

2. The Hackensack Meadowlands Development Commission or a staff member of the HMDC, 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 (Act) and to ensure compliance with the HMDC rules.

3. All inspections, investigations, examinations, surveys, soundings or test borings conducted pursuant to the Act and rules shall be between the hours of 9:00 A.M. and 5:00 P.M. on business days; provided, however, that inspections may be conducted at other times if the enforcing agency has reasonable cause to believe that an immediate danger to life, limb or property exists, or if permission is given by an owner, owner's agent or tenant.

4. All inspections, investigations, examinations, surveys, soundings or test borings shall be memorialized by a written report which shall include the name of the HMDC 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.

5. Other than a visit to the premises made pursuant to (g)1 and 2 above, the owner, owner's agent or tenant shall be notified of the HMDC'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 Act. The HMDC or a staff member of the HMDC shall not enter the premises until at least two days following the receipt of such notice.

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

Amended by R.1988 d.281, effective June 20, 1988.
See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).

Added text to (e) "amount of".

Amended by R.1990 d.70, effective February 5, 1990.
See: 21 N.J.R. 2949(a), 22 N.J.R. 557(b).

Subsections (b) and (g) added; fines increased.

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).

Historical Note

This section was originally cited as Article 8-109.

19:4-6.25 Appeals

(a) An appeal from an adverse decision of the Office of the Chief Engineer and/or the Executive Director, including a decision that a party has violated the provisions of these regulations pursuant to N.J.A.C. 19:4-6.24(b), may be taken to the Commission by any party, or, in the discretion of the Commission, by anyone adversely affected by such decision.

(b) Appeals shall be taken within 15 days after the date of the notification of an adverse decision by filing a notice of appeal, by certified mail, with the Office of the Chief Engineer. The notice of appeal shall specify the grounds for such appeal. Upon receipt of a notice of appeal, the Secretary of the Commission shall transmit to the Office of Administrative Law all of the papers constituting the record upon which the decision being appealed was based.

(c) An appeal shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made and shall toll all applicable time limits, with the exception of fines, which will continue to accrue, unless the Chief Engineer certifies to the Commission, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, such stay and tolling would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed and time limits shall not be tolled other than by a restraining order which may be granted by the Commission or by the Superior Court on application to the Chief Engineer on due cause shown.

(d) The Commission shall decide each appeal within 45 days of receipt of the decision of the administrative law judge on the basis of the record below and oral argument of the parties at the hearings held before the administrative law judge.

(e) The Office of the Chief Engineer shall maintain complete records of all actions of the Commission with respect to appeals.

Amended by R.1975 d.355, effective December 1, 1975.

See: 7 N.J.R. 527(b), 8 N.J.R. 52(c).

Amended by R.1981 d.446, effective November 16, 1981.

See: 13 N.J.R. 529(d), 13 N.J.R. 847(d).

(a): "or committee thereof . . . members" deleted; "in the discretion of the Commission" added; "The Commission shall . . . quorum of the Commission" deleted.

(b): "15" was "30"; "to the Office of Administrative Law" added.

(c): "or" added before "by the Superior Court", and "and" deleted before "on due cause shown".

(d): "within 45 days of receipt of the decision of the administrative law judge" added; "public" deleted; "administrative law judge" added; "commission or committee" through (h) deleted;

(i): renumbered as (e).

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

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

Added text to (c) "with the exception . . . continue to accrue".

Amended by R.1990 d.70, effective February 5, 1990.

See: 21 N.J.R. 2949(a), 22 N.J.R. 557(b).

Clarification to include violation of N.J.A.C. 19:4-6.24.

Administrative Correction to (e).

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

Historical Note

This Section was originally cited as Article 8-110.

19:4-6.26 Commission review of Development Board actions

(a) Immediately after approving, or approving with conditions, or disapproving, general, development and implementation plans, or variations from the 80 percent land

ownership requirement specified in N.J.A.C. 10:4-5.16, the Development Board shall transmit forthwith to the Commission a copy of the public order containing such approval, a copy of the plan, and copies of reports of the Commission's staff and of the architectural design committee, if any, on the plan.

(b) The Commission may, by a concurring vote of a majority of its members, affirm or reverse, wholly or partly, may modify such approval, or disapproval, or may remand the entire matter for further action by the Development Board, based upon the record before it. Such action shall be in the form of a written decision explaining the reasons for such action. If the Commission fails to act within four weeks after receipt of the entire record, the decision of the Development Board shall be deemed to be affirmed.

Amended by R.1982 d.1, effective February 1, 1982.
See: 13 N.J.R. 694(a), 14 N.J.R. 162(b).

(a): Added "or variations . . . N.J.A.C. 19:4-5.16".

Historical Note

This section was originally cited as article 8-111.

19:4-6.27 Amendments

(a) These regulations, including the official zoning map forming a part hereof, may be amended, in whole or in part, from time to time, pursuant to such procedures and requirements as are imposed by law and the general rules of the Commission.

(b) Upon approval by the Commission for filing of a pre-proposal, or proposal, or approval as a result of a referral for further deliberation to file a pre-proposal or proposal the Commission must submit a notice to the New Jersey Register. A minimum period of 30 days is required from the date of publication in the New Jersey Register to receive public comment. The Commission may require a public hearing for which a minimum of 15 days notice must be provided from the time the notice appears in the New Jersey Register.

(c) Upon conclusion of the public comment period, the Hackensack Meadowlands Municipal Committee will be granted a maximum 45 day period within which to submit comments to the Commission.

(d) Upon review of the comments and recommendation by the Office of the Chief Engineer, the Commission shall render a decision which must be filed with the Office of Administrative Law for inclusion in the New Jersey Register. The adoption of any zoning amendment is not valid until published in the New Jersey Register.

Amended by R.1991 d.553, effective November 4, 1991.
See: 23 N.J.R. 1917(a), 23 N.J.R. 3346(a).

Added new (b)-(d).

Historical Note

This section was originally cited as article 8-112.

19:4-6.28 Official zoning map

The Hackensack Meadowlands District official zoning map dated November 8, 1972, is hereby made a part of these rules and regulations of the Hackensack Meadowlands Development Commission.

Amended by R.1977 d.155, effective May 4, 1977.

See: 9 N.J.R. 148(b), 9 N.J.R. 297(b).

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.1978 d.359, effective October 5, 1978.

See: 10 N.J.R. 266(d), 10 N.J.R. 522(e).

Amended by R.1980 d.43, effective January 24, 1980.

See: 11 N.J.R. 597(b), 12 N.J.R. 164(a).

Amended by R.1981 d.467, effective December 7, 1981.

See: 13 N.J.R. 624(a), 13 N.J.R. 895(c).

Changed the designation of Block 453B, Lots 16A-1, 17A, 18, 19C, 20C, 21C, and part of 15c-1 in North Bergen, New Jersey, consisting of 15 acres, from Park and Recreation Zone to Light Industrial-A-Zone.

Amended by R.1983 d.508, effective November 7, 1983.

See: 15 N.J.R. 1367(a), 15 N.J.R. 1874(a).

Changed the designation of Block 123, portions of Lots 6, 30 and 31 (old Block 151, Lots 17, 18) in Carlstadt, New Jersey to the Light Industrial Zone "B."

Amended by R.1983 d.142, effective May 2, 1983.

See: 15 N.J.R. 133(b), 15 N.J.R. 697(c).

Changed the zoning designation of a 2.03 portion of the Waterfront Recreation Zone, known as Block 108C, Lot 1, in Little Ferry, New Jersey to Light Industrial and Distribution B Zone.

Amended by R.1983 d.322, effective August 15, 1983.

See: 15 N.J.R. 532(a), 15 N.J.R. 1384(c).

Changed the zoning designations of approximately 24 acres of the 53 acres of the existing Highway Commercial Zone, known as Block 194, Lot 6 in Secaucus, the Service Highway Commercial Zone. The subject property shall contain no more than 250,000 square feet of shopping facilities. The permitted shopping facilities shall include a supermarket (not less than 50,000 square feet); the remaining facilities shall offer only "convenience goods" as determined by the Chief Engineer except that a home improvement center (of not more than 50,000 square feet) may be included among the facilities.

Amended by R.1985 d.212, effective May 6, 1985.

See: 16 N.J.R. 3423(b), 17 N.J.R. 1138(b), 17 N.J.R. 1916(a).

Changed the zoning designation of Block 169, Lot 1, in Ridgefield from Marshland Preservation to Light Industrial "B." The subject property consists of approximately eight acres.

Amended by R.1985 d.408, effective August 5, 1985.

See: 16 N.J.R. 3423(b), 17 N.J.R. 1916(a).

Amended by R.1986 d.19, effective February 3, 1986.

See: 17 N.J.R. 2530(a), 18 N.J.R. 311(a).

The zoning designation of Block 219A, Lot 47C; Block 226, Lots 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17 and 18 in the Town of Lyndhurst, New Jersey, are changed from Light Industrial (B) to Commercial Park.

The zoning designation of Block 100, Lots 1 and 2; Block 101, Lot 8; Block 110, Lot 1; Block 117, Lot 1; Block 118, Lots 2, 3, 4 and 5 in the Town of Secaucus, New Jersey, are changed from Waterfront Recreation to Commercial Park.

Amended by R.1987 d.212, effective May 4, 1987.

See: 19 N.J.R. 53(a), 19 N.J.R. 774(a).

Changed the zoning designation of Block 100, Lots 1, 2 and 3; Block 101, Lot 8; Block 110, Lot 1; Block 117, Lot 1; Block 118, Lots 2, 3, 4 and 5 in the Town of Secaucus, New Jersey from Waterfront Recreation to Commercial Park.

Amended by R.1987 d.211, effective May 4, 1987.

See: 19 N.J.R. 54(a), 19 N.J.R. 774(b).

The zoning designation of Block 112, Lots 1-7 in Secaucus, New Jersey is changed from Service Highway to Commercial to Low Density Residential.

Amended by R.1987 d.272, effective July 6, 1987.

See: 19 N.J.R. 448(a), 19 N.J.R. 1236(b).

The zoning designation of Block 185, Lot 3 (New Block 185.01, Lot 2), in Secaucus, New Jersey, is changed from Highway Commercial to Service Highway Commercial.

Amended by R.1987 d.273, effective July 6, 1987.

See: 19 N.J.R. 512(a), 19 N.J.R. 1236(a).

The zoning designation of Block 116, Lot 12 in Little Ferry, New Jersey is changed from Park and Recreation to Low Density Residential.

Amended by R.1989 d.21, effective January 3, 1989.

See: 20 N.J.R. 2247(b), 21 N.J.R. 31(a).

Changed the zoning designations of Block 128, Block 137, and Block 106.

Petition for Rulemaking: Request to amend Official Zoning Map.

See: 21 N.J.R. 3030(c).

Petition for Rulemaking: Request to amend Official Zoning Map.

See: 21 N.J.R. 3445(a), 22 N.J.R. 840(b).

Petition for Rulemaking: Request to amend Official Zoning Map.

See: 21 N.J.R. 3030(e).

Petition for Rulemaking: Request to amend Official Zoning Map.

See: 21 N.J.R. 3566(b).

Petition for Rulemaking: Request to amend Official Zoning Map.

See: 21 N.J.R. 3566(c).

Amended by R.1990 d.148, effective March 5, 1990.

See: 21 N.J.R. 3445(a), 22 N.J.R. 840(b).

Zoning designation of Block 196, Lot 1 in North Arlington and Block 235, Lots 8, 9 and 10 in Lyndhurst changed from Research Distribution Park to Heavy Industrial, with certain exceptions.

Notice of Action regarding Petition for Rulemaking at 21 N.J.R. 3566(c).

See: 22 N.J.R. 997(a).

Notice of Action regarding Petition for Rulemaking at 21 N.J.R. 3030(d).

See: 22 N.J.R. 1162(b).

Petition for Rulemaking: Request zoning changes within the Borough of Ridgefield.

See: 22 N.J.R. 1388(d).

Amended by R.1990 d.528, effective November 5, 1990.

See: 22 N.J.R. 1699(b), 22 N.J.R. 3386(e).

Zoning designations of all or part of Block 4004, Lot 4; Block 4010, Lots 2 and 3; Block 4007, Lot 1; Block 4008, Lot 1; Block 168, Lot 1 and Block 167, Lot 1C (now Block 4011, Lot 3); and Block 167, Lot 1B (now Block 4013, Lot 1) changed to Heavy Industrial.

Notice of Action or Petition for Rulemaking: Establishment of an intermodal rail terminal operation.

See: 24 N.J.R. 1403(a), 24 N.J.R. 1827(b).

Amended by R.1992 d.422, effective October 19, 1992.

See: 24 N.J.R. 2346(a), 24 N.J.R. 3734(b).

Change the zoning designation of Block 286, Lots 5, 7 and 9, in the Town of Kearny, from Highway Commercial to Heavy Industrial, and Block 286, Lot 6A, in the Town of Kearny, from Right of Way to Heavy Industrial.

Amended by R.1992 d.487, effective December 7, 1992.

See: 24 N.J.R. 1690(b), 24 N.J.R. 4414(a).

Revised official zoning map.

Public Notice: Notice of receipt of petition for rulemaking.

See: 25 N.J.R. 3033(b).

Amended by R.1993 d.653, effective December 20, 1993.

See: 25 N.J.R. 3429(a), 25 N.J.R. 5943(b).

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

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

19:4-6.29 Petitions for zoning amendment to Official Zoning Map (rezoning)

(a) In addition to the requirements of N.J.A.C. 19:3A-1.3, all petitions for a zoning amendment to the Official Zoning Map, also known as rezoning, shall include:

1. A project location map, in triplicate, of the lots, drawn to scale and showing the actual dimensions of the lots. The map shall include:

- i. The existing zoning and land use of the adjacent properties;
- ii. Location of public right-of-ways, water courses, traffic circulation, points of ingress and egress, including access streets;
- iii. Existing structures and land uses on site; and
- iv. Other such information as may be reasonably required;

2. A description of the rezoning being requested including the location of the property (block, lot and municipality), existing zoning, and proposed zoning;

3. The basis for the rezoning request including, but not limited to, a statement as to why the site cannot be developed in accordance with the existing zoning of the Hackensack Meadowlands Development Commission;

4. The full name and address of the petitioner;

5. The petitioner's interest in the request, including any relevant organization affiliation or economic interest; and

6. Other such information as may be deemed necessary by the Office of the Chief Engineer.

(b) All petitions for rezonings are subject to a filing fee as indicated at N.J.A.C. 19:3-1.2(a)8. This fee, or portion thereof, may be waived pursuant to N.J.A.C. 19:3-1.6.

New Rule, R.1991 d.553, effective November 4, 1991.

See: 23 N.J.R. 1917(a), 23 N.J.R. 3346(a).

19:4-6.30 Petitions for amendment to District Zoning Regulations

(a) In addition to the requirements of N.J.A.C. 19:3A-1.3, all petitions for an amendment to the District Zoning Regulations, N.J.A.C. 19:4, shall include:

1. The existing text proposed to be amended;
2. The proposed amendment to the District Zoning Regulations;
3. The reasons for the request, including a report indicating why the existing text is no longer appropriate and the proposed amendment is necessary. The report must be signed and sealed by a licensed Professional Engineer, Professional Planner or Registered Architect, depending on the nature of the request;
4. The full name and address of the petitioner;
5. The petitioner's interest in the request, including any relevant organization affiliation or economic interest; and
6. Other such information as may be deemed necessary by the Office of the Chief Engineer.

New Rule, R.1991 d.553, effective November 4, 1991.

See: 23 N.J.R. 1917(a), 23 N.J.R. 3346(a).

SUBCHAPTER 7. WETLANDS PROCEDURES AND GUIDELINES

19:4-7.1 General provisions; scope

(a) The HMDC open space map portrays a 6,210 acre open space system consisting of marshland preservation areas (wetland), public parks, open water, schools, waterfront recreation zones, and waterway buffer strips. Specifically, 3,160 acres are incorporated within the wetland portion of the open space system; 1,375 acres are in the public park category; and 1,400 acres are shown as open water. In addition, 145 acres will be used for school purposes, 80 acres are zoned for waterfront recreation use and approximately 50 acres of open space will occur as waterway buffer strips.

(b) The preceding figures clearly reflect that more than 95 percent of the proposed open space acreage within the Meadowlands District will be in wetland, park, or open water. These three distinct forms of open space will be interwoven and managed throughout the district in such a manner so that the open space system which results will be both enjoyable and interesting, and ecologically responsive to the particular characteristics of the wetland ecosystem.

(c) The wetland areas are envisioned as serving as habitat for water fowl and various forms of marine life, as biological laboratories for man, and as areas of carefully protected quiet relaxation. The parks as shown on the map will serve both passive and active recreational pastimes. The ultimate variety of recreational uses of existing waterways will, of course, be dependent upon the water quality that can be attained. Even at the present time, however, boating and canoeing are enjoyable experiences within the district. School related parks, waterfront recreation areas and waterway buffer strips complete the open space map. Both schools and waterfront recreation areas will supplement the major open space areas by providing recreational facilities that cannot be located elsewhere in the district. Waterway buffer strips will help protect the life of all waterways within the district by controlling the predictable encroachment upon these arteries by all forms of development. (See Subchapter 4 of this Chapter.)

19:4-7.2 Guidelines

(a) As previously indicated, the open space map delineates the boundaries and dimensions of the six types of open space which comprise the HMDC open space system. They are comprised again as follows:

- | | |
|---|----------------|
| 1. Marshland preservation areas (wetland) | = 3,160 acres; |
| 2. Public parks | = 1,375 acres; |
| 3. Open water (waterways) | = 1,400 acres; |
| 4. Waterfront recreation areas | = 80 acres; |
| 5. Schools | = 145 acres; |
| 6. Waterway buffer strips | = 50 acres. |

(b) Where a developer's proposed plans impinge upon, or require participation in the HMDC's wetland open space system as shown on the open space map, special regulations and restrictions apply. These guidelines are presented as they apply to each of the following four major zoning map categories.

1. Marshland preservation zone;
2. Park and recreation zone;
3. Specially planned areas;
4. Development zones.

19:4-7.3 Marshland preservation zone

(a) As specified in N.J.A.C. 19:4-4.4 through 19:4-4.17 the activities which may or may not occur within this zone are clearly defined.

(b) Permitted uses include:

1. Scientific study, testing and experimentation in regard to marshland ecology;
2. Walkways for nature observations.

(c) Special exceptions include the construction, maintenance and use of any structures, buildings, and improvements in connection with scientific testing activities pertinent to marshland ecology.

(d) Use limitations include the following:

1. No use shall be operated, conducted or maintained that may impair the quality of the district as a marsh preservation area. Any use that significantly discourages or interferes with the use of the zone as a natural habitat for water fowl and other forms of marsh life shall be presumed to be a use that impairs the quality of the zone as a marsh preservation area.
2. No motor-driven vehicle or equipment shall be used in the zone that interferes with its use as a marshland preservation area.

(e) A prospective developer in an SPA or a zone must, therefore, adopt the necessary precautions to ensure that the results of his activities will not be ecologically damaging to those areas designated as marshland preservation on the HMDC zoning map. These precautions include, but are not limited to, the following measures:

1. Compliance with the HMDC's environmental performance standards;