

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: See: 34 N.J.R. 2539(a), 35 N.J.R. 258(a).

Chapter 4, District Zoning Regulations, was repealed and adopted as New Rules by R.2004 d.76, effective February 17, 2004.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

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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SUBCHAPTER 1. INTENT AND PURPOSE OF DISTRICT ZONING REGULATIONS

19:4-1.1 Title

This chapter shall be known and may be referred to as the District Zoning Regulations of the Hackensack Meadowlands District (District).

Historical Note

Originally cited as Article I.

19:4-1.2 Purpose

(a) This chapter is designed to serve the following purposes:

1. To provide for the orderly and comprehensive development of the District, consistent with the carrying capacity of the land and the preservation of critical wetland areas in accordance with the Master Plan of the New Jersey Meadowlands Commission (NJMC);
2. To consider the ecology of the District in order to protect the delicate environmental balance therein;
3. To promote the conservation of open space and valuable natural resources and to prevent sprawl and degradation of the environment through improper use of land;
4. To preserve an ecological balance between natural and open areas and development;
5. To promote the establishment of appropriate population densities and concentrations in suitable locations that will contribute to the well-being of persons, neighborhoods and communities;
6. To provide sufficient space in appropriate locations for a variety of industrial, warehouse, office, retail, residential, recreational, water dependent, and other uses, including mixed uses;
7. To provide that such uses are suitably sited and placed in order to secure safety from fire, flood and other natural and man-made disasters, provide adequate light and air, prevent the overcrowding of land and undue concentration of population, prevent traffic congestion, and, in general, relate buildings and uses to each other and to the environment so that aesthetic and use values are maximized;
8. To promote development in accordance with good planning principles that relates the type, design and layout of such development to both the particular site and surrounding environs;
9. To promote a desirable visual environment through building design and location;
10. To provide for infrastructure and utility improvements of the land adequate to serve the uses to be developed on that land;
11. To encourage the location and design of transportation routes that will promote the adequate flow of traffic and minimize congestion;
12. To encourage the development of a variety of transportation modal choices and to decrease dependence on automobiles as the primary means of transportation;

13. To protect the District from air, water, noise and other types of pollution;

14. To control surface water runoff and prevent flooding and other damage to land and to encourage the control of soil erosion and sedimentation; and

15. To encourage coordination of various public and private activities shaping land development with a view toward lessening the cost of such development and promoting the more efficient use of land.

19:4-1.3 Effective date

This chapter shall take effect on February 17, 2004 and shall continue in full force and effect to the termination date.

Administrative change.
See: 33 N.J.R. 3454(a).

Historical Note

Sections 2 and 3 were originally cited as Article II.

19:4-1.4 Termination date

This chapter shall expire, terminate and be of no further force or effect upon the adoption by the NJMC of regulations repealing and/or superseding this chapter.

Chapter Historical Note

Section 4 was originally cited as Article III.

SUBCHAPTER 2. INTENT, WORD USAGE AND DEFINITIONS

19:4-2.1 Intent and word usage

(a) In the construction of these regulations, the following shall apply, except where the context clearly requires otherwise:

1. Words used in the present tense shall include the future, and words used in the future tense shall include the present;

2. Words in the singular number shall include the plural number, and words in the plural number shall include the singular number;

3. The phrase "used for" shall include the phrases "employed for," "utilized for," "arranged for," "designed for," "intended for," "maintained for," and "occupied for";

4. The word "shall" is mandatory;

5. The word "may" is permissive;

6. The word "person" includes individuals, firms, corporations, associations, trusts, governmental bodies and agencies and all other legal entities;

7. The masculine gender shall include the feminine and neuter;

8. The words, "adjacent," and "next to," shall have the same meaning as the word "abut" and may be used interchangeably;

9. The terms "such as" and "for example" shall be considered as introducing typical or illustrative, rather than an entirely exclusive or inclusive designation of, permitted or prohibited uses, activities, conditions, establishments or structures;

10. The words "building" and "structure" include any part thereof;

11. The word "NJMC" means the New Jersey Meadowlands Commission;

12. The word "Commission" means the seven-member board that constitutes the NJMC, as defined in N.J.S.A. 13:17-1 et seq.;

13. The word "District" means the Hackensack Meadowlands District, as defined in N.J.S.A. 13:17-13;

14. The words "constituent municipality" means a municipality with lands in the District;

15. The words "Official Zoning Map" mean the map or maps that are a part of these zoning regulations and delineate the boundaries of zoning districts and redevelopment areas;

16. The word "Secretary" means the Secretary of the NJMC;

17. The words "Executive Director" mean the Executive Director of the NJMC;

18. The words "Chief Engineer" mean the Chief Engineer of the NJMC; and

19. Unless otherwise specified, all distances shall be measured horizontally.

(b) Table 2-1 below provides the meaning for abbreviations and acronyms used in this chapter:

Table 2-1

Frequently Used Abbreviations and Acronyms

Abbreviation or Acronym	Meaning
AASHTO	American Association of State Highway and Transportation Officials
ADA	Americans with Disabilities Act
ANSI	American National Standards Institute
BMP	Best Management Practices

Abbreviation or Acronym	Meaning
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
COAH	Council on Affordable Housing
CZM	Coastal Zone Management
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
HMMC	Hackensack Meadowlands Municipal Committee
ITE	Institute of Transportation Engineers
N.J.A.C.	New Jersey Administrative Code
N.J.S.A.	New Jersey Statutes Annotated
NFIP	National Flood Insurance Program
NJ DCA	New Jersey Department of Community Affairs
NJ DEP	New Jersey Department of Environmental Protection
NJ DOT	New Jersey Department of Transportation
NJ UCC	New Jersey Uniform Construction Code
NJ UFC	New Jersey Uniform Fire Code
NJMC	New Jersey Meadowlands Commission
NJR	New Jersey Register
NJSEA	New Jersey Sports and Exposition Authority
OAG	Office of the Attorney General
OAL	Office of Administrative Law
OPRA	Open Public Records Act
PA NY/NJ	Port Authority of New York and New Jersey
ROW	Right-of-way
SHPO	State Historic Preservation Office

(c) Any word or phrase that is defined in this section, or elsewhere in these regulations, shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

(d) Any word or phrase that is not defined in this section, or elsewhere in these regulations, shall have the meaning as defined in the most recent edition of Merriam-Webster's Collegiate Dictionary.

(e) No word used in these regulations shall be presumed to have the meaning set forth in the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-1 et seq., and no process, procedure, decision, or other action required or occurring pursuant to these regulations shall necessarily be interpreted to operate in the same manner set forth in the MLUL, N.J.S.A. 40:55D-1 et seq.

(f) In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

(g) Where the conditions or regulations imposed by any provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions or regulations imposed by any other provisions of these regulations, the conditions or regulations which are more restrictive shall govern.

(h) Where these regulations impose a greater restriction than imposed or required by other provisions of law or by other laws, rules, regulations, resolutions or ordinances, the provisions of these regulations shall control.

(i) These regulations shall not be deemed to supersede, modify, amend or otherwise invalidate the zoning regulations of any constituent municipality, except to the extent provided by Sections 10(b) and 15(b) of Chapter 404 of the Laws of 1968.

(j) These regulations are not intended to abrogate, annul or otherwise interfere with any existing easement, covenant or any other private agreement or legal relationship; provided, however, that where these regulations are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements or legal relationships, these regulations shall govern.

(k) No person shall hereinafter create any easement, covenant or any other private agreement or legal relationship which is in conflict with these regulations.

(l) Nothing contained in these regulations shall be deemed to be a consent, license, permit or authorization to use any property or to locate, construct or maintain any structure or facility or to carry on any trade, industry, occupation or activity.

(m) Any citation of a statute, law, rule, regulation or ordinance contained in these regulations shall be deemed to refer to such statute, law, rule, regulation or ordinance as amended, whether or not such designation is included in the citation.

Administrative change.
See: 33 N.J.R. 3454(a).

19:4-2.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Abandonment” means the relinquishment of property, or a cessation of the use conducted on the property for a period of 12 continuous months, by the owner, tenant or lessee, for reasons other than an act of nature, without taking concrete and ascertainable steps indicative of the intention of transferring property rights to another owner, tenant or lessee, or resuming the use in which the property was last engaged.

“Accessory structure” means a structure which is customarily subordinate and incidental to a principal structure or use in area, extent or purpose and which contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served. An accessory structure shall be located on the same lot as the principal structure.

“Accessory trailer parking area” means an off-street parking area accessory to a principal use for the temporary storage of empty, registered and road-worthy trailers.

“Accessory use” means a use which is customarily subordinate and incidental to a principal use or structure in area, extent or purpose and which contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal use served. An accessory use shall be located on the same lot as the principal use.

“Airport” means a place where aircraft, including helicopters, land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers.

“Assisted living facility” means a residential facility for the elderly licensed by the Department of Health and Senior Services that provides assistance with personal care when needed, and which may include accessory health services, recreational activities, financial services, and transportation for residents only.

“Automobile rental facility” means an establishment primarily engaged in the rental of automobiles, vans, or motorcycles, which may include accessory storage for the parking of rental vehicles on-site and accessory maintenance and fueling facilities for rental vehicles only.

“Automobile repair facility, major” means a facility principally used for the mechanical repair of automobiles, vans, or motorcycles, including major engine and transmission repair and replacement, chassis and suspension repair, body work, and vehicle painting.

“Automobile repair facility, minor” means a facility principally used for the routine maintenance of automobiles, vans, or motorcycles, including activities such as fluid changes, minor engine and transmission repair (not involving the removal or replacement of the major engine and transmission components), filter, belt, tire and shock replacement, brake and muffler repair, and vehicle detailing.

“Automobile sales” means the use of any building or land area for the display or sale of new or used automobiles, vans, or motorcycles, including any warranty repair work or other maintenance service accessory thereto.

“Aviation support facilities” means a use directly related to the support of airport operations, including aircraft storage, maintenance, and repair, flight instruction, and catering services.

“Boat sales, rental and repair” means the use of any building, land area or other premises for the display, sale, rental and repair of new or used boats, including areas used for boat ramps and launches.

“Building” means any structure built for the support, shelter or enclosure of persons, animals or movable property of any kind, which is permanently affixed to the land.

“Building area” means the total ground area covered by enclosed building space, including covered parking spaces. Building area shall not include buildings for public recreational purposes located within open space.

“Building height” means the vertical distance from the grade plane to the average height of the highest roof surface.

“Building material yards and facilities” means a building and/or lot area used for the purposes of storing such items as lumber, masonry materials and general building supplies.

“Bus garage” means a structure used for the parking, storage, fueling, repair, maintenance, and washing of buses.

“Business support services” means establishments primarily engaged in rendering services to business establishments on a fee or contract basis, including, but not limited to, advertising and mailing, business maintenance, and management and consulting services.

“Caliper,” for nursery stock, means the diameter of a tree trunk measured six inches above the ground, up to and including four-inch caliper size, and 12 inches above the ground for larger sizes. Caliper for existing trees shall be measured four and one-half feet above the ground.

“Captive parking” means the shared use of a parking area by more than one use on a site based upon an analysis that the peak parking demand for each use is not concurrent.

“Class A recycling facility” means a facility that handles Class A source separated recyclable materials as defined by the NJDEP.

“Class B recycling facility” means a facility that handles Class B source separated recyclable materials as defined by the NJDEP.

“Class D recycling facility” means a facility that handles Class D source separated recyclable materials as defined by the NJDEP.

“Commercial off-street parking” means a parcel of land or portion thereof used for the parking or storage of motor vehicles as a commercial enterprise for which a fee is charged.

“Commercial recreation, indoor” means a commercial establishment designed and equipped for the conduct of sports, leisure activities, and other recreational activities wholly within an enclosed building. Examples of such uses include, but are not limited to, fitness centers, indoor play areas, training studios (dance, gymnastics, martial arts, etc.), video arcades, bowling alleys, skating rinks, and all accessory uses generally associated therewith, such as food services, equipment rental and repairs, and pro-shops.

"Commercial recreation, outdoor" means a commercial establishment designed and equipped for the conduct of sports, leisure activities, and other recreational activities wholly or partially outside of any building or structure. Examples of such use include, but are not limited to, outdoor commercial swimming pools, driving ranges, miniature golf facilities, amusement parks, go-cart tracks, and all accessory uses generally associated therewith, such as food services, equipment rental and repairs, and pro-shops.

"Communications transmission tower" means a structure or monopole used to send and/or receive radio, satellite, cellular and television communications.

"Community residences and shelters" means any community residential facility for the developmentally disabled, pursuant to N.J.S.A. 30:11B-1 et seq., or shelter for victims of domestic violence, pursuant to N.J.S.A. 30:14-1 et seq.

"Construction equipment sales, rental and repair" means the use of any building or land area for the sale, rental, maintenance or repair of construction equipment.

"Contractor's yard or facilities" means a facility used for the provision of general contracting services associated with businesses including, but not limited to, general construction and landscaping trades, which may include office and workshop areas and areas for the storage of equipment and/or materials used in association with the contractor's business.

"Convention center" means a building or portion thereof designed to accommodate the assembly of persons for convention and exposition purposes.

"Cultural facilities" means establishments that promote historic, educational cultural, or popular interests, such as museums, art galleries, and theaters for the performing arts.

"Day care facility" means an establishment providing for the care, supervision and protection of persons of all ages who require such services, for a period not exceeding 24 consecutive hours, including nursery schools.

"Disaster recovery facility" means a building used for the continued operation of an off-site business in the event of a natural or manmade disaster that causes the interruption of the business. More than one business may be accommodated at any one time by the facility. Such facilities may include digital storage of business documentation, records, and other information. Offices, computer stations, and uninterrupted power source (UPS) rooms that are necessary for the operation are permitted as a part of the facility.

"Dwelling" means a building or portion thereof permanently connected to utilities and on a permanent foundation, designed and used for residential occupancy.

"Dwelling, multi-family" means a residential building containing three or more dwelling units.

"Dwelling, single family" means a residential building containing one dwelling unit that is not attached to any other dwelling by any means and is surrounded by open space or yards.

"Dwelling, townhome" means a one-family dwelling unit in an attached row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

"Dwelling, two family" means a residential building containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

"Dwelling unit" means one or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

"Essential public services" means those functions of police, fire protection, and emergency medical services that are customarily provided by a governmental entity, including all structures customarily required to provide such services.

"Fill" means any material placed by controlled methods that raises the elevation of the land surface from its natural state or condition.

"Floor area" means the sum of the areas of all floors of a building measured from the faces of the exterior walls, not including porches, balconies, patios, terraces, breezeways, and interior loading areas.

"Floor area ratio" means the floor area of all buildings and structures on a lot divided by the lot area.

"Fuel service station" means a facility used primarily for the dispensing of motor vehicle fuels, which may include accessory retail sales and accessory maintenance services.

"Grade plane" means a reference plane representing the average of the finished ground level adjoining the building at the exterior walls.

"Hardscape" means a pedestrian use area, including plazas, steps, and walkways, that may contain walls, benches, planters, fountains, and sculpture.

"Health center" means an establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners, for a period not exceeding 24 consecutive hours.

“Heavy industry” means any manufacturing, production, processing, assembly or fabrication of goods, materials or products, including any incidental cleaning, servicing, testing, repair or storage of those same goods, materials or products, which may include the limited storage of flammable or explosive materials.

“Heliport” means a location where helicopters may pick up or discharge passengers, take on fuel, undergo maintenance, and be stored for extended periods of time.

“Helistop” means a designated accessory landing pad where helicopters stop momentarily to pick up or discharge passengers, where no fueling, maintenance, or storage functions take place.

“Hospital” means an institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

“Hotel or motel” means a building or portion thereof, or a group of buildings, which provides overnight accommodations for transients on a daily, weekly, or extended stay basis, and which may include accessory restaurants, meeting rooms, and recreation facilities.

“House of worship” means a building or group of buildings that, by design and construction, are primarily intended for the conduct of organized religious services and accessory uses associated therewith by fully incorporated nonprofit religious corporations holding tax exempt status.

“Institutional use” means a non-profit or public use, such as a library, public or private school, municipal administrative offices, public recreation facility, cultural facility, or government owned or operated building, structure or land used for public purposes.

“Intermodal facility” means a facility principally used for the transfer of cargo from one mode of transportation to another. The cargo is primarily containerized and is not broken down or consolidated on site. Intermodal facilities may include trailer parking areas and accessory offices and interior areas for the repair and servicing of trailers, containers, and trucks utilized on site.

“Landscaping” means the improvement of a lot, parcel or tract of land with living plant material including trees, shrubs, vines and groundcovers, and other natural and man-made features. Landscape features include berms, decorative fences, gardens, plazas, certain outdoor recreational facilities, pedestrian walks, and other site furnishings.

“Light industry” means any production, processing, assembly or fabrication of goods, materials or products, including any incidental cleaning, servicing, testing, repair or storage of those same goods, materials or products, but not including the storage of flammable or combustible materials as a principal use.

“Line-of-sight triangle” means a triangular-shaped portion of land established at intersections of streets or at intersections of driveways and streets in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

“Loading area” means an off-street area, space, dock, door or berth used for the loading or unloading of cargo, products or materials from commercial vehicles.

“Lot” means a designated parcel, tract or area of land established in the records of local and county registers of deeds by plat, deed, subdivision, zoning lot of record, or as otherwise permitted by law, to be used, developed or built upon as a unit.

“Lot, corner” means a lot abutting two or more rights-of-way at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

“Lot coverage” means the percentage of the lot area covered by a structure or structures, including structure overhang areas, but excluding projecting roof eaves.

“Lot depth” means the shortest distance measured from the front lot line to the rear lot line.

“Lot line, front” means the lot boundary line separating a lot from a public right-of-way.

“Lot line, rear” means the lot boundary line opposite and most distant from the front lot line.

“Lot line, side” means any lot boundary line other than a front or rear lot line.

“Lot width” means the shortest distance between any two side lot lines.

“Lowest floor” means the lowest floor of the lowest enclosed area, including basement, cellar, crawl space, garage, and utility room. An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, interior loading areas, building access or storage in an area other than a basement is not considered a building’s lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements.

“Maintenance guarantee” means a security required or accepted to assure that necessary improvements will function as required for a specific period of time.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling and complies with the standards of the NJ UCC, N.J.A.C. 5:23.

“Manufactured home park” means a site with required improvements and utilities for the long-term placement of manufactured homes and which may include accessory services and facilities for the residents.

“Marina” means a facility for the berthing, storage, securing, fueling, servicing, or repair of boats that may include accessory eating and retail facilities.

“Materials recovery facility” means a solid waste facility that is primarily designed, operated and permitted to process a non-hazardous solid waste stream by utilizing manual and/or mechanical methods to separate from the incoming waste stream categories of useful materials which are then returned to the economic mainstream in the form of raw materials or product of reuse.

“Natural area” means open space in a natural state, including areas such as wetlands, tidal marshes, waterways, natural drainage ways, woodlands and grasslands.

“Nonconforming lot” means a lot in which the area, dimension or location was approved by variance or lawful prior to the adoption, revision or amendment to the NJMC District Zoning Regulations but fails to conform to the requirements of the zone in which it is located by reason of such adoption, revision or amendment.

“Nonconforming structure” means a structure of which the size, dimension or location was approved by variance or lawful prior to the adoption, revision or amendment of the NJMC District Zoning Regulations but fails to conform to the requirements of the zone in which it is located by reason of such adoption, revision or amendment.

“Nonconforming use” means a use or activity that was approved by variance or lawful prior to the adoption, revision or amendment of the NJMC District Zoning Regulations but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

“Nursing or rehabilitation facility” means a facility licensed by the Department of Health and Senior Services established as a for-profit, nonprofit, or governmental entity, which provides nursing care and related medical services for aged or chronically or incurably ill persons on a 24-hour per day basis for those generally not in need of hospital care. Such facility may also contain specialized care facilities for persons who need long term care or for the rehabilitation of those with physical injuries.

“Open space” means a landscaped or natural area.

“Ornamental tree” generally means a flowering tree used for color and texture.

“Outdoor storage” means the storage of equipment, materials, containers, goods and supplies that is not enclosed, in whole or in part, within a building or structure.

“Overhang area” means:

1. The part of a roof or wall which extends beyond the facade of a lower wall; or
2. The two-foot-wide strip beyond the curb to allow for vehicle overhang.

“Park or recreation facility” means a tract of land or public facility designed and equipped for the conduct of sports, leisure activities, and other customary and usual recreation activities, used by the public for active and/or passive recreation.

“Parking garage” means a structure, or part thereof, above or below ground, used for the parking of vehicles.

“Partial destruction” means a building or structure which is damaged, whether voluntarily or involuntarily, to the extent that repair to restore the building or structure to its original form and use would not require the expenditure of more than 50 percent of the market value of the building or structure immediately before the time of the damage.

“Passenger rail terminal” means a building, structure, or area designed and used for persons utilizing transportation modes.

“Performance guarantee” means security in a form acceptable to the NJMC to assure that improvements required as part of an application for development will be satisfactorily completed.

“Personal services” means establishments primarily engaged in providing services involving the care of a person or his or her apparel, including, but not limited to, dry cleaners, beauty and barber shops, and shoe repair.

“Principal building” means the building in which the principal use of the lot on which the building is located is conducted.

“Principal use” means the main use of land or structures, as distinguished from a subordinate or accessory use.

“Public sewer and water system” means any system, other than an individual septic tank or tile field, or individual well, operated by a municipality or other governmental agency or a public utility for the disposal of wastes and the furnishing of water.

“Public utilities, heavy” means the following uses operated by any public utility authorized to do business in New Jersey:

1. Gas utility service substations;
2. Sewage treatment plants;
3. Water filtration plants;
4. Water towers;
5. Electrical generating stations and transmission towers; and
6. Cogeneration facilities.

“Public utilities, light” means the following uses operated by any public utility authorized to do business in New Jersey:

1. Electric and telephone substations, including wireless telecommunication equipment and distribution centers;
2. Gas regulator and meter stations; and
3. Pumping stations.

“Railroad terminals and yards” means an area of land, a portion of which is covered by a system of tracks used by passenger and/or freight systems, whose operations may include the switching, storing, assembling, distributing, consolidating, moving, repairing, weighing or transferring of railcars and/or locomotives.

“Recycling area” means space allocated for the on-site storage of source-separated recyclable materials for regular removal by a recycling hauler or vendor.

“Refuse area” means an on-site area for the temporary storage of trash that generally includes dumpster-type containers, where solid waste is removed on a regular basis.

“Remodeling” means any change in a structure (other than incidental repairs and normal maintenance, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing) which may prolong its useful life, or the useful life of its supporting members such as bearing walls or partitions, columns, beams, girders or foundations; or the removal of any portion of the structure.

“Research and development facility” means an establishment for conducting scientific research and development, where the manufacturing, fabrication, production, repair, storage, sale and resale of materials, goods and products are incidental and accessory to the principal use.

“Resource recovery facility” means any place, equipment, device or plan designed and/or operated to separate or process solid or liquid waste into usable secondary materials, including fuel and energy.

“Restaurant” means an establishment where food is prepared, served and consumed primarily within the principal structure on a lot or taken out and consumed elsewhere.

“Retail” means an establishment engaged in selling goods or merchandise to the general public for use or consumption.

“Riparian lands” mean those lands currently or formerly flowed by the mean high tide of a natural waterway owned by the State of New Jersey, also referred to as tidelands.

“Riparian rights” mean the rights of a landowner to use adjacent riparian lands upon obtaining the requisite approval(s) from the State of New Jersey, generally in the form of a tidelands license, lease or grant.

“Satellite antenna” means any antenna, typically in the shape of a shallow dish, and appurtenant equipment, used for the reception of communications (television or otherwise) from orbiting satellites or ground transmitters.

“Screening” means decorative fencing, a wall, evergreen or other vegetation maintained for the purpose of concealing from view the area behind such structures or vegetation.

“Self-storage facility” means a facility solely used for the storage of goods and materials within self-contained compartments by various users, and may include an accessory residential unit for a facility employee responsible for facility operations and security.

“Senior housing” means an age-restricted residential development where at least 80 percent of the units are occupied by at least one person who is 62 years of age or older with no permanent residents under the age of 18, and which may include accessory personal, health, recreational, financial, and transportation services for residents only.

“Setback” means the distance between a structure and the lot line.

“Shade tree” means a deciduous tree where the canopy provides shade at ground level.

“Sidewalk” means an improved surface used as a pedestrian walkway.

“Social services” means an establishment providing assistance and aid to those persons requiring counseling, referral, or other assistance, exclusive of medical care.

“Solid waste transfer station” means a solid waste facility at which solid waste is transferred from one solid waste vehicle to another solid waste vehicle for transportation to an off-site solid waste facility, excluding the on-site processing of solid waste.

“Special exception” means a use permitted in a particular zone only upon showing that such use in a specified location will comply with all the conditions and standards for the location or, operation of such use as specified in N.J.A.C. 19:4-4.13.

"Stormwater management area" means an area designed and used for the temporary or permanent storage or conveyance of stormwater.

"Structure" means anything built, constructed or erected with a fixed location on or below the ground or attached to something having a fixed location on the ground, including buildings, towers, fences, signs, and above-ground tanks, but excluding walks, walkways, at-grade parking areas, driveways, streets and roads.

"Studio" means a facility utilized for the filming, recording, photographing, broadcasting, performance, production, and or editing of video, films, motion pictures, television and radio shows, commercials, and/or music.

"Substantial destruction" means a structure which is damaged, whether voluntarily or involuntarily, to the extent that repairs to restore the structure to its original form and use would require the expenditure of 50 percent or more of the market value of the structure immediately before the time of the damage.

"Taxi and limousine service" means an establishment offering transport services in passenger automobiles, vans, limousines, or similar motor vehicles, including accessory office and dispatch facilities, areas for the parking of facility vehicles on-site, and accessory maintenance and fueling facilities for facility vehicles only.

"Trailer" means:

1. A container carrying materials, goods, or objects towed or hauled by another vehicle; or
2. A structure used as a temporary construction office in connection with a construction project.

"Tributary" means any stream, manmade or natural, which contributes to the flow of the Hackensack or Passaic rivers.

"Truck rental facility" means an establishment primarily engaged in the rental of trucks, semi-trailers, or similar motor vehicles, which may include accessory storage for the parking of rental vehicles on-site and accessory maintenance and fueling facilities for rental vehicles only.

"Truck repair facility" means a facility principally used for the routine maintenance and repair of trucks, trailers, semi-trailers, and similar motor vehicles, including activities such as fluid changes, engine and transmission repair or replacement, trailer repair, and body work.

"Truck sales" means the use of any building or land area for the display and sale of new or used trucks, trailers, semi-trailers, buses, recreational vehicles, or similar motor vehicles, including any warranty repair work or other maintenance service accessory thereto.

"Truck stop" means a facility primarily engaged in the fueling of trucks and other commercial vehicles and the temporary accommodation of drivers that may include accessory maintenance facilities, hotels and motels, restaurants, and retail sales.

"Truck terminal" means a warehouse and distribution facility where trucks and trailers are parked or stored as a principal use.

"Truck wash" means any building or premises, or portion thereof, used for washing trucks, trailers, semi-trailers, recreational vehicles, and similar motor vehicles.

"Variance" means a permission to depart from the requirements of a zoning regulation as specified in N.J.A.C. 19:4-4.14.

"Vehicular use area" means any area of a lot, not located within any enclosed or partially enclosed structure, devoted to motor vehicle usage, including parking areas, loading areas, service areas, access drives and driveways, and the storage of vehicles, where permitted.

"Warehouse and distribution facility" means an establishment primarily used for the storage, loading, unloading, and/or distribution of goods, products, or materials, which may include accessory consolidation, repacking and value-added services. Such facility may include accessory parking and storage of trucks and trailers, and accessory maintenance of trucks owned by the facility.

"Wetland" means an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that, under normal circumstances, does support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Wholesale establishment" means a facility engaged in selling merchandise to retailers; to industrial, commercial, institutional or professional business users; to other wholesalers; or acting as agents or brokers buying merchandise for, or selling merchandise to, such individuals or companies, and not to the public.

"Yard" means an area on a lot that is unoccupied and unobstructed from its lowest level to the sky except as may be permitted elsewhere in these regulations.

"Yard, front" means a yard extending along the full length of a front lot line and to a line paralleling the front lot line and intersecting the front of the building at its nearest point from the front lot line. Each yard that abuts a front lot line shall be considered a front yard.

"Yard, rear" means a yard extending along the full length of the rear lot line and to a line drawn parallel with the rear lot line and intersecting the back of the building at its nearest point from the rear lot line.

"Yard, required" means the minimum-depth yard as required in these regulations.

“Yard, side” means a yard extending along a side lot line and to a line drawn parallel with the side lot line and intersecting the side of the building at its farthest point from the side lot line, but excluding any area encompassed within a front yard or rear yard.

“Zoning summary table” means a tabular component of a site plan that includes an analysis of existing, proposed, and required conditions.

Amended by R.1977 d.237, effective July 7, 1977.

See: 9 N.J.R. 148(b), 9 N.J.R. 394(a).

Amended by R.1988 d.281, effective June 20, 1988.

See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).

Substantially amended definitions.

Notice of Correction: Added definitions “Dwelling: high rise”, “dwelling: low-rise”, “dwelling: mid-rise” and “Neighborhood retail center” that were inadvertently left out of the adoption.

See: 20 N.J.R. 1954(a).

Amended by R.1990 d.186, effective April 2, 1990.

See: 21 N.J.R. 3441(a), 22 N.J.R. 1150(c).

Definitions of building height, level of service, neighborhood shopping center and satellite antenna added; definitions of floor area ratio and lot amended.

Amended by R.1994 d.16, effective January 3, 1994.

See: 25 N.J.R. 3949(a), 26 N.J.R. 252(a).

Amended by R.1994 d.543, effective November 7, 1994.

See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

Amended by R.1996 d.492, effective October 21, 1996.

See: 28 N.J.R. 3237(a), 28 N.J.R. 4594(a).

Amended by R.2000 d.453, effective November 6, 2000.

See: 32 N.J.R. 1702(a), 32 N.J.R. 4002(a).

Inserted definition of “L.C.”.

Administrative change.

See: 33 N.J.R. 3454(a).

Administrative correction.

See: 36 N.J.R. 1955(a).

Historical Note

Sections 1 and 2 of this Subchapter were originally cited as Article IV.

SUBCHAPTER 3. APPLICATION OF REGULATIONS

19:4-3.1 Application of District zoning regulations

(a) The provisions of these regulations shall have application to the Hackensack Meadowlands District, as defined in Chapter 404 of the Laws of 1968 (N.J.S.A. 13:17-1 et seq.), and amendments or supplements thereto.

(b) These regulations shall apply to the construction and uses of all buildings and structures and to the uses of land. No building, structure or land, or any part thereof, shall be used or occupied and no building or structure shall be erected, constructed, reconstructed, moved, repaired, extended, converted, altered, maintained, used, occupied or reoccupied unless in conformity with all the provisions of these regulations specified for the zone in which it is located and all supplemental regulations found in N.J.A.C. 19:3, 19:5 and 19:6. All regulations within each of the zones shall be the minimum regulations and shall apply uniformly to each class or kind of structure or use, except as otherwise provided.

Amended by R.1988 d.281, effective June 20, 1988.

See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).

Added (b)1 xv. through xvi.

Amended by R.1994 d.543, effective November 7, 1994.

See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

Amended by R.1996 d.492, effective October 21, 1996.

See: 28 N.J.R. 3237(a), 28 N.J.R. 4594(a).

In (b) added Neighborhood Commercial Zone.

Amended by R.2000 d.453, effective November 6, 2000.

See: 32 N.J.R. 1702(a), 32 N.J.R. 4002(a).

In (b)1, inserted xviii.

Historical Note

This section was originally cited as Article 5-101.

19:4-3.2 Exemptions

(a) The following, except as otherwise provided, shall be exempt from these regulations:

1. Maintenance, repair, or replacement work within municipal, county, and State ROW's or on railroad tracks, signals, bridges, and similar facilities and equipment located in a railroad ROW;

2. Maintenance, repair, or replacement of existing utility structures or the installation of new underground utility structures within utility easements where such work is conducted by the utility company or authorized representative;

3. Development and improvement plans proposed or sponsored by the NJMC;

4. Whenever the governing body of a constituent municipality has enacted zoning ordinances and any other codes or standards that are consistent with, or will effectuate the purposes of, the NJMC Master Plan, that municipality may make final land use decisions within the municipality with respect to applications made concerning individual/detached one-, two- or three-family residences in the Low Density Residential zone. These decisions shall include, but not be limited to, variances, certificates of occupancy, plan review, building permits, and site approvals. Whenever a municipality shall make a zoning and/or land use decision pursuant to this subsection, a copy of the decision, the application and any other pertinent information shall be forwarded to the NJMC within 10 working days of the final action. The foregoing does not apply to subdivisions involving the creation of new streets; and

5. Municipal projects, located on land owned by a municipality, provided that the following conditions are met:

i. The governing body and planning board of the municipality have entered into a Memorandum of Understanding (MOU) with the NJMC, and remain in compliance with the MOU, agreeing that municipal projects shall comply with applicable NJMC zoning regulations and that review of the project by the municipality shall utilize NJMC standards;

ii. The municipal project has been reviewed by the municipal planning board, which has certified to the NJMC that the project is in compliance with all applicable NJMC zoning regulations;

iii. A complete copy of the plans for the municipal project, and a certification of the planning board, have been sent to the NJMC for review, and the NJMC has not notified the municipality within 45 days of the receipt thereof of any objection to the project; and

iv. At the completion of the construction of the project, the municipal zoning officer has certified to the NJMC that the project has been constructed in accordance with approved plans.

Amended by R.1982 d.163, effective June 7, 1982.

See: 14 N.J.R. 231(b), 14 N.J.R. 581(b).

(b): "the regulations listed in (a) above" was "these regulations"; (b)1: deleted text and replaced with new text.

Amended by R.1994 d.543, effective November 7, 1994.

See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

Amended by R.2002 d.128, effective May 6, 2002.

See: 33 N.J.R. 2631(a), 34 N.J.R. 1733(a).

Added (b)3.

Historical Note

This section was originally cited as Article 5-102.

19:4-3.3 Official zoning map

The boundaries of the zones are established as shown on a map entitled "Hackensack Meadowlands District Official Zoning Map," as it may be amended, which is incorporated herein by reference and is hereby made a part of these regulations, and may be referred to as the "Official Zoning Map."

OFFICE OF ADMINISTRATIVE LAW NOTE: The Official Zoning Map is not reproduced herein, but may be reviewed at the following locations:

New Jersey Meadowlands Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

Office of Administrative Law
Quakerbridge Plaza, Building 9
Quakerbridge Road
Trenton, New Jersey 08625

Administrative Correction to (a): added waterway.

See: 22 N.J.R. 2184(a).

Amended by R.1994 d.543, effective November 7, 1994.

See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

Amended by R.1995 d.304, effective June 19, 1995.

See: 27 N.J.R. 846(a), 27 N.J.R. 2453(a).

Added (d).

Historical Note

This section was originally cited as Article 5-103.

19:4-3.4 Designation of zones

(a) The District shall be divided into the following areas, the location of which shall be determined by reference to the Official Zoning Map, with all notations and attached boundary descriptions, if any, kept in the Offices of the NJMC and hereby adopted as a part of these regulations:

1. Zones:

- i. Environmental Conservation;
 - ii. Parks and Recreation;
 - iii. Waterfront Recreation;
 - iv. Low Density Residential;
 - v. Planned Residential;
 - vi. Neighborhood Commercial;
 - vii. Commercial Park;
 - viii. Regional Commercial;
 - ix. Highway Commercial;
 - x. Aviation Facilities;
 - xi. Light Industrial A;
 - xii. Light Industrial B;
 - xiii. Intermodal A;
 - xiv. Intermodal B;
 - xv. Heavy Industrial;
 - xvi. Public Utilities;
 - xvii. Sports and Exposition; and
 - xviii. Transportation Center; and
- ##### 2. Redevelopment Areas.

Historical Note

This section was originally cited as Article 5-104.

19:4-3.5 Interpretation of boundaries

(a) In the event uncertainty exists with respect to the intended boundaries of zones as shown on the zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, roads, or alleys, shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following boundary lines of constituent municipalities shall be construed as following such boundary lines.

4. Boundaries indicated as following railroad lines shall be construed to be the midpoint of the railroad ROW, unless otherwise indicated.

5. Boundaries indicated as following shore or bank lines shall be construed to follow such shore or bank lines, and in the event of change in the shore or bank line shall be construed as moving with the actual line; boundaries indicated as approximately following the center lines of streams, rivers, creeks or other bodies of water shall be construed to follow such center lines.

6. Boundaries indicated as parallel to or extensions of features indicated on the zoning map shall be so construed.

7. Where the boundaries do not coincide with any of the features enumerated above, or where the exact location of any boundary line is unclear or is in dispute, the boundary shall be determined by the use of the scale shown on the zoning map, or by interpretation in accordance with N.J.A.C. 19:4-4.12.

19:4-3.6 Zoning of public ways, waterways, and railroad rights-of-way

(a) All streets, roads, highways, public ways, and railroad ROWs, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon the same.

(b) Where the center line of a street, road, highway, public way, waterway or railroad ROW serves as a zone boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

(c) All waterways comprising the Hackensack River and its tributaries shall be deemed to be in the Environmental Conservation zone, except in cases where a grant, lease or other conveyance of riparian rights is made to an adjoining property owner by the State of New Jersey.

19:4-3.7 Coastal zone management

The NJMC Master Plan is an element of the State of New Jersey's Coastal Zone Management Program for the Hackensack Meadowlands District, as specified in N.J.A.C. 7:7E-3.45(b).

19:4-3.8 Affordable housing

The NJMC encourages the development of residential uses in accordance with New Jersey State Council on Affordable Housing (COAH) guidelines. The municipality may satisfy its COAH responsibility with any residential development in the District. The NJMC will accept petitions for rezonings from municipalities seeking to rezone land in the District to meet their COAH obligations and processed in accordance with N.J.A.C. 19:3. Applications for variances to allow density increases to meet COAH obligations shall also be considered and processed in accordance with N.J.A.C. 19:4-4.14.

19:4-3.9 Redevelopment areas

Applicable use and bulk requirements for an area within the District designated as a redevelopment area in accordance with N.J.A.C. 19:3-5, shall be established on a case-by-case basis and, once adopted by the Commission, shall supersede the applicable regulations in this subchapter.

19:4-3.10 Land containing sanitary landfill

(a) No construction of any improvement shall take place in or upon a sanitary landfill without written approval from the NJMC.

(b) Such approval shall be contingent upon demonstration that any residual post-construction settlement shall not affect the structural integrity or appearance of the development.

(c) Such approval shall be contingent upon demonstration that corrosion producing properties, combustible gases and fire hazards of constituent materials and/or state of decomposition have been adequately considered in the design.

19:4-3.11 Permitted uses

No structure or addition thereto shall hereafter be built, moved, or remodeled, and no structure or land shall hereafter be used, occupied, reoccupied, designed, or improved for use or occupancy except for a use that is permitted within the zone in which the structure or land is located.

19:4-3.12 Special exceptions

(a) No use of a structure or land that is designated as a special exception in any zone shall be established after February 17, 2004, and no existing special exception use shall be changed after February 17, 2004 to another special exception use, in such zone unless a special exception approval has been granted in accordance with the provisions of N.J.A.C. 19:4-4.13.

(b) Any special exception use, shall, once approved, be considered a permitted use under these regulations, until abandoned. However, no special exception use shall be enlarged or increased in intensity unless special exception approval is granted for such enlargement or increase in intensity.

19:4-3.13 Prohibited uses

All uses not specifically permitted by the applicable regulations are prohibited.

19:4-3.14 Temporary uses and structures

(a) Temporary uses and structures may be permitted under circumstances that will serve to protect the public health, safety, and welfare. Restrictions and regulations applicable to permanent structures may be partially or totally modified for a temporary period in order to protect the public.

(d) The cost of such maintenance by the NJMC shall be assessed against the property maintained and shall become a lien on said property. The NJMC at the time of entering upon the open space for the purpose of maintenance, shall file a notice of such lien in the Office of the County Clerk upon the property affected by such lien.

SUBCHAPTER 4. ADMINISTRATION

19:4-4.1 Purpose

The purpose of this subchapter is to establish the administrative procedures for the development, redevelopment and management of properties in the District.

Case Notes

Storage of trucks, tractors and trailers in rear portion of premises was lawful preexisting nonconforming use. T & S Tire Service, Inc. v. Hackensack Meadowlands Development Com'n, 91 N.J.A.R.2d 1 (HMD).

19:4-4.2 Zoning certificates

(a) Unless and until a zoning certificate is obtained from the NJMC in accordance with N.J.A.C. 19:4-4.5:

1. No construction, moving, remodeling or reconstruction of any structure or addition thereto shall be commenced, except for building demolition and maintenance;
2. No use shall be commenced or changed; and
3. No site work, including the improvement of land and the placement of fill, shall be commenced.

(b) No zoning certificate shall be issued until such time as any required special exception or variance has been granted pursuant to these regulations.

(c) Any zoning certificate issued in conflict with the provisions of these regulations shall be null and void.

Amended by R.1994 d.543, effective November 7, 1994.
See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

19:4-4.3 Application for zoning certificate; administrative completeness

(a) All applications for zoning certificates shall be filed with the NJMC.

(b) An application for a zoning certificate shall contain the following:

1. A complete application form, signed by the applicant and the property owner, containing the following major components:
 - i. Applicant information;

ii. Property location and ownership information; and

iii. Proposed tenant/use;

2. The required fee, in accordance with N.J.A.C. 19:4-11; and

3. Three copies of the site plan and any other plans, reports or certifications required by these regulations.

(c) Upon receipt of an application, the items submitted shall be reviewed to determine that the essential elements of the application have been submitted.

(d) If the application is deemed administratively complete, the NJMC shall review the application for technical completeness, in accordance with N.J.A.C. 19:4-5.

(e) If the application is deemed administratively incomplete, the NJMC shall advise the applicant of the deficiencies within two working days.

19:4-4.4 Application for zoning certificate; technical requirements

(a) Zoning certificate applications for new buildings and additions, and in other instances where required by the NJMC staff, shall include a valid survey of the tract, signed and sealed by a New Jersey-licensed professional land surveyor, including, at minimum:

1. Bearings and distances of all property lines;
2. Block and lot designations;
3. Acreage of the site to the nearest tenth of an acre;
4. Adjacent property lines and the names of the adjacent property owners within 200 feet of the subject property; and
5. All areas claimed by the State of New Jersey as riparian, now or formerly, including any grants or releases.

(b) All plans and professional reports submitted in conjunction with an application for a zoning certificate shall be submitted in triplicate and shall be signed and sealed by a New Jersey-licensed professional engineer, professional land surveyor, professional planner, or registered architect, as required by law. All landscape plans and open space plans for sites with an area greater than five acres shall be signed and sealed by a New Jersey certified landscape architect.

(c) General site plan requirements are as follows:

1. All site plans or sets thereof shall be based on a valid survey as specified in paragraph (a) above, drawn to scale, and contain the following:
 - i. The name and address of the property owner;
 - ii. The address and block and lot designation of the subject property and areas within 200 feet;

iii. The zoning designation of the subject property, including the location of the zone line where applicable;

iv. All existing physical features, including topography, the location of any watercourses and environmentally sensitive areas, the mean high water line, and any drainage facilities on or within 200 feet of the subject property;

v. The building footprint, dimensions, height, setbacks, lowest floor elevation, and the location of exit doors for all existing structures;

vi. The location and configuration of vehicular use areas; and

vii. The location, configuration, and dimension of streets, ROWs, easements, utility lines, sidewalks, alleys and curbs.

(d) The application shall include such other additional information as required below, based on the specific type of application, to determine compliance with these regulations, including:

1. Requirements for new buildings and additions:

i. In addition to the requirements of (c) above, the site plan shall include the following:

(1) The building footprint, dimensions, height, setbacks, lowest floor elevation (NGVD), and the location of exit doors for all proposed structures;

(2) The existing and proposed floor area, itemized in square footage by use;

(3) The existing and proposed lot coverage and floor area ratio (FAR) calculations;

(4) The proposed topography of the site;

(5) Delineation of wetlands;

(6) Circulation patterns (auto, truck, and pedestrian) and the location and design of vehicular use areas, including the layout of parking and loading areas and sidewalks;

(7) The location of all utilities and the location and screening of utility structures;

(8) An open space plan prepared in accordance with N.J.A.C. 19:4-8.8;

(9) A landscape plan prepared in accordance with N.J.A.C. 19:4-8.9;

(10) A lighting plan prepared in accordance with N.J.A.C. 19:4-8.13, including illumination level plot or footcandle trace and design details of poles and fixtures;

(11) The location and screening of all refuse and recycling areas;

(12) The location of existing and proposed signage, including dimensions, height, setback, and illumination;

(13) Design details, including pavement, curbing, safety islands, fencing, and drainage facilities;

(14) Details sufficient to determine the site's compliance with the NJ UCC Barrier Free Subcode, N.J.A.C. 5:23-7;

(15) Building elevations, including details of facade materials; and

(16) A zoning summary table; and

ii. Other plans and reports to be submitted:

(1) Drainage plans and calculations prepared in accordance with N.J.A.C. 19:4-8.6.

2. Requirements for site improvements:

i. In addition to the requirements of (c) above, the site plan shall include the following:

(1) The proposed topography of the site;

(2) Delineation of wetlands;

(3) Circulation patterns (auto, truck, and pedestrian) and the location and design of vehicular use areas, including the layout of parking and loading areas and sidewalks;

(4) The location of all utilities and the location and screening of utility structures;

(5) An open space plan prepared in accordance with N.J.A.C. 19:4-8.8;

(6) A landscape plan prepared in accordance with N.J.A.C. 19:4-8.9;

(7) A lighting plan prepared in accordance with N.J.A.C. 19:4-8.13, including illumination level plot or footcandle trace and design details of poles and fixtures;

(8) The location and screening of all refuse and recycling areas;

(9) Design details, including pavement, curbing, safety islands, fencing, and drainage facilities;

(10) Details sufficient to determine the site's compliance with the NJ UCC Barrier Free Subcode, N.J.A.C. 5:23-7; and

(11) A zoning summary table; and

ii. Other plans and reports to be submitted:

(1) Drainage plans and calculations prepared in accordance with N.J.A.C. 19:4-8.6.

3. Requirements for a change in use:

i. In addition to the requirements of (c) above, the site plan shall include the following:

- (1) An outline of the location within the building footprint where the change in use is proposed;
- (2) The existing and proposed floor area of each use;
- (3) The proposed location and configuration of vehicular use areas; and
- (4) A zoning summary table; and

ii. Other plans and reports to be submitted:

- (1) Existing and proposed floor plans.

4. Requirements for signs:

i. In addition to the requirements of (c) above, the site plan shall include the following:

- (1) The location of existing and proposed signage, including the setback to all property lines; and

ii. Other plans and reports to be submitted:

- (1) Inventory of existing signage, including size, dimensions, height, and other such details as may be required;
- (2) A signage plan, drawn to scale, indicating the dimensions, height and elevations of proposed signage, including any proposed text, construction type, color and illumination; and
- (3) Architectural elevation of building façade(s).

5. Requirements for fences:

i. In addition to the requirements of (c) above, the site plan shall include the following:

- (1) The location and height of the proposed fence and gates; and
- (2) Detail of the fence.

6. Requirements for the placement of fill:

i. A zoning certificate application addendum for fill; and

ii. In addition to the requirements of (c) above, the site plan shall include the following:

- (1) The location of existing structures and utilities on the property in question and within 200 feet of the proposed filling, excavation, regrading, or surcharge area;
- (2) The location, nature and extent of any existing filled area;
- (3) The location and size of the proposed filling, excavation, regrading, or surcharge area, with the boundary indicated thereon;

(4) The proposed fill sequence and proposed final elevations;

(5) Soil erosion and sedimentation control measures;

(6) Site security measures; and

(7) The proposed location of any settlement plates or inclinometers; and

iii. Other plans and reports to be submitted:

(1) Drainage plans and calculations prepared in accordance with N.J.A.C. 19:4-8.6;

(2) A preliminary site plan of the ultimate development of the site with sufficient detail to evaluate compliance with applicable use and bulk regulations, including a zoning summary table; and

(3) A detailed geotechnical investigation report prepared, signed and sealed by a New Jersey-licensed Professional Engineer specializing in geotechnical engineering, including the following:

(A) A description of existing soil and groundwater conditions in the area to be filled, or built upon, including copies of all soil boring logs, test pit investigations and test reports;

(B) The identification of the proposed final use and any interim uses for the filled area;

(C) The purpose of the fill or stockpile operation;

(D) The recommended fill operation, including, as required, excavation of existing fill/soils, site preparation, placement of fill, thickness of lifts, compaction, etc.;

(E) The recommended fill material, including type, moisture content, size grading, organic content, etc.;

(F) Recommendations for the control of groundwater during site work and/or foundation construction;

(G) An analysis of the effects of the proposed fill operation on future construction type/costs;

(H) Recommendations on the engineering properties of all soils subjected to loading condition;

(I) Recommendations for the protection of adjacent property and existing structures and utilities from settlement, mud waving, movement, etc.;

(J) An analysis of existing access roads and site ingress and egress, and recommendations for any traffic control measures related to the earthwork operations;

(K) Recommendations for dust control and street sweeping or other road maintenance;

(L) Analysis of existing drainage patterns, including all upstream drainage, and recommendations for drainage during the operation and upon completion;

(M) Recommendations for soil erosion and sedimentation control;

(N) Recommendations for monitoring of the fill/stockpile operation, including quality control, settlement plates, inclinometers, etc.; and

(O) Recommendations for final cover/seeding so as to reestablish vegetation as quickly as possible if the filled area will not be used or constructed upon for more than one year.

7. Requirements for retail sale events and outdoor events:

i. In addition to the requirements of (c) above, the site plan shall include the following:

(1) The location of display and sale areas for outdoor sales and events; and

ii. Other plans and reports to be submitted:

(1) A floor plan indicating the dimensions of indoor display and sale areas, emergency exits, aisle widths, and location of bathroom facilities.

8. Requirements for antennas, satellite dishes and towers:

i. In addition to the requirements of (c) above, the site plan shall include the following:

(1) The location and setbacks of the proposed structure;

(2) The setbacks of all existing structures that will support the proposed antenna, satellite dish, or tower; and

(3) Details of the proposed screening method; and

ii. Other plans and reports to be submitted:

(1) Elevations and details of the proposed structures and any existing structure that will support the proposed antenna, satellite dish, or tower, including height and dimensions.

9. Requirements for tanks:

i. In addition to the requirements of (c) above, the site plan shall include the following:

(1) The location and size of proposed tanks, pumps, vent stacks, and other associated equipment;

(2) The proposed setbacks to property lines and structures;

(3) Any proposed site improvements, such as curbing, paving, landscaping, and fencing;

(4) Details of the proposed screening method;

(5) Details of the physical barrier protection and the proposed foundation; and

(6) A zoning summary table; and

ii. Other plans and reports to be submitted:

(1) Hold down calculations for below-ground tanks; and

(2) Material Safety Data Sheets.

10. Requirements for refuse and recycling areas:

i. In addition to the requirements of (c) above, the site plan shall include the following:

(1) The proposed location, showing dimensions, size, and setbacks;

(2) Details on construction and screening, including concrete pad, fencing and landscaping; and

(3) A zoning summary table.

(e) The following additional information shall accompany the zoning certificate application:

1. Architectural renderings of all structures, where required by the NJMC;

2. Sufficient information to determine that there will be compliance at all times with all applicable performance standards of N.J.A.C. 19:4-7, including:

i. A description of the activity to be conducted in sufficient detail to indicate the extent to which the proposed operation will produce waste products, conditions, or external effects which are regulated by these regulations;

ii. A description of the type and location of any abatement devices or recording instruments used to control or measure conformity with any of the performance standards of these regulations; and

iii. Such other data and certifications as may be required by the NJMC from a specific applicant to determine compliance with these regulations;

3. If the lot is subject to the State's riparian interest as shown on maps issued by the NJDEP pursuant to law, a copy of one of the following, unless otherwise provided by rule of the Commission:

i. A duly executed riparian instrument releasing the State's interest;

ii. A permit or other authorization duly executed by the Bureau of Tidelands Management authorizing the applicant to proceed with the placement of certain improvements; or

iii. A final judgment rendered by a court of competent jurisdiction declaring that the State has no interest in the subject property;

4. Any deed restrictions, covenants, and easements pertaining to the subject property;

5. A Soil Erosion and Sediment Control plan, where required by other agencies having jurisdiction;

6. Proof of submittal to other agencies having jurisdiction and copies of all other agency approvals obtained by the applicant; and

7. Other such information from a specific applicant as may be required by the NJMC.

(f) The technical requirements of (a) through (e) above may be waived by the Chief Engineer upon written request in accordance with the following:

1. A request for a waiver shall specify the provision in (a) through (e) above from which the waiver is requested and the reason(s) for the request.

2. The Chief Engineer may grant waivers from the technical submittal requirements, in writing, upon finding that conformance with the NJMC rules may be determined without the specific submittal.

3. The Chief Engineer shall have 10 business days to render a decision on the waiver request.

4. Upon a substantive change of an application or unforeseen circumstance, the NJMC reserves the right to require the submittal of a waived technical requirement when deemed necessary by the Chief Engineer to determine conformance with the NJMC rules.

Amended by R.1974 d.1, effective January 2, 1974.
See: 5 N.J.R. 394(b), 6 N.J.R. 87(b).

19:4-4.5 Review and approval of application for zoning certificate

(a) Within 10 working days after receipt of a zoning certificate application that is administratively complete per N.J.A.C. 19:4-4.3, the NJMC shall review the items submitted as specified in N.J.A.C. 19:4-4.4, and determine if the application is technically complete and in compliance with the applicable regulations.

(b) If the application is deemed to be technically incomplete, the NJMC shall advise the applicant, in writing, of the deficiencies.

(c) The site plan, and any report(s) submitted in support of the application, shall be reviewed to determine if the proposal complies with the following, unless relief has otherwise been previously granted:

1. The application and the development proposed therein comply with the applicable requirements of these regulations;

2. The traffic circulation system, both on site and off site, and parking and loading facilities are adequate for the proposed use and designed to promote maximum safety, including the provision of adequate and efficient access to existing roadways and for emergency equipment;

3. The proposed drainage system will be adequate for the proposed development; and

4. The development will not adversely affect any adjoining existing or potential development.

(d) If the application is not in compliance with (c) above, the NJMC shall advise the applicant, in writing, of the deficiencies.

(e) If the application is in compliance with (c) above, the NJMC shall approve the application by issuing a zoning certificate signed by the Chief Engineer. The zoning certificate shall be sent to the applicant with a copy to the municipality in which the development is located.

(f) The zoning certificate so issued shall be deemed to incorporate the approved application, and any violation or departure from the approved application during construction of the facilities and structures therein shown shall be deemed a violation of these regulations as provided in N.J.A.C. 19:4-4.21. A substantial departure from the approved application as depicted on as-built plans when required by N.J.A.C. 19:4-4.7 shall also be deemed a violation of these regulations.

(g) As a condition precedent to the granting of approval of the application for a zoning certificate, an escrow deposit may be required and such deposit may be used in accordance with N.J.A.C. 19:4-4.20.

19:4-4.6 Period of validity

A zoning certificate shall become null and void one year after the date on which it is issued, unless within such one year period, the site work, construction, moving, remodeling, reconstruction or change in use of a structure, or addition thereto, is commenced. Extensions, not exceeding one year each, may be granted by the Chief Engineer upon written application. No more than five such extensions shall be granted.

Amended by R.1988 d.281, effective June 20, 1988.
See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).
Deleted old text and substituted new.

19:4-4.7 Certificate of completion

(a) Upon completion of any project subject to NJMC approval, and prior to the issuance of occupancy certification where required by N.J.A.C. 19:4-4.8, the applicant shall inform the NJMC of the project's completion and shall certify to the NJMC that all improvements have been completed in accordance with the approved plans. The NJMC staff shall inspect the premises to ensure the project was completed in accordance with the approved plans.

(b) An as-built survey completed in accordance with the specifications of N.J.A.C. 19:4-4.4(a) shall be required for all new buildings, additions, site improvements, fill applications, and in other cases deemed necessary by the NJMC. If the NJMC suspects that a project in progress may not be proceeding in accordance with the approved plans, the NJMC may require an interim as-built survey at any time.

(c) If the project is deemed in compliance with the approved application, the NJMC shall issue a certificate of completion for the project, and occupancy certification where required by N.J.A.C. 19:4-4.8.

19:4-4.8 Occupancy certification

No structure or addition thereto constructed, moved, remodeled or reconstructed shall be occupied or used for any purpose; no land vacant shall be used for any purpose; no use of land or structure shall be reoccupied or changed to any other use; and no occupancy, except in the case of residential dwelling units, shall be changed, unless occupancy certification shall first have been obtained from the NJMC certifying that the proposed use or occupancy complies with the applicable provisions of these regulations.

Amended by R.1988 d.281, effective June 20, 1988.

See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).

Substantially amended.

Amended by R.1990 d.186, effective April 2, 1990.

See: 21 N.J.R. 3441(a), 22 N.J.R. 1150(c).

Requirement limiting obstructions within setbacks now permits certain terraces, porches or weather protection material.

Administrative Correction to (a)2: 19:4-5.145 changed to 19:4-4.145.

See: 22 N.J.R. 2184(a).

Amended by R.1994 d.543, effective November 7, 1994.

See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

19:4-4.9 Application for occupancy certification; administrative completeness

(a) Every application for occupancy certification shall be filed with the NJMC.

(b) An application for occupancy certification shall comply with the requirements of N.J.A.C. 19:4-4.10(a).

(c) Upon receipt of an application, the items submitted shall be reviewed to determine that the essential elements of the application have been submitted.

(d) If the application is deemed administratively complete, the NJMC shall review the application for technical completeness, in accordance with N.J.A.C. 19:4-4.10.

(e) If the application is deemed administratively incomplete, the NJMC shall advise the applicant of the deficiencies within two working days.

Repealed by R.1988 d.281, effective June 20, 1988.

See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).

Section was "open space".

New Rule, R.1994 d.543, effective November 7, 1994.

See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

19:4-4.10 Application for occupancy certification; technical completeness

(a) An application for occupancy certification shall contain the following:

1. A complete application form, signed by the applicant and the property owner, containing the following elements:

- i. Applicant information;
- ii. Property location and ownership information; and
- iii. Proposed tenant/use;

2. The required fee, in accordance with N.J.A.C. 19:4-11;

3. One copy of a site plan, including the following:

- i. Property lines with distance and bearings;
- ii. Block, lot and municipality information;
- iii. Location of all existing structures;
- iv. Location of existing parking, loading and drive aisles, and traffic circulation patterns; and
- v. Location of any watercourses, ditches and drainage structures;

4. A key plan for multi-tenanted facilities indicating the exact location of the proposed change of occupancy;

5. Information sufficient to show compliance with the applicable performance standards in N.J.A.C. 19:4-7;

6. Information sufficient to show compliance with all applicable building code requirements, including:

- i. Submittal of Material Safety Data Sheets; and
- ii. Submittal of any required certifications or reports;

7. A description of the proposed occupant's use of the property, including the following:

- i. The number of employees;
- ii. The number of vehicle parking stalls;
- iii. A description of any proposed construction; and
- iv. A description of the former occupant's use of the property; and

8. Such other information as may be required from a specific applicant by the NJMC.

(b) The submittal requirements of (a) above may be waived by the Chief Engineer upon written request in accordance with the following:

1. A request for a waiver shall specify the provision in (a) above from which the waiver is requested and the reason(s) for the request.

2. The Chief Engineer may grant waivers from the submittal requirements, in writing, upon finding that conformance with NJMC rules may be determined without the specific submittal.

3. The Chief Engineer shall have 10 business days to render a decision on the waiver request.

4. Upon a substantive change of an application or unforeseen circumstance, the NJMC reserves the right to require the submittal of a waived requirement when deemed necessary by the Chief Engineer to determine conformance with NJMC rules.

(c) For the initial occupancy of a structure or addition thereto constructed, moved, remodeled, or reconstructed, information sufficient to show compliance with the approved zoning certificate shall be provided.

(d) No occupancy certification for a structure or addition thereto constructed, moved, remodeled, or reconstructed after February 17, 2004 shall be issued until such work has been completed and the premises and site inspected and certified by the NJMC to be in compliance with the conditions and specifications upon which the zoning certificate was issued, all applicable provisions of the building code, and the subdivision regulations pertaining to the lot or lots containing the land or structure to be occupied, except as otherwise provided by N.J.A.C. 19:4-6.1 pertaining to non-conforming structures.

(e) An application for occupancy certification shall be approved or disapproved within 10 working days after it is received and deemed to be complete by the NJMC in accordance with N.J.A.C. 19:4-4.9. The occupancy certification shall be sent to the applicant with a copy to the municipality in which the subject property is located.

Amended by R.1988 d.281, effective June 20, 1988.

See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).

Deleted old text of Driveways and industrial districts.

19:4-4.11 Pre-application conference

(a) Any prospective applicant may meet informally with the NJMC staff for the purpose of presenting a concept for potential development, reviewing the NJMC's requirements and approval process, or discussing questions or issues involving the potential development.

(b) Any statements or recommendations made by any representative of the NJMC in the context of a pre-application conference shall be considered non-binding on the prospective applicant and the NJMC and shall confer no legal rights.

Administrative change.
See: 33 N.J.R. 3454(a).

Historical Note

Sections I through II of this Subchapter were originally cited as Article 6-101.

19:4-4.12 Interpretation

(a) The NJMC shall provide, upon written request, interpretations regarding the Official Zoning Map and the regulations.

(b) The written request for an interpretation shall include:

1. The full name and address of the party requesting the interpretation;
2. The excerpt of the existing regulation or portion of the map for which an interpretation is sought;
3. An explanation of the request for interpretation; and
4. Other such information as may be deemed necessary from a specific requester by the NJMC.

(c) The NJMC shall provide a written interpretation within 30 days of receipt of the request.

(d) The interpretation shall be binding on the enforcement and administration of the regulations unless and until it is superseded by a subsequent interpretation.

Repeal and New Rule, R.1998 d.570, effective December 7, 1998.

See: 30 N.J.R. 2608(a), 30 N.J.R. 4254(b).

Section was "Marshland preservation zone; purposes".

19:4-4.13 Special exception uses

(a) A special exception use may be permitted in a particular zone in accordance with these regulations. No special exception use shall be authorized unless the same complies with the applicable provisions of these regulations.

(b) An application for a special exception use shall be filed with the NJMC, and shall accompany a zoning certificate application prepared in accordance with N.J.A.C. 19:4-4.3.

(c) An application for a special exception use shall contain the following:

1. A complete application form, signed by the property owner;
2. The required fee, in accordance with N.J.A.C. 19:4-11;
3. A statement detailing why the proposed special exception use will not cause substantial injury to the value of other property in the neighborhood;
4. A statement as to how the proposed special exception is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations; and

5. Other such information as may be deemed necessary from a specific applicant by the NJMC.

(d) A public hearing on the application shall be held in accordance with N.J.A.C. 19:4-4.17.

(e) Approval of a special exception use shall not be granted unless specific written findings are made based upon the evidence presented that supports the following conclusions:

1. The proposed special exception use complies with all applicable requirements of these regulations or relief has been granted through a variance;

2. The proposed special exception use at the specified location will contribute to and promote the welfare or convenience of the public;

3. The proposed special exception use will not cause substantial injury to the value of other property in the neighborhood;

4. The special exception use will not dominate the immediate neighborhood in a manner that could prevent development and use of neighboring properties in accordance with the applicable regulations, in consideration of the following:

- i. The location and size of the special exception use;
- ii. The nature and intensity of the operation of the special exception use;
- iii. The location of the site with respect to access and circulation;
- iv. The location, nature, and height of structures, walls and fences on the site; and
- v. The nature and extent of landscaping and screening on the site;

5. Adequate utilities, drainage and other necessary facilities have been or will be provided;

6. Adequate access roads and drive aisles have been or will be provided and shall be designed to prevent traffic hazards and minimize traffic congestion; and

7. The special exception use will not have a substantial adverse environmental impact.

(f) Within eight weeks of the close of the public hearing, the Chief Engineer shall submit a recommendation of decision to the Executive Director regarding the special exception application. The Executive Director shall review the findings, conclusions and recommendations and shall state his acceptance, rejection or modification of the recommendation.

(g) In the granting of approval of any special exception use, the decision may impose such conditions, safeguards, limitations and restrictions upon the premises benefited by the special exception use as may be necessary to: comply with the standards set forth in these regulations; reduce or minimize any potentially injurious effect of the special exception use upon other property in the neighborhood; and carry out the general purpose and intent of these regulations.

1. Failure to comply with any of the conditions or restrictions placed on a special exception use shall constitute a violation of these regulations.

(h) The Executive Director shall render a written decision that shall be transmitted to the applicant by certified mail and advise the applicant of the applicant's right to appeal said decision. Any decision of the Executive Director shall constitute a decision of the Commission that may be appealed in accordance with N.J.A.C. 19:4-4.19.

(i) The approval of a special exception use shall become null and void one year after the date on which the approval is issued, unless within such period:

1. A zoning certificate is obtained; or
2. Occupancy certification is obtained and the use commenced.

(j) Extensions of the approval, not exceeding one year each, may be granted by the Chief Engineer upon written application, without notice or hearing. No more than five such extensions shall be granted.

Amended by R.1998 d.570, effective December 7, 1998.
See: 30 N.J.R. 2608(a), 30 N.J.R. 4254(b).
In (a), rewrote 2 and added a new 3.

19:4-4.14 Variances

(a) A variance from a particular regulation may be granted in accordance with these regulations.

(b) An application for a variance shall be filed with the NJMC, and shall accompany a zoning certificate application prepared in accordance with N.J.A.C. 19:4-4.3.

(c) An application for a variance shall contain the following:

1. A complete application form, signed by the applicant and the property owner, containing the following major components;
 - i. Applicant information;
 - ii. Property location and ownership information;
 - iii. The particular regulation from which the variance is sought;
 - iv. A statement of the reasons why the variance is sought; and

v. Resulting hardships if variance is denied;

2. The required fee, in accordance with N.J.A.C. 19:4-11;

3. A statement of the characteristics of the subject property that prevent compliance with the regulations;

4. Any site plans, reports, or other data that demonstrate the extent of the relief being sought; and

5. Other such information as may be deemed necessary from a specific applicant by the NJMC.

(d) A public hearing on the application shall be held in accordance with N.J.A.C. 19:4-4.17.

(e) A variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that:

1. Concerning bulk variances:

i. The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant;

ii. The granting of the variance will not adversely affect the rights of neighboring property owners or residents;

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner;

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare;

v. The variance will not have a substantial adverse environmental impact;

vi. The variance represents the minimum deviation from the regulations that will afford relief; and

vii. Granting the variance will not substantially impair the intent and purpose of these regulations; and

2. Concerning use variances:

i. The strict application of these regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner;

ii. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare;

iii. Adequate infrastructure, including storm and sanitary sewers, utilities, access roads, will be provided and shall be so designed to prevent and/or minimize

negative impacts upon the existing infrastructure. In addition, the proposed use will not decrease the ability of said infrastructure to perform in a safe and efficient manner;

iv. The variance will not have a substantial adverse environmental impact;

v. The variance will not substantially impair the intent and purpose of these regulations; and

vi. The variance at the specified location will contribute to and promote the intent of the NJMC Master Plan.

(f) In determining whether the evidence supports the conclusions required by (e) above, the Executive Director shall also consider the extent to which the evidence demonstrates that:

1. Concerning bulk variances:

i. The physical surroundings, shape or topographical condition of the subject property would result in a practical difficulty or undue hardship upon the property owner or applicant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced;

ii. The request for a variance is not based exclusively upon desire of the property owner or applicant to make more money from the property;

iii. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood of the subject property; and

iv. The variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion in public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood; and

2. Concerning use variances:

i. Conformance with the regulations would result in a practical difficulty or undue hardship upon the property owner or applicant, as distinguished from a mere inconvenience;

ii. The request for a variance is not based exclusively upon the desire of the property owner or applicant to make more money from the property;

iii. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood of the subject property;

iv. The variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion in public streets, increase the danger of fire, endanger the public safety, or substantially

diminish or impair property values within the neighborhood;

v. The applicant has demonstrated that the proposed use will further the purposes of the NJMC Master Plan; and

vi. The applicant has demonstrated that the proposed use is compatible with and complementary to the neighborhood.

(g) Within eight weeks of the close of the public hearing, the Chief Engineer shall submit a recommendation of decision to the Executive Director regarding the variance application. The Executive Director shall review the findings, conclusions, and recommendations and shall state his acceptance, rejection or modification of the recommendation.

(h) In the granting of any variance, the decision may impose such conditions, safeguards, limitations and restrictions upon the premises benefited by the variance as may be necessary to: comply with other standards set forth in these regulations; reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood; carry out the general purpose and intent of these regulations; and promote the intent and purpose of the NJMC Master Plan.

1. Failure to comply with any of the conditions or restrictions placed on a variance shall constitute a violation of these regulations.

(i) The Executive Director shall render a written decision that shall be transmitted to the applicant by certified mail and shall advise the applicant of the applicant's right to appeal said decision. Any decision by the Executive Director shall constitute a decision of the Commission that may be appealed in accordance with N.J.A.C. 19:4-4.19.

(j) The approval of a variance shall become null and void one year after the date on which the approval is issued, unless within such period:

1. A zoning certificate is obtained; or
2. Occupancy certification is obtained and the use commenced.

(k) Extensions of the approval, not exceeding one year each, may be granted by the Chief Engineer upon written application, without notice or hearing. No more than five such extensions shall be granted.

(l) Variances from floodplain management regulations shall comply with the provisions of N.J.A.C. 19:4-9.14 and 9.15.

Amended by R.1998 d.570, effective December 7, 1998.
See: 30 N.J.R. 2608(a), 30 N.J.R. 4254(b).

Added (b).

19:4-4.15 Commission review of special exception and variance approvals

(a) Immediately after approving, or approving with conditions, an application for a special exception use or variance, the Executive Director shall transmit to the Commission a copy of the decision containing such approval, a copy of the plan, and any other information relevant to the matter.

(b) The Commission may, by a concurring vote of a majority of its numbers, affirm or reverse, wholly or partly, or modify such approval, or may remand the entire matter for further action by the Executive Director, based upon the record of the matter. Such action shall be in the form of a written decision explaining the reasons for such action.

(c) If the Commission fails to act within four weeks after receipt of the entire matter, the decision of the Executive Director shall be deemed to be affirmed.

Amended by R.1994 d.543, effective November 7, 1994.

See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

Amended by R.1998 d.570, effective December 7, 1998.

See: 30 N.J.R. 2608(a), 30 N.J.R. 4254(b).

Rewrote the paragraph.

19:4-4.16 Notice of public hearings

(a) Whenever a public hearing is required pursuant to these regulations, the NJMC shall arrange for public notice, the cost of which shall be borne by the applicant. The notice shall include:

1. The time and location of the public hearing;
2. A statement describing the subject matter of the hearing;
3. The nature of any approval sought, together with any relief sought;
4. Identification of the applicant and owner of the subject property; and
5. A statement that the application and supporting materials will be available for public inspection at the offices of the NJMC at least 10 days prior to the hearing.

(b) At least 10 days in advance of the public hearing, the NJMC shall arrange for publication of the public notice in a newspaper of general circulation available in the municipality in which the property is located, and shall provide for notice either in person, by certified mail, or otherwise, to the following:

1. The Hackensack Meadowlands Municipal Committee (HMMC);

2. For special exception, variance, or subdivision applications, owners of the property within 200 feet of the subject property as shown on the most recent tax records of the municipality in which the subject property is located, and any adjacent municipalities where applicable;

3. For redevelopment projects, owners of property within 500 feet of the subject property, inclusive of the subject property, as shown on the most recent tax records of the municipality in which the subject property is located, and any adjacent municipalities where applicable;

4. For petitions for rezoning:

i. For a rezoning involving up to 20 lots, the owners of the lots in question and owners of property within 200 feet of the subject property as shown on the most recent tax records of the municipality in which the subject property is located, and adjacent municipalities where applicable; and

ii. For a rezoning involving more than 20 lots, the owners of the lots in question and owners of property within 200 feet of the subject property as shown on the most recent tax records of the municipality in which the subject property is located, and any adjacent municipalities where applicable; and, by publishing notification in at least three newspapers of general circulation which service the District;

5. The municipal clerk of every municipality in which property owners must be served notice, pursuant to (b)2 through 4 above; and

6. Any other person, agency, or organization that has filed a request to receive notice of hearings.

(c) The applicant shall obtain and submit to the NJMC a certified list or lists of property owners from the tax assessor of the municipality or municipalities in which property identified in (b)2 through 4 above is located. The NJMC and the applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any property owner not on the list shall not invalidate any hearing or proceeding. Said lists shall be produced and certified no earlier than 90 days prior to the date of the hearing.

