by the development in accordance with the provisions of this subchapter, except where exempt in N.J.A.C. 19:4-12.4.

(b) The growth share obligation for residential and non-residential development shall be provided in accordance with

the following, pursuant to N.J.A.C. 5:94, as amended and supplemented:

1. One affordable housing unit shall be provided within the development for every eight market-rate housing units; and

2. One affordable housing unit shall be provided for every 25 new jobs created, pursuant to the standards published by COAH as N.J.A.C. 5:94, Appendix E.

i. The growth share obligation resulting from non-residential development shall be provided within the development, unless the NJMC staff deems the site as unsuitable in accordance with N.J.A.C. 19:4-12.6 or the Board of Commissioners grants the applicant or affected municipality an inclusionary housing waiver in accordance with N.J.A.C. 19:4-12.13.

(c) The growth share obligation for mixed residential and non-residential development shall be provided within the development and shall be calculated as the sum of the obligations for each use.

(d) When the calculated growth share obligation results in a fraction of a unit, that figure shall be rounded to the nearest hundredth decimal place. A fractional obligation of less than one unit or a fractional obligation that falls between two whole numbers may be satisfied by providing one affordable unit or by making a pro-rated payment in lieu of construction in accordance with N.J.A.C. 19:4-11.7.

19:4-12.6 Non-residential site suitability

(a) Prior to issuance of a zoning certificate, a non-residential development site shall be deemed unsuitable for the provision of affordable housing units generated by the growth share obligation upon a determination by NJMC staff that any of the following conditions exist:

1. The size, shape, or layout of any existing structures that shall remain, or other physical limitation(s), precludes development of the required housing units;

2. Residential development would not be compatible with the proposed use of the site;

3. The impacts of former and existing land uses, either on the site or in the vicinity of the site, may present residents with an unavoidable exposure to environmental hazards;

4. The site does not meet COAH's site suitability requirements at N.J.A.C. 5:94-1.4 and 4.5; or

5. The site is otherwise unsuitable for residential use in accordance with sound planning principles, including, but not limited to, the goals, policies, and strategies of the NJMC Master Plan.

(b) If the NJMC determines that the site is not suitable for residential use, the applicant shall address the proposed dev-

elopment's growth share obligation through one or more of the methods in N.J.A.C. 19:4-12.14.

19:4-12.7 Permitted locations for affordable housing

(a) Development within the following zones or redevelopment areas shall include, as a permitted use, affordable housing needed to satisfy the growth share obligation in N.J.A.C. 19:4-12.5, unless otherwise exempted in N.J.A.C. 19:4-12.4:

1. Waterfront Recreation;
2. Low Density Residential;
3. Planned Residential;
4. Neighborhood Commercial;
5. Commercial Park;
6. Regional Commercial;
7. Highway Commercial;
8. Light Industrial A;
9. Transportation Center; and
10. Redevelopment Areas that permit residential uses.

19:4-12.8 Bulk regulations

(a) The entire development, including any residential and non-residential uses, shall be subject to the bulk requirements of the zone, except as provided in this section.

(b) For mixed use development containing affordable units in the following zones, the floor area of residential development shall not exceed 50 percent of the floor area of the development:

1. Regional Commercial;
2. Highway Commercial;
3. Light Industrial A;
4. Light Industrial B; and
5. Transportation Center.

19:4-12.9 Residential density

For zones with no residential density requirements, the maximum permitted density shall be 25 dwelling units per acre, prior to the calculation of any bonuses at N.J.A.C. 19:4-12.10, and subject to any FAR limitation for the zone.

19:4-12.10 Density bonuses

(a) For development in which at least 20 percent of the residential units would be affordable, density bonuses shall be available as follows, and shall be exclusive of any bonus granted under (b) below: