

NEW JERSEY MEADOWLANDS COMMISSION

CHAPTER 3

ADMINISTRATION

Authority

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

Source and Effective Date

R.2009 d.40, effective December 23, 2008.
See: 40 N.J.R. 4696(a), 41 N.J.R. 624(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 3, Administration, expires on December 23, 2015. See: 43 N.J.R. 1203(a).

Subchapter 3, Disability Discrimination Procedure, is exempt as required under 42 U.S.C. §§12101 et seq.

Chapter Historical Note

Chapter 3, First Stage of the Master Plan for the Comprehensive Development of the Hackensack Meadowlands District, 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). Subchapter 1, Revised Fee Schedule, implementing Stage I of the Master Plan was adopted as R.1970 d.118, effective September 25, 1970. See: 2 N.J.R. 95(b). Subchapter 1 was replaced by new Revised Fee Schedules as R.1973 d.334, effective November 30, 1973. See: 6 N.J.R. 39(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, First Stage of the Master Plan for the Comprehensive Development of the Hackensack Meadowlands District, 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 3, First Stage of the Master Plan for the Comprehensive Development of the Hackensack Meadowlands District, 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 3, First Stage of the Master Plan for the Comprehensive Development of the Hackensack Meadowlands District, 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 3, First Stage of the Master Plan for the Comprehensive Development of the Hackensack Meadowlands District, was readopted as R.2003 d.9, effective December 9, 2002. See: 34 N.J.R. 2539(a), 35 N.J.R. 258(a).

Chapter 3, First Stage of the Master Plan for the Comprehensive Development of the Hackensack Meadowlands District, was repealed and new rules were adopted as Chapter 3, Administration, by R.2004 d.76, effective February 17, 2004. See: 35 N.J.R. 4458(a), 36 N.J.R. 1033(a).

Subchapter 6, Affordable Housing, was adopted as new rules by R.2007 d.57, effective February 5, 2007. See: 38 N.J.R. 3762(a), 39 N.J.R. 548(a).

Subchapter 7, Debarment and Suspension from Contracting, was adopted as new rules by R.2008 d.36, effective February 19, 2008. See: 39 N.J.R. 3731(b), 40 N.J.R. 887(b).

Chapter 3, Administration, was readopted as R.2009 d.40, effective December 23, 2008. As a part of R.2009 d.40, Subchapter 6, Affordable Housing, was repealed, effective January 20, 2009. See: Source and Effective Date.

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SUBCHAPTER 1. RULEMAKING

19:3-1.1 Rulemaking

The rules of the New Jersey Meadowlands Commission (NJMC), found in N.J.A.C. 19:3, 19:4, 19:5 and 19:6, and including the Official Zoning Map, may be amended, in whole or in part, from time to time, pursuant to the rules in this subchapter and N.J.S.A. 52:14B-4(f).

19:3-1.2 Petitions for rulemaking

(a) An interested person may petition the NJMC to adopt a new rule, amend or repeal an existing rule, or amend the Official Zoning Map. Such petition shall be filed with the NJMC, in writing, and signed by the petitioner.

(b) The petition shall state the following clearly and concisely:

1. The substance or nature of the rulemaking that is requested;
2. The reasons for the request and the petitioner's interest in the request; and
3. The statutory authority under which the NJMC may take the requested action.

(c) Such petitions shall be sent by certified mail and shall be addressed to:

New Jersey Meadowlands Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071
Attention: Division of Land Use Management

(d) Any document submitted to the NJMC that is not in substantial compliance with this section shall not be deemed to be a petition for rulemaking requiring further agency action. The document shall be returned to the sender with a deficiency explanation.

(e) The review of a petition in substantial compliance with this section shall proceed in accordance with N.J.A.C. 19:3-1.4.

19:3-1.3 Contents of petition to amend Official Zoning Map

(a) Petitions to amend the Official Zoning Map that are submitted to the NJMC in accordance with N.J.A.C. 19:3-1.2 shall be accompanied by the following:

1. The full name and address of the petitioner;
2. When the petitioner is not the property owner, written consent of the property owner authorizing the petitioner to apply to the NJMC for the requested change to the Official Zoning Map;
3. A report, signed and sealed by a New Jersey-licensed Professional Engineer or Professional Planner, including the following:
 - i. A description of the rezoning being requested, including the location of the property, block, lot and municipality, existing zoning, and proposed zoning; and
 - ii. A statement explaining why the proposed zoning designation is more appropriate than the current zoning designation;
4. A location map, in triplicate, of the lots drawn to scale and showing the actual dimensions of the subject property and the vicinity. The map shall include:
 - i. The existing zoning and land uses of the subject and adjacent properties;
 - ii. The location of water courses, rights-of-way, traffic circulation, and points of ingress and egress; and
 - iii. Existing structures on the site;
5. A survey of the property for which the zone change is requested, signed and sealed by a New Jersey-licensed Professional Land Surveyor, identifying all easements of record; and
6. Other such information as may be required by the NJMC.

19:3-1.4 Action on petition

(a) Upon receipt of a complete petition for rulemaking, the following shall occur:

1. The petition shall be dated, stamped, and logged by the NJMC staff; and
2. The NJMC staff shall, within 15 days of receipt of the petition, file with the Office of Administrative Law (OAL) for publication in the New Jersey Register (Register) a notice of the petitioner's receipt, in accordance with N.J.A.C. 1:30-4.1(c).

(b) The NJMC staff shall review the petition and prepare a preliminary analysis with recommendations that shall be submitted to the Commission and the Executive Director for their consideration and approval.

(c) In accordance with N.J.A.C. 1:30-4.2(a), the NJMC's action on a petition may include:

1. Denial of the petition, in which case the NJMC shall provide a written statement of its reasons to the petitioner and include such reasons in the notice of action;

2. A complaint shall be filed promptly within 20 days after the complainant becomes aware of the alleged violation.

3. An investigation, as may be appropriate, will follow the filing of a complaint. The investigation will be conducted by the agency's designated ADA Coordinator. The rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

4. In most cases a written determination as to the validity of the complaint and a description of the resolution, if any, will be issued by the designated decision maker and a copy forwarded to the complainant no later than 45 days after its filing.

5. The ADA coordinator will maintain the files and records of the agency relating to the complaints filed.

6. The right of a person to a prompt and equitable resolution of the complaint filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible Federal department or agency or the New Jersey Division on Civil Rights. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

7. The rules will be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the agency complies with the ADA and implementing Federal rules.

19:3-3.4 Designated ADA coordinator

(a) The designated coordinator of ADA compliance and complaint investigation for the agency is:

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

(b) All inquiries regarding the agency's compliance with the ADA and the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency should be directed to the designated coordinator identified in (a) above.

(c) All complaints alleging that the agency has failed to comply with or has acted in a way that is prohibited by the ADA should be directed to the designated ADA coordinator identified in this section, in accordance with the procedures set forth in N.J.A.C. 19:3-3.5 through 3.8.

19:3-3.5 Complaint procedure

A complaint alleging that the agency has failed to comply with the ADA or has acted in a way that is prohibited by the ADA shall be submitted either in writing or orally to the

designated ADA coordinator identified in N.J.A.C. 19:3-3.4. A complaint alleging employment discrimination will be processed pursuant to the rules of the Department of Personnel, if those rules are applicable.

19:3-3.6 Complaint contents

(a) A complaint submitted pursuant to this subchapter may be submitted in or on the form set forth at N.J.A.C. 19:3-3.7.

(b) A complaint submitted pursuant to this subchapter shall include the following information:

- 1. The name of the complainant, and/or any alternate contact person designated by the complainant to receive communication or provide information for the complainant;
- 2. The address and telephone number of the complainant or alternate contact person; and
- 3. A description of manner in which the ADA has not been complied with or has been violated, including times and locations of events and names of witnesses if appropriate.

19:3-3.7 Complaint form

The following form may be utilized for the submission of a complaint pursuant to this subchapter:

Americans with Disabilities Act Grievance Form

Date: _____

Name of grievant:

Address of grievant:

Telephone number of grievant:

Disability of grievant:

Name, address and telephone number of alternate contact person:

Agency alleged to have denied access:

Department:

Division:

Bureau or office:

Location:

Incident or barrier:

Please describe the particular way in which you believe you have been denied the benefits of any service, program or activity or have otherwise been subject to discrimination. Please specify dates, times and places of incidents, and names and/or positions of agency employees involved, if any, as well as names, addresses and telephone numbers of any witnesses to any such incident. Attach additional pages if necessary.

Proposed access or accommodation:

If you wish, describe the way in which you feel access may be had to the benefits described above, or that accommodation could be provided to allow access.

A copy of the above form may be obtained by contacting the designated ADA coordinator identified at N.J.A.C. 19:3-3.4.

19:3-3.8 Investigations

(a) Upon receipt of a complaint submitted pursuant to this subchapter, the designated ADA coordinator will notify the complainant of the receipt of the complaint and the initiation of an investigation into the matter. The designated ADA coordinator will also indicate a date by which it is expected that the investigation will be completed, which date shall not be later than 45 days from the date of receipt of the complaint, unless a later date is agreed to by the complainant.

(b) Upon completion of the investigation, the designated ADA coordinator shall prepare a report for review by the designated decision maker for the agency. The designated decision maker shall render a written decision within 45 days of receipt of the complaint, unless a later date is agreed to by the complainant, which decision shall be transmitted to the complainant and/or the alternate contact person if so designated by the complainant.

SUBCHAPTER 4. PROFESSIONAL SERVICES CONTRACTS

19:3-4.1 Applicability

The provisions of this subchapter shall apply only to contracts for architectural, engineering and land surveying services that are in excess of the threshold amount set forth in N.J.S.A. 52:34-7 et seq. and subject to the procurement provision requirements of N.J.S.A. 52:34-9.1 et seq. Nothing in this subchapter shall preclude the NJMC from using procurement processes other than those prescribed herein if those processes have been approved by the Federal government or other State statute or if an emergency has been declared by the Executive Director of the NJMC.

19:3-4.2 Definitions

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

“Compensation” means the basis of payment by an agency for professional architectural, engineering, or land surveying services.

“Professional architectural, engineering and land surveying services” means those services, including planning, environmental, and construction inspection services required for the development and construction of projects, within the scope of the practice of architecture, professional engineering or professional land surveying as defined by the laws of this State or those performed by an architect, professional engineer or professional land surveyor in connection with his or her professional employment practice.

“Professional firm” means any individual, firm, partnership, corporation, association or other legal entity permitted by law to provide professional architectural, engineering, or land surveying services in this State.

19:3-4.3 Filing of current statements of qualification and supporting data

(a) A professional firm that wishes to be considered pre-qualified to provide professional engineering, architectural, or land surveying services to the NJMC may file a current statement of qualification and supporting data to the NJMC.

(b) Such statements may be filed at any time during the calendar year and shall be sent to the Executive Director. Such statements must conform to the regulations of the State Treasurer, adopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., with respect thereto.

(c) No statement which shall have been filed more than two years prior to the publication of an advertisement pursuant to N.J.A.C. 19:3-4.4 shall be deemed to be a current statement with respect to the qualifications of the firm which shall have filed such statement.

19:3-4.4 Solicitation of additional statements of qualification

(a) Prior to the solicitation of proposals pertaining to the procurement of professional architectural, engineering, or land surveying services, the NJMC shall publicly advertise its need for such services.

(b) The advertisement shall be by one or more of the following methods:

1. Newspapers;
2. Written notice to New Jersey professional societies covering the construction industry;
3. Direct mailings to firms pre-qualified with the NJMC requesting expressions of interest; or
4. Publicly advertised through electronic means.

(c) The advertisement shall include either a statement of the criteria by which the NJMC shall evaluate the technical qualifications of professional firms and determine the order of preference to be used in designating the firms most highly qualified to perform the services or identify such criteria by reference to the provisions of this subchapter. In addition, the advertisement shall include notice that professional firms wishing to be considered for selection as a potential provider of such services in connection with a proposed project must have submitted, or must promptly submit, to the NJMC a current statement of qualifications and supporting data as prescribed in N.J.S.A. 52:34-9.3. The advertisement shall also include a brief statement of the nature and scope of the services proposed for procurement by the NJMC.

19:3-4.5 Criteria for the selection of the most highly qualified professional firms

(a) In selecting the most highly qualified professional firms with which to contract for architectural, engineering or land surveying services, the NJMC, where applicable, shall consider the following criteria:

1. The experience and qualifications of the firm;
2. The availability of qualified and experienced personnel to complete the project;

3. The experience and capability of the firm and designated project team with respect to any special technologies, techniques, or expertise the project may require;

4. The experience of the firm and designated project team on projects of similar size and/or complexity;

5. The past performance of the firm;

6. Any potential conflicts of interest the firm may have in completing the project; and

7. Any other criteria specified in the NJMC's public advertisement of the project.

(b) In selecting and ranking the most highly qualified professional firms, the NJMC shall establish weights for the criteria applicable to each project. The NJMC may disqualify any firm determined to be unacceptably deficient in one or more of the applicable criteria, regardless of the firm's ranking or score on the remainder of the criteria.

(c) Based upon the criteria set forth in (a) above, the NJMC shall short-list the most highly qualified firms to the top three or more ranked firms. Each qualified firm on that list shall then, at the request of the NJMC, submit a fee proposal. The firms shall not be told of their ranking position at that time.

(d) The NJMC may select less than three firms if fewer firms respond to the solicitation or if fewer firms are deemed qualified.

19:3-4.6 Negotiation of final agreement

(a) Using the fee proposals submitted in accordance with N.J.A.C. 19:3-4.5(c) to provide a general guideline, the Executive Director, or the Executive Director's designee, shall negotiate a contract with the most technically qualified professional firm for architectural, engineering or land surveying services at compensation that the NJMC determines to be fair and reasonable. In making this determination, the NJMC shall take into account the estimated value of the services to be rendered and the scope, complexity, and professional nature thereof. Should the Executive Director, or the Executive Director's designee, be unable to negotiate a satisfactory contract with the professional firm considered to be the most qualified at a fee the NJMC determines to be fair and reasonable, negotiations with that professional firm shall be formally terminated. The Executive Director, or the Executive Director's designee, shall then undertake negotiations with the second most qualified professional firm. Failing accord with the second most qualified professional firm, the Executive Director, or the Executive Director's designee, shall formally terminate negotiations. The Executive Director, or the Executive Director's designee, shall then undertake negotiations with the third most qualified professional firm. Should the Executive Director, or the Executive Director's designee, be unable to negotiate a satisfactory contract with any of the selected professional firms, he or she shall select additional professional firms in order of their competence and

qualifications and negotiations shall continue in accordance with this section until an agreement is reached.

19:3-4.7 Circumstances under which advertising is unnecessary

(a) Any contract under this subchapter may be made, negotiated, or awarded without advertising when:

1. The contract is to be made with the Federal or any State government or any agency or political subdivision thereof; or
2. The public exigency requires the immediate performance of the service.

SUBCHAPTER 5. REDEVELOPMENT AREAS

19:3-5.1 Intent and purpose

It is the intent and purpose of this subchapter to provide a specific framework for the identification of areas in need of redevelopment and to provide the necessary mechanisms to facilitate changes that would effectuate the revitalization of such areas, as authorized by N.J.S.A. 13:17-20 and 21.

19:3-5.2 Commission authorization

(a) Prior to any action taken by the NJMC pursuant to this subchapter, the NJMC staff shall request authorization from the Commission to conduct an investigation of areas that may potentially be deemed in need of redevelopment pursuant to the criteria of N.J.A.C. 19:3-5.7.

(b) This request shall include:

1. The block and lot number designation of the properties;
2. The existing zoning and land use of the properties;
3. A map showing the boundaries of the area to be investigated;
4. A description of all existing structures on each site; and
5. A statement indicating why the property may be in need of redevelopment.

(c) Such requests may result from petitions for the possible designation of areas as in need of redevelopment, per N.J.A.C. 19:3-5.3.

19:3-5.3 Petitions for the designation of redevelopment areas

(a) Any interested person may petition the NJMC to investigate the possible designation of an area as in need of redevelopment.

(b) All petitions for the designation of a site as a redevelopment area shall be filed with the NJMC, in writing, and signed by the petitioner. Such petition shall include the information required in N.J.A.C. 19:3-5.2(b) and the following:

1. The full name and address of the petitioner; and
2. Such other information from a specific petitioner as may be deemed necessary by the NJMC staff.

(c) The NJMC staff shall review all petitions for the designation of redevelopment areas.

(d) Any petition submitted to the NJMC that is not in substantial compliance with (b) above shall be deemed incomplete petition. The document shall be returned to the petitioner with a deficiency explanation. The petitioner may address these reasons and resubmit.

(e) Upon receipt of a complete petition, the NJMC staff shall submit a request to the Commission in accordance with N.J.A.C. 19:3-5.2 for authorization to proceed with an investigation of the subject area.

(f) The NJMC reserves the right to include additional properties to be investigated that were not identified in the original petition.

19:3-5.4 Preliminary investigation

(a) Upon adoption of a resolution by the Commission authorizing an investigation, the NJMC staff shall conduct the investigation and prepare an "In Need of Redevelopment Report" (Report), which shall contain the following:

1. A description of the methods and resources used to assess the area;
2. A detailed description of the area, including, but not limited to, acreage, existing zoning, description of existing utility infrastructure, and other relevant characteristics;
3. A site analysis for each lot within the area, listing, at a minimum, ownership, size, and characteristics which support the designation of the area as in need of redevelopment; and
4. Findings comparing the listed characteristics of the area to each criterion of N.J.A.C. 19:3-5.7. NJMC staff shall determine whether the existing conditions of the area in question meet the criteria.

(b) Upon completion of the draft Report, a public hearing shall be held in accordance with N.J.A.C. 19:4-4.17 to afford opportunity for public comment on the Report and its findings.

(c) The Report shall be available for public inspection upon the issuance of the public notice in accordance with N.J.A.C. 19:3-5.5.