Administrative Correction to (a).

See: 22 N.J.R. 2184(a).

Amended by R.1994 d.543, effective November 7, 1994.

See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

19:4-4.17 Public hearings

(a) Whenever a public hearing is required pursuant to these regulations, the NJMC shall hold a public hearing in accordance with this section and shall select a reasonable

time and place for the conduct of the public hearing, and shall so advise the applicant.

(b) The NJMC shall provide notice of the public hearing pursuant to N.J.A.C. 19:4-4.16.

(c) A party to a hearing shall be any of the following persons, agencies or organizations who have entered an appearance of record either prior to commencement of the public hearing or when permitted by the NJMC:

1. Any person, agency, or organization entitled to individual notice under N.J.A.C. 19:4-4.16;

2. Any person, agency, organization or other entity whose right to use, acquire or enjoy property is, or may be, affected by any action taken on the application; and

3. Any person, agency, organization or entity who satisfies the NJMC that that person, agency, organization or entity has a significant interest in the subject matter of the hearing.

(d) The NJMC may administer oaths and compel the attendance of witnesses, the production of relevant papers, and inquire into and establish qualifications of witnesses appearing.

(e) Applicants, other than individuals or sole proprietorships, shall be represented by a New Jersey attorney-at-law.

(f) All testimony by witnesses at any hearing shall be given under oath, and every party of record at a hearing shall have the right to present evidence and to examine and to cross-examine witnesses on all relevant issues, but the hearing officer may impose reasonable limitations on the number of witnesses heard and on the nature and length of their testimony and cross-examination. Testimony shall be provided by a New Jersey-licensed professional engineer, professional planner, registered architect, or other professionals.

(g) The NJMC shall arrange for a transcript of the hearing, the cost of which shall be borne by the applicant. All exhibits accepted into evidence shall be properly identified. The reason for the exclusion of any exhibits from evidence shall be clearly noted in the record. The transcript and exhibits shall be filed with the NJMC and shall be a part of the public record.

(h) The NJMC may continue the hearing from time to time as may be reasonably necessary, and may refer the matter back to the NJMC staff for further investigation. A copy of any reports resulting from the investigation shall be filed with the NJMC and become part of the public record. The public hearing(s) shall be concluded within six weeks of the date of the first public hearing, unless the applicant consents in writing to an extension of the time period.

(i) Notwithstanding the provisions of this section, in case of a request for a variance from a bulk regulation in this chapter, the Chief Engineer may waive a public hearing, but may not waive notification requirements, provided, however, that the applicant submit written comments relative to the application to the NJMC prior to such public notification. Public comment will be accepted within 10 days of the date of publication.

Amended by R.1994 d.543, effective November 7, 1994.
See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

Historical Note

Sections 4 through 17 of this Subchapter were originally cited as Article 6-102.

19:4-4.18 Failure to act

If the person or entity described in whom or in which authority is vested to decide an application fails to act within the time specified, the application shall not be deemed approved by virtue of said failure to act.

19:4-4.19 Appeals

(a) Subject to the limits on third party hearings at (g) below, any decision of the Commission or its staff, including a decision that a person or entity has violated these regulations pursuant to N.J.A.C. 19:4-4.21, may be appealed in accordance with this section. A recommendation shall not be considered a final decision and shall not be subject to appeal.

(b) Any adversely affected person or entity may appeal any decision by the Commission or its staff through the New Jersey Office of Administrative Law (OAL), pursuant to the following procedures:

1. The person or entity appealing a decision of the Commission or its staff shall be known as an appellant and shall file a notice of appeal in writing, by certified mail, with the Executive Director within 15 days after the date of the decision.

2. The notice of appeal shall be deemed filed upon receipt by the Executive Director.

3. The notice of appeal shall contain the following:

i. A statement of the legal authority and jurisdiction under which the request for appeal is made;

ii. A brief statement of facts describing the Commission or staff decision being appealed, as well as the nature and scope of the interest of the person or entity appealing such decision; and

iii. A statement of all facts alleged to be at issue and their relevance to the Commission's decision for which the appeal is made.

4. Within 10 days of receipt of a notice of appeal from a person or entity directly affected by a Commission or staff decision, that is, the applicant for any zoning, subdivision, variance, building permit, or other approval, or the person or entity cited for violation of these regulations, the Executive Director shall transmit the matter to the OAL for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The Executive Director shall forward a third party appeal to the Commission, which shall determine whether the third party appellant has the required interest under the Administrative Procedure Act, N.J.S.A. 52:14B-3.1 through 3.3, to be granted an appeal. Should the Commission determine that the third party appeal may proceed, the Commission shall direct the Executive Director to transmit the third party appeal to the OAL.

(c) An appeal by a person or entity directly affected by a Commission or staff decision, that is, the applicant for any zoning, subdivision, variance, building permit or other approval, or the person or entity cited for violation of these regulations, shall stay all proceedings in furtherance of the action with respect to which the decision appealed from was made and shall toll all applicable time limits, with the exception of fines, which shall continue to accrue, unless the Chief Engineer certifies to the Commission, after the notice of appeal has been filed, that by reason of facts stated in the certificate, such stay and tolling would cause imminent peril to life or property. An appeal by a third party shall not automatically stay all decisions of or proceedings before the Commission. In the case of a third party appeal, the Commission shall grant a request for stay if the appellant shows good cause why the proceeding or Commission action should be stayed.

(d) The Commission shall accept, reject or modify the initial decision of the Administrative Law Judge within 45 days of receipt of the initial decision. The Commission's final decision shall be transmitted to the appellant within 10 days.

(e) An appellant aggrieved by the final decision of the Commission pursuant to (d) above may seek further judicial review pursuant to and to the extent permitted by the New Jersey Court Rules.

(f) The NJMC shall maintain complete records of all actions of the Commission with respect to appeals, which shall be available for inspection by the public as required by the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

(g) Nothing in this section shall be construed to provide a right to an administrative hearing in contravention of N.J.S.A. 52:14B-3.1 through 3.3 of the Administrative Procedure Act.

Amended by R.1994 d.543, effective November 7, 1994.
See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

19:4-4.20 Fees and escrow deposits

(a) Any application shall be accompanied by such fees as specified in N.J.A.C. 19:4-11.

(b) Whenever, in the opinion of the Chief Engineer, the operations or activities to be conducted on a site may violate applicable regulations, the NJMC may require the deposit in escrow of not more than \$25,000, to be held for a period of one year after the date of issuance of occupancy certification. The escrow account may be used by the NJMC to employ a qualified technician or technicians to perform investigations, measurements, and analyses to determine whether or not the applicable regulations are, in fact, being violated and may pay reasonable fees for such services out of the aforementioned escrow deposit, regardless of the outcome of the investigation. If the reasonable fees of such technician or technicians exceed the amount of any available escrow deposit, and if a violation of any applicable regulation is discovered, the fees may be recovered as a penalty in the same manner as, and in addition to, the penalties specified in N.J.A.C. 19:4-4.21. Escrow deposits or remainders of the escrow shall be returned, without interest, to the depositors at the expiration of the escrow period. If violation of the applicable regulations is discovered and no escrow deposit is being retained by the NJMC, the fees for technicians to perform investigations, measurements, and analysis to determine whether such violation was taking place may be recovered as a penalty in the same manner as, and in addition to, the penalties specified in N.J.A.C. 19:4-4.21.

(c) A performance bond or letter of credit may be required for fill applications submitted and approved in accordance with N.J.A.C. 19:4-8.16 in an amount equal to an estimate of the cost for the completion and stabilization of the fill, plus 10 percent. The cost estimate shall be signed and sealed by a New Jersey-licensed professional engineer and shall be approved by the NJMC.

(d) Whenever conditions are imposed on an approval, a deposit in escrow, or other performance guarantee satisfactory to the NJMC and sufficient to meet the cost of implementing such conditions, may be imposed on the applicant. If such conditions are not implemented in accordance with the approval in which the conditions were imposed, the escrow deposit or performance guarantee may be utilized by the NJMC to implement the conditions. If the cost of such implementation exceeds the amount in the escrow deposit or other acceptable performance guarantee, the amount in excess shall be assessed against the property upon which the conditions were placed, at the time of implementing said conditions, and a notice of lien upon the subject property shall be filed in the Office of the County Clerk. If the cost of implementation is less than the escrow deposit, the NJMC shall refund the difference to the applicant. If the applicant implements the conditions within the one-year period, the escrow deposit shall be returned to the applicant forthwith.

19:4-4.21 Penalties and enforcement

(a) When the NJMC becomes aware that a violation of these regulations may exist, the NJMC staff shall undertake

an investigation to determine whether such violation does exist. If the NJMC shall determine that a violation of these regulations exists, the NJMC shall notify the property owner of the existence of the violation in writing and request that the violation be abated. If the violation is not abated, the NJMC shall have the authority to take any or all actions as are outlined in (b) below to ensure compliance with these regulations.

(b) A property owner who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of, any of these regulations shall be subject to a civil penalty of not less than \$200.00 or more than \$5,000. Each day such violation or failure to comply exists subsequent to the original notification shall constitute a separate offense.

(c) The NJMC may, in the case of a violation of these regulations, institute a civil action for injunctive relief:

1. To prevent unlawful sale, enlargement, moving, rental, construction, reconstruction, alterations, repair, conversion, maintenance, use, filling, or occupancy;
2. To restrain, correct, or abate any violation;
3. To prevent the occupancy of any dwelling structure or land;
4. To prevent any illegal act, conduct, business or use in or about any premises; or
5. To collect such civil penalties as have been assessed against any violator and which civil penalties said violator has refused to pay.

(d) The NJMC may investigate any potential violation of the performance standards of these regulations in accordance with N.J.A.C. 19:4-7.2(c).

(e) The NJMC's rights of entry and inspection shall be as follows:

1. Any individual who has applied to the NJMC for a permit shall be deemed to have consented to inspections, investigations, examinations, surveys, soundings or test borings, by the NJMC staff or duly authorized representative of the NJMC, of the entire premises and of any and all construction being performed on the premises until a permit has been issued.
2. The NJMC staff or duly authorized representative of the NJMC, pursuant to N.J.S.A. 13:17-6(f), has the right to enter upon any property in order to conduct inspections necessary to carry out the purposes of the Hackensack Meadowlands Reclamation and Development Act and to ensure compliance with NJMC regulations.
3. All inspections, investigations, examinations, surveys, soundings or test borings shall be memorialized by a written report which shall include the name of the representative who entered the premises, the address, including the lot and block number(s), of the premises entered and

a description of the premises, including a description of any and all violations.

4. Other than a visit to the premises made pursuant to (e)1 and 2 above, the property owner, owner's agent or tenant shall be notified of the NJMC's intention to enter upon any building or property in order to conduct investigations, examinations, surveys, soundings or test borings necessary to carry out the purposes of the Hackensack Meadowlands Reclamation and Development Act. The NJMC staff or duly authorized representative of the NJMC shall not enter the premises until at least two days following the date of such notice.

5. Where access to any premises has been refused, such refusal may be reported to the Office of the Attorney General and a search warrant may be obtained or other appropriate legal proceedings initiated.

19:4-4.22 Severability

(a) The provisions of these regulations shall be separable, in accordance with the following:

1. If any section, subsection, paragraph, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of these regulations.

2. If the application of any provision of these regulations to a particular property, building or structure is for any reason held to be unconstitutional or invalid, such decision shall not affect the application of said provisions to any other property or structure.

Administrative Correction to (a): Deleted public.
See: 22 N.J.R. 2184(a).
Amended by R.1994 d.543, effective November 7, 1994.
See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

SUBCHAPTER 5. DISTRICTS, USES AND STANDARDS

19:4-5.1 Establishment of zones

(a) The Hackensack Meadowlands District is hereby divided into the following areas (acronyms, as used in this subchapter, appear in parentheses after each):

1. Zones:
 - i. Environmental Conservation (EC);
 - ii. Parks and Recreation (PA);
 - iii. Waterfront Recreation (WR);
 - iv. Low Density Residential (LDR);
 - v. Planned Residential (PR);
 - vi. Neighborhood Commercial (NC);

- vii. Commercial Park (CP);
 - viii. Regional Commercial (RC);
 - ix. Highway Commercial (HC);
 - x. Aviation Facilities (AF);
 - xi. Light Industrial A (LI-A);
 - xii. Light Industrial B (LI-B);
 - xiii. Intermodal A (IA);
 - xiv. Intermodal B (IB);
 - xv. Heavy Industrial (HI);
 - xvi. Public Utilities (PU);
 - xvii. Sports and Exposition (SE); and
 - xviii. Transportation Center (TC); and
2. Redevelopment Areas (RA).

19:4-5.2 General provisions

(a) The following provisions shall apply to all zones:

1. The design of all structures and other improvements shall comply with the requirements of N.J.A.C. 19:4-8.
2. In the case of a conflict between these regulations and the NJ UCC, N.J.A.C. 5:23-3.15 through 3.22, regarding required setbacks, the more restrictive regulation shall apply.
3. Minimum lowest floor elevations for structures within the designated 100-year flood zones shall be established one foot above the applicable 100-year base flood elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM).
4. All wastewater standards of N.J.A.C. 19:4-7.9 shall apply.
5. Buffers shall be provided in accordance with N.J.A.C. 19:4-8.7, where applicable.
6. Wetland enhancement, restoration or creation activities and wildlife habitat creation shall be a permitted use in all zones.
7. The NJMC may publish detailed design guidelines, which shall be filed at the Offices of the NJMC, where they shall be of public record and with which development in the District is encouraged to comply.

Amended by R.1988 d.281, effective June 20, 1988.
See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).
Deleted middle income families from (d)1ix.
Administrative Correction to (d)3vi.
See: 22 N.J.R. 2184(a).
Administrative change.
See: 33 N.J.R. 3454(a).
Administrative correction.
See: 36 N.J.R. 1955(a).

Historical Note

This Section was originally cited as Article 7-201.

Case Notes

Regulations demonstrate commitment to housing that will result in a community with a mix and balance of income levels. In the Matter of Egg Harbor Associates (Bayshore Centre), 94 N.J. 358, 464 A.2d 1115 (1983).

19:4-5.3 General use limitations

(a) The following use limitations shall apply:

1. No slaughtering of animals shall be permitted in any zone.
2. All operations, activities and storage shall be conducted within completely enclosed buildings, with the exception of the following, when conforming to all other regulations:
 - i. Properties located in the Intermodal B and Heavy Industrial zones;
 - ii. Off-street parking of empty, registered and operational vehicles, except that vehicles for sale at facilities permitted by these regulations may be unregistered;
 - iii. Off-street loading within designated loading areas;
 - iv. Site service improvements provided in accordance with N.J.A.C. 19:4-8.15;
 - v. Outdoor seating areas provided in accordance with N.J.A.C. 19:4-5.7;
 - vi. Public utility equipment and operations that cannot be feasibly located in an enclosed structure, including electric generating, transmission, and distribution equipment; and
 - vii. Where otherwise permitted.

Petition for Rulemaking: Request for rezoning from Island Residential-4 to a new mixed use development zone.

See: 20 N.J.R. 304(c).

Administrative Correction to (d)1v: stated changed to staged.

See: 22 N.J.R. 2184(a).

Amended by R.1994 d.543, effective November 7, 1994.

See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

Administrative change.

See: 33 N.J.R. 3454(a).

Historical Note

This Section was originally cited as Article 7-202.

19:4-5.4 Accessory uses

(a) Accessory uses are permitted in any zone in connection with any principal use which is permitted within such zone. No accessory use shall be constructed, moved, remodeled, established, altered or enlarged unless it complies with the requirements of this section.

(b) The following accessory uses and structures shall not be permitted on required open space:

1. Private garages or carports;
2. A structure for storage incidental to a permitted use, excluding such structure accessory to a one-, two-, or three-family residence;
3. Off-street parking and loading spaces, per N.J.A.C. 19:4-8.2 and 8.3; and
4. Storage of registered boats, boat trailers, camping trailers, and small house trailers.

(c) The following accessory uses and structures shall be permitted on required open space:

1. A child's playhouse;
2. A structure for storage accessory to a one-, two-, or three-family residence not exceeding 100 square feet in floor area; and
3. A private swimming pool in accordance with the following:
 - i. No part of the surface area of a private swimming pool shall be closer than 10 feet to the rear lot line nor closer than five feet to the side lot line and shall not be located in the front yard;
 - ii. Where a swimming pool is installed on a corner lot and the fence is not a solid fence, the sides nearest the street shall be screened with shrubs not less than four feet in height to form a visual barrier; and
 - iii. No pool shall drain into a public sanitary sewer or be located in such a manner that the water from the pool drains onto another property.

(d) Accessory structures shall comply with the bulk regulations applicable to principal structures in the zone in which they are located, except in the Low Density Residential zone, where a minimum five-foot lot line setback is required.

(e) No accessory use or structure shall be permitted in any required front yard unless it is a permitted obstruction as per N.J.A.C. 19:4-3.18.

Administrative change.

See: 33 N.J.R. 3454(a).

Administrative correction.

See: 36 N.J.R. 1955(a).

Historical Note

This Section was originally cited as Article 7-203.

19:4-5.5 Marinas

(a) Marinas shall meet the following minimum requirements:

1. Every marina shall be open to the public. A fee is optional.
2. Marinas shall provide a minimum of one docking berth for each 20 feet of water frontage in accordance with the following:
 - i. Docking berths shall be a minimum dimension of 12 feet by 28 feet; and
 - ii. Aisles between rows of berths shall be a minimum 35 feet wide.
3. Marinas shall provide areas for public boat launching, which shall include the following:
 - i. A ramp to the adjacent water body with a minimum width of 15 feet;
 - ii. Sufficient maneuvering space between the ramp and parking areas; and
 - iii. Trailer parking spaces with a minimum dimension of 10 feet by 40 feet.
4. Marinas shall provide areas for public boat mooring in accordance with the following:
 - i. A minimum of one space per 100 feet of water frontage; and
 - ii. A minimum dimension of 12 feet by 28 feet with proper access.
5. Marinas shall provide parking, loading and trailer parking in accordance with N.J.A.C. 19:4-8.4.

Administrative Correction to (c) and (c)5iii.
 See: 22 N.J.R. 2184(a).
 Administrative change.
 See: 33 N.J.R. 3454(a).

Historical Note

This Section was originally cited as Article 7-204.

19:4-5.6 Office trailers

- (a) The use of office trailers in any zone shall be permitted only in connection with site construction and subject to the following regulations:
1. Trailers may be used as temporary offices, condominium sales offices, and/or field offices.
 2. Not more than one night watchman or similar person may reside in such trailer.
 3. A permit for the location and use of any trailer shall be obtained from the NJMC, in conjunction with a zoning certificate for the proposed construction.
 4. The NJMC may impose reasonable conditions relating to location, parking, access, signs and aesthetics with respect to trailers.

5. A trailer shall not be moved onto a construction site until 60 days prior to the date upon which site work actually commences. In cases of large projects where more time is needed for mobilization, written requests for an extension of the 60-day time period shall be submitted to the NJMC for approval.

6. The trailer shall be removed from the site on or before the issuance of a final certificate of occupancy unless a later removal is authorized by the NJMC.

(b) Office trailers not associated with site construction are not permitted.

Amended by R.1994 d.543, effective November 7, 1994.
 See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).
 Administrative change.
 See: 33 N.J.R. 3454(a).

Historical Note

This Section was originally cited as Article 7-205.

19:4-5.7 Outdoor seating areas

- (a) Accessory outdoor seating areas shall be permitted in every zone when provided in accordance with the following:
1. The outdoor seating area for restaurants shall not exceed 15 percent of the number of seats in the interior seating area, not including bar and lounge seating.
 2. The outdoor seating area for all other uses shall not exceed 15 percent of the floor area of the principal use.
 3. Outdoor seating areas shall maintain all required setbacks from yards in the applicable zone, or a minimum front yard setback of 25 feet and minimum side and rear yard setbacks of 10 feet, whichever is less restrictive.
 4. Outdoor seating areas shall not be located in required parking and/or loading areas and shall not impede pedestrian or vehicular traffic.

(b) Street furnishings, bus stops, and outdoor seating areas used for passive recreational purposes shall be exempt from this section.

Historical Note

This Section was originally cited as Article 7-300.

19:4-5.8 Environmental Conservation zone; purposes

The Environmental Conservation zone is designed to preserve and enhance the ecological values of wetlands, open water and adjacent uplands within the District. The zone seeks to provide public access to these areas and encourage scientific and educational study in regard to wetland ecology.

Administrative Correction to (a)2x: Changed section cross reference style.
 See: 22 N.J.R. 2184(a).

Historical Note

This Section was originally cited as Article 7-301.

19:4-5.9 Environmental Conservation zone; permitted uses

(a) The permitted uses in the Environmental Conservation zone are:

1. Existing public utility equipment and appurtenances, including operating, maintaining, reconstructing, inspecting, testing, and removing such equipment;
2. Public access to water features, including trails, boat/canoe launches, water crossings, site furnishings, signage and structures that facilitate wildlife observation;
3. Scientific and educational study and experimentation in regard to wetland ecology;
4. Wetland enhancement, restoration or creation activities, performed either individually or in conjunction with wetland mitigation banks; and
5. Wildlife habitat creation.

Historical Note

This Section was originally cited as Article 7-302.

19:4-5.10 Environmental Conservation zone; special exception uses

(a) The special exception uses in the Environmental Conservation zone are:

1. Communications transmission towers;
2. Electric transmission towers;
3. Marinas;
4. The construction of any element or other physical device to fulfill a requirement of another regulatory agency which has an interest in, or some level of jurisdiction over, a wetlands enhancement, restoration or creation activity; and
5. Structures and improvements essential for and used solely in conjunction with a permitted use.

As amended, R.1974 d.1, effective January 2, 1974.
See: 5 N.J.R. 394(b), 6 N.J.R. 87(b).
Amended by R.1988 d.281, effective June 20, 1988.
See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).

Deleted and added text to (a)4.
Amended by R.1990 d.186, effective April 2, 1990.
See: 21 N.J.R. 3441(a), 22 N.J.R. 1150(c).
Requirements for protection against flooding added at (a)4.

Historical Note

This Section was originally cited as Article 7-303.

19:4-5.11 Environmental Conservation zone; use limitations

The use limitation in the Environmental Conservation zone is that no use shall be operated, conducted or maintained that may impair the quality of the zone as an environmental conservation area. Any use that discourages or interferes with the purpose of the zone is prohibited.

Historical Note

This Section was originally cited as Article 7-304.

19:4-5.12 Environmental Conservation zone; performance standards

(a) All uses in the Environmental Conservation zone shall comply with the performance standards of N.J.A.C. 19:4-7 as follows:

1. All category A performance standards shall apply, with the exception of particulate source emissions.
2. Particulate source emissions shall not exceed 0.2 pounds per hour, per acre of lot for all uses on the lot, or New Jersey State Air Pollution Control Laws and Codes (N.J.A.C. 7:27), whichever is more restrictive.

As amended, R.1974 d.1, effective January 2, 1974.
See: 5 N.J.R. 394(b), 6 N.J.R. 87(b).
Administrative change.
See: 33 N.J.R. 3454(a).

Historical Note

This Section was originally cited as Article 7-305.

19:4-5.13 Parks and Recreation zone; purposes

The Parks and Recreation zone is intended to provide for the creation, management and appropriate use of public open space and recreation facilities within the District in a manner that allows for the public use and enjoyment of these areas.

Historical Note

This Section was originally cited as Article 7-401.

19:4-5.14 Parks and Recreation zone; permitted uses

(a) The permitted uses in the Parks and Recreation zone are:

1. Cemeteries;
2. Parks or recreation facilities; and
3. Wildlife habitat creation.

Historical Note

This Section was originally cited as Article 7-402.

19:4-5.15 Parks and Recreation zone; special exception uses

(a) The special exception uses in the Parks and Recreation zone are:

1. Marinas;
2. Primary and secondary schools; and
3. The construction, maintenance and use of any structures and improvements, including retail, essential for and used solely in conjunction with the operation and maintenance of any permitted use.

Historical Note

This Section was originally cited as Article 7-403.

19:4-5.16 Parks and Recreation zone; use limitations

The use limitation in the Parks and Recreation zone is that no use shall be operated, conducted or maintained that may impair the quality and character of the zone as a parks and recreation area.

Historical Note

This Section was originally cited as Article 7-404.

19:4-5.17 Parks and Recreation zone; performance standards

(a) All uses in the Parks and Recreation zone shall comply with the performance standards of N.J.A.C. 19:4-7 as follows:

1. All category A performance standards shall apply, with the exception of glare.
2. Category B performance standards shall apply for glare.

As amended, R.1982 d.1, effective February 1, 1982.

See: 13 N.J.R. 694(a), 14 N.J.R. 162(b).

Section substantially amended.

Administrative change.

See: 33 N.J.R. 3454(a).

Historical Note

This Section was originally cited as Article 7-405.

19:4-5.18 Waterfront Recreation zone; purposes

The Waterfront Recreation zone is designated to accommodate marinas in combination with other water-oriented commercial and recreation facilities that provide and encourage public access to and visibility of the Hackensack River or its tributaries. The Waterfront Recreation zone is to be developed in such a way that views of the river are protected.

19:4-5.19 Waterfront Recreation zone; permitted uses and marina requirements

(a) The permitted uses in the Waterfront Recreation zone are:

1. Day care facilities;
2. Marinas;
3. Other water recreation uses; and
4. Parks or recreation facilities.

(b) When included with a marina meeting the minimum requirements set forth in N.J.A.C. 19:4-5.7, the following uses shall be permitted in the Waterfront Recreation zone:

1. Commercial recreation, outdoor;
2. Restaurants; and
3. Retail, accessory to a marina.

19:4-5.20 Waterfront Recreation zone; special exception uses

(a) When included with a marina meeting the minimum requirements set forth in N.J.A.C. 19:4-5.7, the following uses shall be special exception uses in the Waterfront Recreation zone:

1. Commercial recreation, indoor; and
2. Cultural facilities.

19:4-5.21 Waterfront Recreation zone; use limitations

(a) The use limitations in the Waterfront Recreation zone are as follows:

1. All development shall be designed to permit public access to the edge of the river. Development on lots fronting on the Hackensack River shall provide a pedestrian walkway along the edge of the river.
2. Uses shall be designed to focus on the river as a recreational and visual resource.
3. The temporary seasonal storage of boats may occur on open space, not exceeding 15 percent of the required open space area. This temporary storage shall not exceed a time period of six months.

4. No business establishment shall offer or sell food or beverages for consumption on the premises in parked motor vehicles.

19:4-5.22 Waterfront Recreation zone; lot size requirements

The lot size requirement in the Waterfront Recreation zone is a minimum lot area of one acre.

19:4-5.23 Waterfront Recreation zone; bulk regulations

(a) The bulk regulations in the Waterfront Recreation zone are:

1. Maximum lot coverage: 30 percent;
2. Minimum open space: 40 percent;
3. Yards:
 - i. Minimum front yard: 25 feet;
 - ii. Minimum side yard: 25 feet; and
 - iii. Minimum rear yard: 25 feet; and
4. FAR: 0.75.

19:4-5.24 Waterfront Recreation zone; performance standards

All category A performance standards of N.J.A.C. 19:4-7 shall apply to all uses in the Waterfront Recreation zone.

19:4-5.25 Low Density Residential zone; purposes

The Low Density Residential zone is intended to provide for the development and preservation of low-density residential uses and neighborhoods, and to provide for the development of community and institutional uses that are compatible with the character of a residential district.

19:4-5.26 Low Density Residential zone; permitted uses

(a) The permitted uses in the Low Density Residential zone are:

1. Community residences and shelters with five or less residents;
2. Day care facilities;
3. Essential public services;
4. Parks or recreation facilities;
5. Primary and secondary schools;
6. Single-family and two-family dwellings; and
7. Townhome dwellings.

19:4-5.27 Low Density Residential zone; special exception uses

(a) The special exception uses in the Low Density Residential zone are:

1. Community residences and shelters with six or more residents;
2. Health centers;
3. Houses of worship;
4. Institutional uses;
5. Manufactured home parks, not exceeding the density permitted for other single-family dwellings and conforming with all other regulations applicable to development within the Low density residential zone;
6. Public utility uses, light; and
7. Social services.

19:4-5.28 Low Density Residential zone; lot size requirements

(a) The lot size requirements in the Low Density Residential zone are:

1. Single-family and two-family dwellings:
 - i. Minimum lot area: 7,500 square feet;
 - ii. Minimum lot width: 75 feet; and
 - iii. Minimum lot depth: 100 feet;
2. Townhome dwellings:
 - i. Minimum lot area: 10,000 square feet;
 - ii. Minimum lot width: 100 feet; and
 - iii. Minimum lot depth: 100 feet; and
3. Other permitted uses and special exceptions:
 - i. Minimum lot area: 10,000 square feet;
 - ii. Minimum lot width: 100 feet; and
 - iii. Minimum lot depth: 100 feet.

19:4-5.29 Low Density Residential zone; bulk regulations

(a) The bulk regulations in the Low Density Residential zone are:

1. Single-family and two-family dwellings:
 - i. Maximum lot coverage: 30 percent;
 - ii. Minimum open space: 40 percent; and
 - iii. Yards:
 - (1) Minimum front yard: 25 feet; or in the case where the Chief Engineer determines that the average prevailing setbacks of existing adjacent dwellings are less than 25 feet, the minimum front yard may be reduced accordingly to not less than 20 feet;
 - (2) Minimum side yard: 10 feet; and
 - (3) Minimum rear yard: 20 feet;
2. Townhome dwellings:

19:4-5.122 Transportation Center zone; performance standards

(a) All uses in the Transportation Center zone shall comply with the performance standards of N.J.A.C. 19:4-7 as follows:

1. All category B performance standards shall apply, with the exception of hazardous materials, liquids, and chemicals.
2. Category A performance standards shall apply for hazardous materials, liquids, and chemicals.

19:4-5.123 Redevelopment areas

(a) Redevelopment areas shall be adopted by the Commission on a case-by-case basis in accordance with N.J.A.C. 19:3-5.

(b) Redevelopment areas shall be as set forth on the Official Zoning Map of the NJMC.

(c) Areas designated "in need of redevelopment" in accordance with N.J.A.C. 19:3-5 shall retain their existing

zoning until the adoption of a redevelopment plan for the area.

(d) Adopted redevelopment plans shall be used as criteria in making land use decisions and shall supersede the zoning regulations herein; however, any regulation not specifically superseded by the redevelopment plan shall conform to these regulations.

19:4-5.124 Schedule of lot size requirements and bulk regulations

(a) The schedule of lot size requirements and bulk regulations in Table 4-1 summarizes the lot size requirements and bulk regulations for all zones. This schedule is for reference purposes only, and the full text of these regulations shall be consulted for additional requirements that may or may not appear in the schedule.

(b) The text of the regulations shall in all cases prevail over contrary provisions in the schedule of lot size requirements and bulk regulations.

Table 4-1

Schedule of Lot Size Requirements and Bulk Regulations

ZONE	LOT SIZE REQUIREMENTS			BULK REGULATIONS					
	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Minimum Open Space	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	FAR
EC	-	-	-	-	-	-	-	-	-
PA	-	-	-	-	-	-	-	-	-
WR	1 acre	-	-	30%	40%	25 feet	25 feet	25 feet	0.75
LDR ¹ —									
One/Two-family	7,500 sq. ft.	75 feet	100 feet	30%	40%	25 feet ²	10 feet	20 feet	-
Townhome ³	10,000 sq. ft.	100 feet	100 feet	30%	35%	25 feet ³	20 feet	25 feet	-
Other ^b	10,000 sq. ft.	100 feet	100 feet	30%	35%	25 feet	20 feet	30 feet	-
PR ⁴	1 acre	100 feet	-	40%	30%	25 feet	20 feet	20 feet	-
NC ⁵	7,500 sq. ft.	50 feet	-	40%	15%	2 feet	12 feet total/ 2 feet each ⁶	5 feet ⁷	-
CP	3 acres	200 feet	-	50%	25%	35 feet ⁸	30 feet	30 feet	1.25 ⁹
RC ¹⁰	3 acres	300 feet	-	40%	20%	50 feet ¹¹	40 feet	30 feet	0.75 ¹²
HC	20,000 sq. ft.	100 feet ¹³	-	50%	5%	25 feet	10 feet	25 feet	0.75
AF	3 acres	200 feet	-	50%	25%	35 feet	30 feet	25 feet	2.0
LI-A	3 acres	200 feet	-	60%	15%	50 feet	90 feet total/ 30 feet each	75 feet	2.5
LI-B	1 acre	100 feet	150 feet	50%	15%	35 feet	20 feet	30 feet	2.5
IA	1 acre	100 feet	150 feet	50%	15%	30 feet	25 feet	50 feet	1.0
IB ¹⁴	3 acres	200 feet	200 feet	40%	15%	50 feet	30 feet	75 feet	-
HI	1 acre	100 feet	150 feet	50%	15%	5 feet	20 feet	30 feet	2.5
PU	1 acre	100 feet	150 feet	50%	15%	35 feet	20 feet	30 feet	-
SE	-	-	-	-	-	-	-	-	-
TC ¹⁵	1 acre	100 feet	150 feet	50%	15%	-	-	-	Note 16

NOTES AND ADDITIONAL REQUIREMENTS:

¹ Additional requirements:

^a Townhome—Maximum density: 10 dwelling units per acre

^b Other—Maximum building height: 35 feet

2. Or in the case where the Chief Engineer determines that the average prevailing setbacks of existing adjacent dwellings are less than 25 feet, the minimum front yard may be reduced accordingly to not less than 20 feet

3. Except where the front yard setback of a building facade is staggered, the setback may be reduced to not less than 20 feet with an average setback for the building of 25 feet

4. Additional requirement—Maximum density: 25 dwelling units per acre

5. Additional requirement—Maximum building height: 40 feet

6. Except where abutting a residential use, the minimum rear side yard shall be 10 feet

7. Except where abutting a residential use, the minimum rear yard shall be 10 feet:

8. Additional requirements—3 feet per foot of height of principal structure, but in no case less than the minimum

9. Not including the floor area of parking garages

10. Additional requirement—Maximum number of hotel and motel rooms per acre: 25 rooms

11. 50 feet for all structures, 25 feet for at-grade parking areas

12. Not including the floor area of parking garages, restaurants, hotels and motels

13. Except that fuel service stations, hotels and motels, and restaurants shall have a minimum lot width of 150 feet

14. Additional requirement—Maximum building height: 50 feet

15. Additional requirement—Maximum building height: 40 stories, excluding antennas

16. Maximum floor area: 4.7 million gross square feet in the zone.

i. Has less than the prescribed minimum lot area, width or depth;

ii. Is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been prohibited by any zoning regulation; and

iii. Has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by applicable zoning restrictions.

2. Construction shall comply with all the regulations (except lot area, width and depth) applicable in the zone in which the lot in question is located, provided, however, that the width of any side yard need not be greater than that derived by applying the following formula (wherein X equals the width of each required side yard):

$$\frac{X}{\text{Actual lot width}} = \frac{\text{Minimum side yard required by zoning regulations}}{\text{Minimum lot width required by zoning regulations}}$$

3. Except where otherwise permitted, no side yard shall be reduced to less than five feet for a single-family or two-family dwelling, or less than 10 feet for all other uses.

(b) The following apply to lawful nonconforming uses:

1. Any use of land or structure, or portions thereof, that does not comply with the regulations in the zone in which it is located may be continued if otherwise lawful, subject to the provisions of these regulations.

2. A nonconforming use shall not be extended, expanded, or increased in intensity, or otherwise altered so as to increase the degree of nonconformity.

3. A nonconforming use shall not be changed to any use other than a use permitted in the zone. When a nonconforming use has been changed to any permitted use, it shall not thereafter revert to a nonconforming use.

4. No nonconforming use shall be moved in whole or in part for any distance to any location on the same or any other lot, unless such use conforms to the regulations of the zone in which it is located after being so moved.

5. When a nonconforming use is discontinued or abandoned for 12 continuous months, any subsequent use or occupancy of the land or structure in which the nonconforming use was located shall comply with the regulations of the zone in which it is located.

6. No use that is accessory to a principal nonconforming use shall continue after such principal use has ceased or terminated, unless otherwise permitted by the applicable zoning regulations.

(c) The following apply to nonconforming structures:

SUBCHAPTER 6. SUPPLEMENTAL REQUIREMENTS

19:4-6.1 Nonconforming lots, uses and structures

(a) The following apply to nonconforming lots of record:

1. In any zone, notwithstanding the regulations imposed by any other provision of this chapter, a building designed for any permitted use may be erected on a lot that is not less than 25 feet in width and that consists entirely of a tract of land that:

1. Any structure, or portion thereof, that does not comply with the applicable regulations in the zone in which it is located, may be continued if otherwise lawful, subject to the provisions of these regulations.

2. No nonconforming structure shall be enlarged or added to in any manner unless such enlargement or addition conforms to the regulations of the zone in which it is located.

3. No nonconforming structure shall be moved in whole or in part for any distance to any other location on the same or any other lot, unless the entire structure shall thereafter conform to the regulations of the zone in which it is located after being so moved.

4. Nonconforming structures may be maintained, repaired or remodeled, including the incidental repair, installation, or relocation of nonbearing partitions, fixtures, wiring, or plumbing, provided that such maintenance, repair or remodeling shall not create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure. Nothing in these regulations shall be deemed to prevent the strengthening or restoration of a structure to a safe condition in accordance with an order of a public official who is charged with protecting the public safety.

5. In the event that a nonconforming structure is subject to partial destruction, by any means, such structure shall not be restored unless a zoning certificate is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

6. In the event that a nonconforming structure is subject to substantial destruction, by any means, such structure shall not be restored unless it conforms to the regulations for the zone in which it is located and a zoning certificate is obtained.

7. Notwithstanding the provisions of this section, any structure that is devoted to a nonconforming residential use in any zone may be remodeled, extended, expanded and enlarged, provided that after any such remodeling, extension, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling units than such structure accommodated prior to any such work.

Amended by R.1988 d.281, effective June 20, 1988.

See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).

Deleted text in (h) and substituted new; added (i).

Amended by R.1994 d.543, effective November 7, 1994.

See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

Cross References

Heavy industrial zone, environmental performance standards, see N.J.A.C. 19:4-4.109.

Light industrial and distribution zone A, environmental performance standards, see N.J.A.C. 19:4-4.90.

Light industrial and distribution zone B, environmental performance standards, see N.J.A.C. 19:4-4.100.

Research distribution park zone, environmental performance standards, see N.J.A.C. 19:4-4.79.

19:4-6.2 Historic preservation and cultural resources

Development proposed to occur in locations of historical and/or cultural importance, as determined by the New Jersey State Historic Preservation Office (SHPO) and/or the National Register of Historic Places, shall be designed in accordance with the regulations of those agencies.

19:4-6.3 Retail sale events

(a) The following retail sale events shall be regulated by the NJMC:

1. Warehouse sales;
2. Temporary or seasonal outdoor sales; and
3. Christmas tree sales.

(b) Nothing in this section shall be construed to regulate or limit sale events held within the limits of approved retail uses.

(c) General requirements applicable to retail sales events are as follows:

1. No sale events regulated in this section shall occur without the prior written approval of the NJMC. Application shall be made to the NJMC a minimum of 15 working days prior to the event.

2. The applicant shall request written approval from the municipal police department and municipal fire official to conduct the retail sale event and shall forward copies of such approvals to the NJMC a minimum of seven days prior to the event.

3. All sale areas shall meet the provisions of the NJ UCC Barrier Free Subcode, N.J.A.C. 5:23-7.

4. Sale events shall comply with all local health and safety codes.

5. The number of sale days and the duration of these sales shall be as follows:

i. For warehouse sales and temporary or seasonal outdoor sales:

(1) A maximum of 14 sale days per tenant shall be permitted per year, inclusive of both warehouse sales and temporary or seasonal outdoor sales.

(2) No single sale event shall occur for more than seven consecutive days; and

(3) Warehouse sales or temporary/seasonal sales shall not be permitted on any lot conducting concurrent Christmas tree sales.

ii. For Christmas tree sales:

(1) The sale of Christmas trees may be permitted beginning the day after Thanksgiving continuing through Christmas Day; and

(2) The sale of Christmas trees shall not be permitted on any lot conducting a concurrent warehouse sale or temporary/seasonal sale.

6. One temporary sale sign conforming to N.J.A.C. 19:4-8.14(e)1 may be erected without a sign permit. All other signage shall comply with the requirements of N.J.A.C. 19:4-8.14.

(d) Standards for warehouse sales shall be as follows:

1. The size and occupancy of the warehouse sale area shall be based upon both available parking and the allowable occupancy loads as determined by the building code adopted by the NJ UCC.

2. A sufficient number of restroom facilities shall be available for warehouse sale patrons as determined by the plumbing code adopted by the NJ UCC.

(e) Standards for temporary or seasonal outdoor sales shall be as follows:

1. Display areas for goods and any area devoted to an activity related to the sale must meet all applicable setbacks of the zone in which the site is located.

2. Goods that are sold or displayed outdoors shall be located on a paved or otherwise dust-free surface and shall not interfere with off-street parking areas, vehicle circulation or fire protection areas.

3. Parking shall be provided at the rate of one space for each 200 square feet of display or sale area. This requirement is in addition to the parking requirement for the existing uses on the site with common hours of operation as the temporary or seasonal outdoor sale.

4. The site shall be restored to its original condition within two days after the temporary or seasonal outdoor sale has ended.

(f) Standards for Christmas tree sales shall be as follows:

1. All display and sale areas used for the sale of Christmas trees shall meet all applicable setbacks of the zone in which the site is located.

2. All display and sale areas shall be located on a paved or otherwise dust-free surface and shall not interfere with off-street parking areas, vehicle circulation or fire protection access.

3. The display of Christmas trees shall not interfere with other permitted uses of the site.

4. Parking shall be provided at the rate of one space for each 200 square feet of display or sale area. This requirement is in addition to the parking requirement for the existing uses on the site with common hours of operation with the Christmas tree sales operation.

5. All sale and display areas shall be illuminated with a minimum average footcandle of 1.0, and shall comply with all other requirements of N.J.A.C. 19:4-8.13.

6. All sale-related materials shall be removed from the site no later than December 31 of the year of the sale.

Amended by R.1994 d.543, effective November 7, 1994.
See: 26 N.J.R. 1970(a), 26 N.J.R. 4421(c).

19:4-6.4 Outdoor events

(a) Not including retail sales events pursuant to N.J.A.C. 19:4-6.3, outdoor events shall be regulated by the NJMC in accordance with the following:

1. No outdoor event shall occur without the prior written approval of the NJMC. Application shall be made to the NJMC a minimum of 15 working days prior to the event.

2. The applicant shall request written approval from the municipal police department and municipal fire official to conduct such outdoor event and shall forward copies of such approvals to the NJMC a minimum of seven days prior to the event.

3. The outdoor event shall be associated with the owner or occupant of the subject property.

4. Outdoor events shall not exceed a total of eight days per property per year.

5. The outdoor event shall meet all applicable setbacks of the zone in which the property is located.

6. Outdoor events shall comply with all local health and safety codes.

7. Parking shall be provided at the rate of one space for each 200 square feet of event area. This requirement is in addition to the parking requirement for the existing uses on the site with common hours of operation as the event.

8. The outdoor event shall not interfere with parking areas, vehicle circulation, or fire protection access, unless temporary alternate arrangements are indicated on a plan and expressly approved in writing by the municipal police department and fire official. Copies of such approvals shall be submitted to the NJMC.

9. Outdoor events shall not be permitted on any lot conducting concurrent retail sale events.

10. The site shall be restored to its original condition within two days after the conclusion of the outdoor event.

19:4-6.5 Property maintenance

(a) It shall be the responsibility of the property owner to maintain in a safe and orderly condition all buildings, improvements and open space in accordance with these regulations.

(b) The following minimum maintenance activities shall be performed:

1. Properties shall be maintained free of outdoor storage, except where otherwise permitted, and debris.

i. Outdoor storage includes:

(1) The storage of equipment, materials, or merchandise, located outdoors or in containers or trailers; and

(2) The storage of unregistered, inoperable, or unserviceable vehicles, boats, or equipment, with the exception of unregistered vehicles for sale at vehicle sales facilities permitted by these regulations.

2. All drainage facilities, including ditches, basins, downspouts, gutters, inlets and pumps, shall be maintained in satisfactory operating condition and free of debris and siltation.

3. Parking and loading areas shall be maintained free from hazardous conditions deterring from the proper and safe use of such areas, including the following:

i. Pavement, curbing, and sidewalks shall be maintained free of cracks and holes and other hazardous or unsightly conditions; and

ii. Paint, striping, signage, and traffic control features and markings shall be maintained so that they are clearly legible.

4. All refuse and recyclable materials shall be placed in refuse or recycling facilities in accordance with N.J.A.C. 19:4-8.15(f). Such areas, and any screening, shall be maintained in a safe, clean and efficient manner.

5. All outdoor lighting shall be maintained in working condition.

6. Building finishes shall be kept free of peeling or cracked paint, rust or other unsightly conditions.

7. Upon a change of occupancy, including vacancy, of any building or tenant space, signage related to the prior occupant shall be removed within 30 days thereof.

8. All open space shall be properly maintained, as follows:

i. All plantings and groundcover shall be regularly watered and pruned;

ii. All dead materials shall be removed and replaced with living vegetation; and

iii. All lawn or other non-paved areas shall be kept trimmed and free from weeds and other undesirable growth.

9. All developed lots shall maintain a 15-foot buffer free of overgrown vegetation adjacent to buildings and public rights-of-way.

10. All vacant and/or unoccupied lots shall maintain a 15-foot buffer, free of overgrown vegetation and debris, adjacent to developed lots and public rights-of-way.

(c) Failure to maintain any property in the District in accordance with these regulations will result in enforcement action by the NJMC in accordance with N.J.A.C. 19:4-4.21.

Amended by R.1988 d.281, effective June 20, 1988.

See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).

Recodified (a)1-5 to (b)-(f).

SUBCHAPTER 7. PERFORMANCE STANDARDS**19:4-7.1 General requirements**

(a) For any proposed use, occupancy, structure, process or equipment, the applicant shall supply evidence to the NJMC that the proposed use, structure, process or equipment shall conform with all applicable performance standards.

(b) Any application for a zoning certificate, occupancy certification, special exception, variance, or other approval shall be accompanied by submissions, attachments and certifications as required in these regulations, including the following:

1. The submission of an application shall constitute a certification and an agreement on the part of the property owner and applicant that the proposed use, occupancy, structure, process or equipment is designed and intended to conform to the performance standards.

2. The NJMC may require certification of tests by appropriate government agencies or by recognized testing laboratories, any costs thereof to be borne by the applicant, as evidence of compliance.

3. The NJMC may require that specific types of equipment, machinery or devices be installed, or that specific operating procedures or methods be followed, if the government agencies or testing laboratories examining the proposed operation shall determine that the use of such specific types of machinery, equipment, devices, procedures, or methods are required in order to ensure compliance with the applicable performance standards.

4. Permits and certificates required by other government agencies shall be submitted to the NJMC as proof of compliance with applicable standards and requirements.

5. If appropriate permits, tests and certifications are not or cannot be provided by the applicant, the NJMC may require that instruments and/or other devices, or professional reports or laboratory analyses be used to determine compliance with the performance standards for an existing or proposed use, with the cost borne by the applicant.

6. In the event a determination cannot be made at the time of application that a proposed use, process or piece of equipment will meet the standards established in this section, the NJMC may issue a conditional approval, pursuant to these regulations. Issuance of a conditional approval shall be based on submission of evidence that the proposed use, process or equipment will meet the standards established herein after completion or upon installation and operation. Prior to issuance of a certificate of completion and/or occupancy certification, the applicant shall submit proof that all standards established herein have been met.

Administrative change.
See: 33 N.J.R. 3454(a).
Administrative correction.
See: 36 N.J.R. 1955(a).

19:4-7.2 Applicability and enforcement

(a) Continued compliance with performance standards is required and shall be enforced by the NJMC.

(b) Any existing use or structure that is allowed to deteriorate or is modified so as to reduce its compliance with these standards shall constitute a violation.

(c) Whenever, in the opinion of the Chief Engineer, there is a reasonable probability that any use of the performance standards herein are violated, the NJMC is empowered to employ a qualified technician or technicians to perform investigations, measurements and analyses to determine whether or not these regulations are being violated. In the event that a violation is found to exist, the property owner shall be liable for the reasonable fees of the technicians employed to perform such investigations, measurements and analyses.

Administrative change.
See: 33 N.J.R. 3454(a).

19:4-7.3 Performance standards; noise

(a) The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

“dBA” means a unit for describing sound levels measured using an A-weighting network. This network modifies the measured sound pressure level at the various frequencies to account for differences in the sensitivity of the human ear to sounds of different frequency.

“Decibel,” abbreviated “dB,” means a unit that describes the sound pressure level or intensity of sound. The sound pressure level in decibels is 20 times the logarithm to the base 10, of the ratio of the pressure of the sound to a reference pressure of 0.0002 microbar.

“Impact noise” means a relatively short duration noise generally produced by the striking of two or more objects so as to be heard as a separate distinct noise.

“Impact noise analyzer” means an instrument that measures the peak sound pressure of an impact noise and meets the standards of the American National Standards Institute (ANSI) or the International Electrotechnical Commission (IEC).

“Noise” means a subjective description of an undesirable or unwanted sound.

“Sound” means rapid fluctuations of atmospheric pressure that are audible to persons.

“Sound level meter” means an instrument used to measure the overall sound pressure level.

(b) Noise shall be measured with a sound level meter meeting the standards of the ANSI specification S1.4-1971 for sound level meters or its successor.

(c) The instrument shall be set to the A-weighted response scale and the meter of the slow response. Measurements shall be conducted in accordance with the American National Standards Institute (ANSI) specification S12.50-2002, which describes various methods for determining the sound power levels for machinery and equipment. These standards are incorporated herein by reference, as amended and supplemented, and can be obtained from the American National Standards Institute, 25 West 43rd Street, 4th Floor, New York, NY 10036.

(d) Impact noises shall be measured with an impact noise analysis meeting the standards of the ANSI standards S12.50-2002. These standards are incorporated herein by reference, as amended and supplemented.

(e) Noises shall not exceed the maximum sound levels specified in Table 7-1 below, except as otherwise designated. Where more than one specified sound level applies, the most restrictive shall govern. Measurements may be made at points of maximum noise intensity.

TABLE 7-1

Noise Level Restrictions

Performance Standard Category	Maximum Permitted Sound Level	Where Measured
A	65 dBA	On or beyond the subject property boundary line
B	70 dBA	On or beyond the subject property boundary line
C	76 dBA	On or beyond the zone boundaries

(f) In any residential area or zone, the A-weighted sound level shall not exceed 55 dBA during the hours of 7:00 A.M. to 9:00 P.M. and shall not exceed 45 dBA during the hours of 9:00 P.M. to 7:00 A.M.

(g) The levels specified in Table 7-1 may be exceeded by 10 dBA for a single period not to exceed 15 minutes in any one day.

(h) For impact noise levels, the values in Table 7-1, increased by 20 dB, shall apply. For purposes of these regulations, impact noises shall be considered to be those noises whose peak values are more than six dB higher than the values indicated on the sound level meter.

(i) Construction or other temporary (60 days or less) uses which exceed the above limitation may be permitted if a noise mitigation plan is approved by the NJMC.

(j) The provisions of this section shall not apply to:

1. Bells, chimes, or carillons used in conjunction with houses of worship;
2. Emergency public warning systems;
3. Emergency energy release devices;
4. Emergency work to provide electricity, water, or other public utilities when public health or safety is involved;
5. Noise of aircraft flight operations;
6. Public roadways;
7. Surface carriers engaged in commerce by railroad;
8. The unamplified human voice; and
9. Use of explosive devices, as regulated by other agencies having jurisdiction.

(k) Except as provided in (i) above, sound under the direct and indirect control of a use or property owner is subject to the standards set forth in this subchapter.

Administrative change.
See: 33 N.J.R. 3454(a).

19:4-7.4 Performance standards; vibrations

(a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

“Amplitude” means the maximum displacement of the earth from the normal rest position. Amplitude is usually reported as inches or mils.

“Discrete impulses” means a ground transmitted vibration stemming from a source where specific pulses do not exceed 60 per minute or one per second.

“Frequency” means the number of times that a displacement completely repeats itself in one second of time. Frequency may be designated in cycles per second (cps) or hertz (Hz).

“Impact” means an earthborn vibration generally produced by two or more objects striking each other so as to cause separate and distinct pulses.

“Particle velocity” means a characteristic of vibration that depends on both displacement and frequency. If not directly measured, it can be computed by multiplying the frequency by the amplitude times the factor 6.28. The particle velocity will be in inches per second, when the frequency is expressed in cycles per second and the amplitude in inches.

“Steady state vibration” means a vibration which is continuous, as from a fan, compressor, or motor.

“Vibration” means a reciprocating movement transmitted through the earth, both in horizontal and vertical planes.

(b) Ground-transmitted vibration shall be measured with a seismograph or complement of instruments capable of recording vibration displacement and frequency, particle velocity, or acceleration simultaneously in three mutually perpendicular directions.

(c) Table 7-2 below designates the maximum permitted particle velocities, except as otherwise designated. Where more than one set of vibration levels apply, the most restrictive shall govern. Measurements may be made at points of maximum vibration intensity.

TABLE 7-2

Vibration Level Restrictions

Performance Standard Category	Maximum Peak Particle Velocity, inches per second	Where Measured
A	0.02	On or beyond the subject property boundary line
B	0.05	On or beyond the subject property boundary line
C	0.10	On or beyond the zone boundaries

(d) In any residential area, the peak particle velocity shall not exceed 0.02 inches per second during the hours of 7:00 A.M. to 9:00 P.M. and shall not exceed 0.01 inches per second during the hours of 9:00 P.M. to 7:00 A.M.

(e) The maximum particle velocity shall be the maximum vector sum of three mutually perpendicular components recorded simultaneously. Particle velocity may also be expressed as 6.28 times the displacement in inches multiplied by frequency in cycles per second.

(f) For the purpose of these regulations, steady state vibrations are vibrations which are continuous, or vibrations

in discrete impulses more frequent than 60 per minute. Discrete impulses that do not exceed 60 per minute shall be considered impact vibrations. Impact vibrations are limited to values no more than twice as high as those specified in Table 7-2.

Administrative change.
See: 33 N.J.R. 3454(a).

19:4-7.5 Performance standards; airborne emissions

(a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

“Particulate matter” means airborne material except uncombined water that exists in a finely divided form as a liquid or solid at standard conditions.

“Steam” means condensed water vapor droplets observable as a plume having an equivalent opacity of 60 percent or higher.

“Toxic matter” means material that is capable of causing injury to living organisms by chemical means when present in relatively small amounts.

(b) Any activity, operation, or device that causes, or tends to cause, air pollution shall comply with both the New Jersey State Air Pollution Control Laws and Codes, N.J.A.C. 7:27 and 7:27B, and the standards herein.

(c) The emission of visible steam from all stacks, chimneys, processes, and devices shall not exceed the restrictions in Table 7-3, below.

TABLE 7-3

Restrictions On Steam

Performance Standard Category	Steam Restrictions
A	No visible steam (except as a direct result of a combustion or other process) permitted.
B and C	No visible steam (except as a direct result of a combustion or other process) within 500 feet of a residential area.

(d) The emission of particulate matter from all stacks, vents, chimneys, flues and openings of all sources of air pollution on a lot shall not exceed the limitations in the New Jersey Air Pollution Control Laws and Codes, N.J.A.C. 7:27 and 7:27B.

(e) If any toxic matter is emitted which is listed by the American Conference of Governmental Hygienists or any other lists published by the State of New Jersey or Federal Government, the applicant shall satisfy the NJMC that the quantity and type of emission of this matter will be safe to the general population.

(f) No odor shall be emitted that is detectable by the human olfactory sense at or beyond an adjacent lot line.

Administrative change.
See: 33 N.J.R. 3454(a).

19:4-7.6 Performance standards; hazardous materials, liquids and chemicals

(a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

“Deflagration” means an exothermic reaction, such as the extremely rapid oxidation of a flammable dust or vapor in air, in which the reaction progresses through the unburned material at a rate less than the velocity of sound. A deflagration can have an explosive effect.

“Detonation” means an exothermic reaction characterized by the presence of a shock wave in the material that establishes and maintains the reaction. The reaction zone progresses through the material at a rate greater than the velocity of sound. The principal heating mechanism is one of shock compression. Detonations have an explosive effect.

“Health hazard” means a classification of a chemical for which there is statistically significant evidence that acute or chronic health effects are capable of occurring in exposed persons. The term “health hazard” includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which are capable of acting on the hematopoietic system, and agents which damage the lungs, skin, eyes or mucous membranes.

“Physical hazards” means a chemical for which there is evidence that it is a combustible liquid, compressed gas, cryogenic, explosive, flammable gas, flammable liquid, flammable solid, organic peroxide, oxidizer, pyrophoric or unstable (reactive) or water-reactive material.

(b) In all zones, any activity involving the manufacture, utilization, or storage of explosive, flammable, highly combustible, highly toxic, corrosive, or unstable materials shall be conducted in accordance with the regulations of the NJ UCC, N.J.A.C. 5:23; the NJ UFC, N.J.A.C. 5:18; and the New Jersey Right-to-Know Law, N.J.S.A. 47:1A-1 et seq.

(c) Category A standards are as follows:

1. The storage, utilization or manufacture of materials that pose a detonation hazard are not permitted as a principal use.
2. The storage and/or utilization, but not manufacture, of materials and products classified as deflagration, physical and health hazards by the NJ UCC shall only be permitted as an accessory use to the principal use provided the area devoted to such accessory use does not occupy more than 10 percent of the building's floor area.

3. The storage and/or utilization, but not manufacture, of materials and products classified as deflagration or physical hazards by the NJ UCC shall be permitted as a principal use only as a special exception.

(d) Category B and C standards are as follows:

1. The manufacture of materials and products that pose a detonation hazard shall not be permitted.

2. The storage and/or utilization of materials and products that pose a detonation hazard may be allowed as accessory to a principal use to the extent permitted by the NJ UCC, whereby the premises, or portion thereof, would not be classified as a H-1 (Detonation Hazard) Use Group.

(e) Whenever any facility or part thereof, including storage dike, which stores, utilizes or manufactures hazardous materials, liquids and chemicals is within 300 feet from another zone, the more restrictive of the performance standards for the two zones shall apply.

Administrative change.
See: 33 N.J.R. 3454(a).

19:4-7.7 Performance standards; glare

(a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

“Candle” means the luminous intensity of one standard candle.

“Foot-candle” means the unit of illumination on a surface one square foot in area on which there is a uniform distribution of light having a candlepower of one candela.

“Footlambert” means a unit of brightness equal to the brightness of a uniform diffusing surface that emits or reflects one lumen per square foot.

“Glare” means a sensation of brightness within the visual field that causes annoyance, discomfort, or loss in visual performance and visibility.

“Illumination” means the density of luminous energy falling upon a surface, usually measured in foot-candles.

“Photometer” means an instrument for measuring the intensity of light.

“Watt” means a unit of electrical power.

(b) Glare shall be measured in accordance with the standards and procedures set forth in the Illuminating Engineering Society of North America (IESNA) Lighting Handbook, 9th edition, incorporated herein by reference, as amended and supplemented. Outdoor lighting design shall be in accordance with the recommended practice, RP-33-99, published by the IESNA, incorporated herein by reference, as

amended and supplemented. Both publications can be obtained from IESNA, 120 Wall Street, Floor 17, New York, NY 10005-4001.

(c) Uses subject to Category A, B, and C performance standards shall not produce glare so as to cause illumination in a residential area or zone, Environmental Conservation zone, or Park and Recreation zone, in excess of 1.0 foot-candles. Sources of illumination shall be controlled so as not to be a nuisance in these areas.

(d) Uses subject to Category A, B, and C performance standards shall limit the use of light sources and illuminated surfaces within 500 feet of, and visible in, a residential area, Environmental Conservation zone, or Park and Recreation zone to comply with the light intensities indicated in Table 7-4 below.

TABLE 7-4

Maximum Intensity of Light Sources

Source	Category A	Category B and C
Bare incandescent bulbs	15 watts	40 watts
Illuminated buildings	15 foot-candles	30 foot-candles
Back lighted or luminous back-ground signs	150 footlamberts	250 footlamberts
Outdoor illuminated signs and poster panels	25 foot-candles	50 foot-candles
Any other unshielded sources, intrinsic brightness	50 candles per square centimeter	50 foot-candles per square centimeter

Administrative change.
See: 33 N.J.R. 3454(a).

19:4-7.8 Performance standards; radioactive materials

(a) The storage, utilization, manufacture or transportation of radioactive materials shall be in accordance with the NJDEP radiation protection rules, N.J.A.C. 7:28.

(b) Performance standard Categories A, B, and C are that the manufacture, storage, or utilization of unsealed radioactive materials shall be limited to the exempt quantities of radioactive materials as per N.J.A.C. 7:28.

(c) The applicant shall provide a copy of the license for the manufacture or storage of radioactive materials obtained from the NJDEP.

Administrative change.
See: 33 N.J.R. 3454(a).
Administrative correction.
See: 36 N.J.R. 1955(a).

19:4-7.9 Performance standards; wastewater

(a) The following pertains to permanent sewerage facilities:

1. All uses established or changed, or any structure which is constructed, moved, remodeled, or reconstructed in the District shall discharge liquid waste into a central sewerage system. No liquid wastes shall be discharged into

the Hackensack River or its tributaries after sewerage interceptors become available.

2. Discharges from a central sewerage system into the Hackensack River shall comply with the regulations of the NJMC and the NJDEP. No discharge from a public sewerage system shall be made into any tributary of the Hackensack River.

3. All discharges into a public sewerage system shall comply with the regulations of the NJMC and the NJDEP.

(b) The following pertains to temporary wastewater facilities:

1. Prior to the availability of public sewerage facilities, uses established or changed, or any structure which is constructed, moved or remodeled, or reconstructed in the District after June 20, 1988 can be utilized only with the following temporary sewerage facilities:

i. Temporary wastewater facilities that discharge directly into the Hackensack River or its tributaries under the following conditions:

(1) The discharge complies with the standards of this paragraph;

(2) The discharge will not impair and/or interfere with the functioning of the river, its tributaries, or the marsh-estuarine ecosystem of the District; and

(3) Application is made pursuant to paragraph (b)2 below.

ii. Temporary wastewater facilities that hold or contain wastewater and do not discharge directly into the Hackensack River or its tributaries may be permitted upon a showing of the following requirements:

(1) The wastewater facility has a volumetric capacity of less than five daily volumes of wastewater;

(2) The wastewater facility is constructed of materials which are impervious, watertight, and noncorrosive; and

(3) Copies of a contract indicating the terms, conditions, and firm or entity engaged to maintain the wastewater facility are provided.

iii. Septic tanks shall not be permitted.

2. The NJMC may, upon application and in connection with an application for a zoning certificate pursuant to N.J.A.C. 19:4-4.2, issue an approval for construction and operation of a temporary sewerage facility. The application shall contain:

i. A written statement by the governing body or appropriate public agency of the municipality within which the premises are located that a connection to a public sewerage system cannot be made available to the applicant prior to the issuance of occupancy certification, as provided in N.J.A.C. 19:4-4.6;

ii. A written statement by the applicant of their willingness and ability to make connection with a public sewerage system when it is made available;

iii. Data sufficient to show that any temporary sewerage facilities to be constructed will be able to treat the discharge so that it will conform with the standards of this subsection; and

iv. Proof of compliance with applicable rules and regulations of the NJDEP.

3. Upon installation of an approved temporary sewerage facility, the NJMC shall issue, upon compliance with the requirements established herein, temporary occupancy certification pursuant to the provisions of N.J.A.C. 19:4-4.6. Said certification shall be valid and remain in effect so long as the applicant has NJDEP approval to construct and operate a temporary sewerage facility. Upon availability of a public sewerage system, a permanent connection shall be made by the property owner pursuant to these regulations.

(c) The flow from any pipe, conduit, or any other source discharging into the river or its tributaries shall comply with the regulations of the NJMC and NJDEP, in addition to the following:

1. The discharge of radioactive materials is not permitted; and

2. The discharge of oil or other petroleum products causing a detectable odor, a visible slick or in such quantities to injure and/or kill wildlife or marine animals is not permitted.

(d) Proof of compliance with the applicable regulations, including copies of all NJDEP permits and other associated approvals, shall be submitted to the NJMC.

Administrative change.
See: 33 N.J.R. 3454(a).

19:4-7.10 Performance standards; traffic

(a) A traffic impact analysis (TIA) shall be submitted to the NJMC for the following:

1. All projects described in N.J.A.C. 19:4-10.2;

2. Any proposed development that creates 100 or more vehicle trips during the peak hour time periods of both the proposed use and the adjacent roadway(s), as determined by calculations based on the Institute of Transportation Engineers (ITE) Trip Generation Manual, 7th Edition, incorporated herein by reference, as amended and supplemented, a copy of which can be obtained from the Institute of Transportation Engineers, 525 School Street, S.W., Suite 410, Washington, DC 20024;

3. Any proposed development located in an area that the NJMC has found to be a traffic or safety concern; and
4. All petitions for the rezoning of 20 or more lots.

(b) The TIA, and any portion thereof or alternative thereto, shall be developed in consultation with the NJMC staff and the Transportation Management Association(s) serving the Meadowlands region such as Meadowlink or the Hudson Transportation Management Association, and shall be subject to NJMC approval.

(c) The TIA shall be prepared by a New Jersey-licensed professional engineer or professional planner specializing in transportation, or other individual determined by the NJMC to be qualified as an expert in traffic engineering, and shall include the following:

1. Introduction:

i. A description of the size, location and nature of the proposed development and the methodology to be used in the development of the TIA;

2. Existing conditions:

i. An inventory and maps showing the existing transportation network in the vicinity of the proposed site, including transit;

ii. A traffic count program, in accordance with the following:

(1) Traffic counts shall be conducted for AM and PM peak hours, unless otherwise required by the NJMC;

(2) Traffic counts shall not be conducted more than one year prior to the date of application; and

(3) Any method used to balance or adjust traffic count data between intersections or roadway sections shall be described;

iii. A capacity analysis, in accordance with the following:

(1) The capacity analysis shall be conducted using the methods of the Highway Capacity Manual (HCM), 2000 prepared by the Transportation Research Board (TRB) National Research Council, 2101 Constitution Avenue, N.W., Washington, DC 20418, and Highway Capacity Software (HCS), 2000, prepared by the University of Florida's McTrans, P.O. Box 116585, Gainesville, FL 32611, incorporated herein by reference, as amended and supplemented. The generated capacity analysis reports shall be included in an appendix to the TIA report;

(2) Capacity analyses shall be conducted for all locations and peak time periods for existing, proposed, future, and proposed mitigated conditions;

(3) All methodology and data sources used to create the capacity analysis shall be described; and

(4) A summary and diagram of all capacity analyses by condition, location, and time period shall be provided. The summary list shall include Level of Service (LOS), Volume to Capacity (V/C), and delay

in seconds for each movement and each analyzed intersection and/or roadway.

3. Future "no-build" conditions:

i. A description of the future "no-build" conditions that are projected without the proposed development shall be provided, in accordance with the following:

(1) The TIA shall identify any development, other than the proposed project, using the same existing or proposed roadway network as the project in question that would be built by the same proposed build year(s), inclusive of all phases, and the resulting trips;

(2) A two percent growth rate, compounded annually, shall be applied to the existing traffic volumes of the study area;

(3) The existing traffic volumes shall be combined with the resulting volumes generated by (c)3i(1) and (2); and

(4) Apply the trips resulting from (c)3i(1) to the roadway network, including any proposed transportation improvements to be constructed by the build year, exclusive of site-related improvements; and

ii. A capacity analysis of the "no-build" conditions shall be conducted in accordance with (c)2iii above;

4. Trip generation:

i. A trip generation analysis shall be conducted using the trip generation rates and procedures described in the ITE Trip Generation Manual referenced in (a)2 above. All methods, land use codes, rates and formulas used from the manual shall be noted, including appropriate edition and page number. Alternative trip generation from surveys may be used if the process and sources are documented and determined adequate by the NJMC. All trip generation methods, including trip reduction credits such as pass-by, transit, or internal and external capture, shall be subject to NJMC approval.

ii. Trip distribution shall be determined by using a gravity model method approved by the NJMC that replicates the flow of traffic by trip origin and destination. The trip distribution process shall be described and illustrated in the TIA.

iii. The modal split, or mode choice, shall be provided describing the means of transportation used, including personal vehicle, transit, walking, or other means. The modal split shall be provided for each existing and future condition and listed by percentage of mode type. The TIA shall provide the source of the modal split information and indicate the relevance of this data to the proposed site development or project.

iv. Trip assignment shall be provided by showing how the trips were assigned on the transportation network for the future conditions. The applicant shall describe and illustrate the methodology used assigning the trips.

5. Future "build" conditions:

i. A description of the future "build" conditions that are projected with the proposed development shall be provided, including a description and illustration of proposed site access and the proposed roadway and intersection configurations.

ii. A capacity analysis of the "build" conditions shall be conducted in accordance with (c)2iii above. LOS tables and associated maps and figures shall also be provided. The traffic volume used in the "build" capacity analysis shall be derived by combining the "no-build" volumes of (c)3 above and the trip generation volumes of (c)4 above.

iii. Analysis results shall be described by road, ramp or intersection; and

6. Impact assessment and mitigation condition:

i. The TIA shall assess the results of the "build" analysis by comparing the "no-build" and "build" traffic impact, in accordance with the following:

(1) Any roadway or intersection that exceeds a LOS "D" or degrades the existing LOS by more than one LOS letter grade shall be subject to mitigation measures.

(2) Any new roadway, ramp, or intersection shall be designed to operate at a LOS "C" or better.

(3) If the project is built in multiple years, "build" and mitigation conditions shall reflect the multiple "build" years separately.

(4) Proposed on-site and off-site transportation improvements supplemental to the "no build" or proposed "build" transportation improvements shall be described and illustrated.

(5) All transportation improvements to be provided by the applicant shall be identified. The TIA shall also identify any improvements to be built as a public/private partnership or as public improvement investment.

(d) The NJMC reserves the right to require additional analyses, including accident analyses, sight distance surveys, traffic simulation and modeling, and queuing analyses.

Administrative change.
See: 33 N.J.R. 3454(a).

SUBCHAPTER 8. SITE PLAN REQUIREMENTS

19:4-8.1 General provisions

(a) All standards specified in this subchapter are the minimum allowed.

(b) No structure shall be constructed, moved, or altered unless the minimum required site improvements as outlined in this subchapter are provided.

(c) No structure shall be constructed, moved, or altered, nor site improvements undertaken, unless all of the minimum required barrier free improvements are provided in accordance with the New Jersey Uniform Construction Code (NJ UCC), Barrier Free Subcode, N.J.A.C. 5:23-7.

(d) Permitted uses in the Environmental Conservation zone and public parks in all zones are exempt from the design standards of this subchapter, but shall be designed in consultation with the NJMC staff.

(e) All proposed site plans shall consider and shall be reviewed in accordance with the following elements:

1. The average height, massing and general proportions of development within the neighborhood;
2. The surrounding environment and adjacent property;
3. Natural features and ecology;
4. Scenic, cultural, historical, archeological or landmark sites;
5. Open space, parks and recreational facilities;
6. Traffic circulation;
7. Vehicle and pedestrian circulation and safety;
8. Access to public transportation;
9. Availability of utility services, including sanitary sewers and public water; and
10. Waste disposal and recycling.

19:4-8.2 Parking

(a) General requirements applicable to parking are as follows:

1. No structure shall be constructed, moved, or altered, and no existing structure or use shall be enlarged, after February 17, 2004 unless the required number of parking spaces are provided in accordance with N.J.A.C. 19:4-8.4.

2. All required parking facilities shall be located off-street and on the same lot occupied by the use served.