

(b) Any proposed revisions to the standards established by the Site Improvement Advisory Board may be submitted for consideration by any municipality shown on the list set forth as Appendix 1-A to this subchapter, incorporated herein by reference, or by any municipality where these materials are found to be present. Proposed revisions to the within standards shall be reviewed by the technical committee and recommended to the Site Improvement Advisory Board for approval.

5:21-1.7 Administration and enforcement

(a) Wherever a municipality has enacted an ordinance which requires subdivision and/or site plan approval pursuant to N.J.S.A. 40:55D-37, then the planning board of such municipality shall ensure that the plans and plats for any residential development subject to review under such ordinance comply with the requirements of these rules before issuing a preliminary or final approval.

(b) Whenever a zoning board of adjustment created pursuant to N.J.S.A. 40:55D-69 grants subdivision or site plan approval pursuant to the provisions of N.J.S.A. 40:55D-76(b), then that board shall ensure that any plans and plats comply with the requirements of these rules before issuing a preliminary or final approval.

Administrative correction.
See: 29 N.J.R. 1296(a).

5:21-1.8 Approval

(a) All materials, equipment, and devices required to be approved by a board or official pursuant to N.J.A.C. 5:21-1.7 shall be constructed and installed in accordance with such approval.

(b) The standards referenced in these rules and listed in N.J.A.C. 5:21-8 shall be considered a part of the requirements of these rules to the prescribed extent of each reference. Where deficiencies occur between provisions of these rules and referenced standards, the provisions of these rules shall apply, except as provided in N.J.A.C. 5:21-1.5(e).

Administrative correction.
See: 29 N.J.R. 1296(a).

5:21-1.9 Violations

(a) Where any site improvement is required to meet any part of these rules pursuant to the requirements of any ordinance adopted pursuant to N.J.S.A. 40:55D-37, Subdivision and Site Plan Review and Approval, or N.J.S.A. 40:55D-62, Zoning, then any failure of any person to construct such site improvements in accordance with the requirements of these rules shall constitute a violation of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.). Any person responsible for such failure shall be subject to such penalties and enforcement procedures as are provided by that law and by any valid ordinance adopted pursuant

thereto which may be initiated by the administrative officer designated by the ordinance (N.J.S.A. 40:55D-18).

(b) In addition to any remedy provided by (a) above, any failure to comply with the requirements of these rules, where compliance is required, shall constitute a failure to meet the conditions of the construction permit and/or certificate of occupancy issued pursuant to the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.). Notification from the approving authority or from the municipal engineer acting on behalf of the approving authority that any of the requirements of these rules that are conditions of the Construction Permit and/or Certificate of Occupancy have not been met shall subject any person responsible for such failure to the remedies provided under the State Uniform Construction Code Act.

Administrative correction.
See: 29 N.J.R. 1296(a).

5:21-1.10 Operative date

(a) These rules shall be operative on June 3, 1997. The requirements of any municipal ordinances or rules adopted by any instrumentality deriving authority therefrom in effect on that date which establish rules or requirements for any matter within the scope of these regulations shall be deemed to have been repealed and of no further force or effect.

(b) Any project for which preliminary subdivision or site plan approval has been given prior to June 3, 1997 shall continue to be subject to the municipal development ordinance under which it was approved.

(c) Any project for which application is made after June 3, 1997 shall be governed by these rules.

(d) These rules shall not be construed as requiring the revision or amendment of any application for site plan or subdivision approval which is pending on June 3, 1997. Such pending applications may, however, be amended provided that any such amendments shall meet the requirements of these rules.

1. For any project for which a completed application has been submitted on or before the operative date of these rules, but which has not yet received preliminary approval, the applicant shall have the option of amending the application in its entirety to comply with these rules or of requesting that the municipality continue to review the application under the municipal ordinances in effect at the time of application.

5:21-1.11 Validity

If any provision of these rules or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the rules which can be given effect, and to this end the provisions of the rules are severable.

APPENDIX
NEW JERSEY MUNICIPALITIES—
LIMESTONE AREAS†

County		Municipality
Hunterdon	Alexandria Township	Hampton Borough
	Bethlehem Township	Holland Township
	Bloomsbury Borough	Lebanon Township
	Califon Borough	Tewksbury Township
	Clinton Township	Union Township
Morris	Chester Township	Mount Olive Township
	Jefferson Township	Mt. Arlington Borough
	Mendham Township	Randolph Township
	Mendham Borough	Rockaway Township
	Minehill Township	Roxbury Township
	Montville Township	Washington Township
	Morris Township	Wharton Borough
Passaic	Bloomington Borough	Wanaque Borough
	Ringwood Township	West Milford Township
Somerset	Bedminster Township	Peapack/Gladstone Borough
Sussex	Far Hills Borough	Lafayette Township
	Andover Township	Montague Township
	Andover Borough	Newton Town
	Branchville Borough	Ogdensburg Borough
	Byram Township	Sandyston Township
	Frankford Township	Sparta Township
	Franklin Borough	Stillwater Township
	Fredon Township	Vernon Township
	Green Township	Walpack Township
	Hamburg Borough	Wantage Township
	Hampton Township	
Warren	Hardyston Township	Independence Township
	Allamuchy Township	Knowlton Township
	Alpha Borough	Liberty Township
	Belvidere Township	Lopatcong Township
	Blairstown Township	Mansfield Township
	Franklin Township	Oxford Township
	Frelinghuysen Township	Phillipsburg Township
	Greenwich Township	Pohatcong Township
	Hackettstown Town	Washington Township
	Hardwick Township	Washington Borough
	Harmony Township	White Township
Hope Township		

† Listing established by the Department of Environmental Protection, Division of Science and Research (April 1995)

Administrative correction.
See: 29 N.J.R. 2816(a).

SUBCHAPTER 2. APPLICATION AND REVIEW PROCEDURES

5:21-2.1 Application and review procedures

The procedure for municipal review and action on applications for residential subdivisions and/or site plans shall not be affected by anything contained in these rules, and shall continue to be as set forth in the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-1 et seq. and in municipal ordinances adopted pursuant to the MLUL. This review shall include a review for compliance with these rules.

5:21-2.2 Application form and checklist (Reserved)

SUBCHAPTER 3. EXCEPTIONS, WAIVERS, AND SPECIAL AREA STANDARDS

5:21-3.1 Exceptions

(a) The municipal approving authority may grant such de minimis exceptions from the requirements of the site improvement standards as may be reasonable and within the general purpose and intent of the standards if the literal enforcement of one or more provisions of the standards is impracticable or will exact undue hardship because of peculiar conditions pertaining to the development in question.

(b) An application for an exception pursuant to this section shall be filed in writing with the municipal approving authority and shall include:

1. A statement of the requirements of the standards from which an exception is sought;
2. A statement of the manner by which strict compliance with said provisions would result in practical difficulties; and
3. A statement of the nature and extent of such practical difficulties.

(c) Exceptions shall become a part of the construction documents and shall be retained by the municipal approving authority.

(d) Within 30 days of granting a de minimis exception request, a municipal approving authority agreeing to an exception pursuant to this section shall send a copy of the document(s) constituting the de minimis exception resolution and/or document to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Broad Street, CN 802, Trenton, NJ 08625-0802. Such notice shall be clearly marked "Site Improvement Exception(s)."

(e) An application for an exception may also be made by an officer or agency of the municipality.

(f) Examples of de minimis exceptions include, but are not limited to, the following:

1. Reducing the minimum number of parking spaces and the minimum size of parking stalls;
2. Reducing the minimum geometrics of street design, such as curb radii, horizontal and vertical curves, intersection angles, centerline radii, and others;
3. Reducing cartway width; and
4. Any changes in standards necessary to implement traffic calming devices.

(g) The municipal approving authority's granting of a request for a de minimis exception shall be based on a finding that the requested exception meets the following criteria:

1. It is consistent with the intent of the Site Improvement Act;
2. It is reasonable, limited, and not unduly burdensome;

3. It meets the needs of public health and safety; and

4. It takes into account existing infrastructure and possible surrounding future development.

Administrative correction.
See: 29 N.J.R. 1296(a).