

“Stormwater Detention” means a provision for temporary storage of stormwater runoff, and the controlled release of such runoff during and after a flood or storm.

“Stormwater Management Measures” means a broad term for structural and nonstructural control of stormwater runoff and nonpoint pollution.

“Stormwater Retention” means a provision for the permanent storage of a fixed volume of water.

“Street” means any street, avenue, boulevard, road, parkway, viaduct, drive, or other way which is an existing State, county, or municipal roadway, or which is shown upon a plat heretofore approved pursuant to law, or which is approved by official action as provided by the MLUL, or which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines. (MLUL).

“Street Hardware” means the mechanical and utility systems within a street right-of-way such as hydrants, manhole covers, traffic lights and signs, utility poles and lines, parking meters, and the like.

“Street Hierarchy” means the conceptual arrangement of streets based upon function. A hierarchical approach to street design classifies streets according to function, from high-traffic arterial roads to streets whose function is residential access.

“Street, Loop” means a street that has its only ingress and egress at two points on the same street.

“Stub Street” means a street which is to be extended when the adjacent property is developed.

“Subdivision” means the division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of these rules, if no new streets are created: divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes, where all resulting parcels are five acres or larger in size; divisions of property by testamentary or intestate provisions; divisions of property upon court order, including but not limited to judgments of foreclosure; consolidation of existing lots by deed or other recorded instrument; and the conveyance of one or more adjoining lots, tracts, or parcels of land owned by the same person or persons, all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations, and are shown and designated as separate lots, tracts, or parcels on the tax map or atlas of the

municipality. The term “subdivision” shall also include the term “resubdivision.” (MLUL).

“Subdivision, Major” means any subdivision not classified as a minor subdivision. (MLUL).

“Subdivision, Minor” means a subdivision of land for the creation of a number of lots specifically permitted by ordinance as a minor subdivision, provided that such subdivision does not involve a planned development, any new street, or the extension of any off-tract improvement, the cost of which is to be prorated pursuant to N.J.S.A. 40:55D-42. (MLUL).

“Subgrade” means the prepared surface upon which pavements and shoulders are constructed.

“Surface Course” means the placement of the asphalt concrete material on a previously prepared base course.

“Swale” means a low lying or depressed land area commonly wet or moist, which can function as an intermittent drainage way.

“Topsoil” means:

1. The natural, undisturbed surface layer of soil having more organic matter than subsequent layers, a pH of 5.0 to 7.5, and suitable for satisfactory growth and maintenance of permanent, locally-adapted vegetation.

2. Where the original surface layer has been removed, the reapplication of soil material used to cover an area so as to improve soil conditions for establishment and maintenance of adapted vegetation. The reapplied material must be friable, loamy soil reasonably free of debris, objectionable weeds, and stones; have a natural pH of 5.0 to 7.5; have an organic matter content greater than 2.00 percent; and contain no toxic substances which may be harmful to plant growth.

“Traveled Way” means the portion of a cartway used for vehicular travel.

“Trip” means a single or one-way vehicle movement to or from a property or study area.

“ULI” means Urban Land Institute.

“USCGS (also USC&G and USC&GS)” means United States Coast and Geodetic Survey.

“Utility Area” means a flexible space within the right-of-way designated for the installation of utility lines and facilities.

“Utility Authority” means any “sewerage authority” as defined in N.J.S.A.40:14A-3 or any “municipal authority” as defined in N.J.S.A. 40:14B-3.

“Variance” means permission to depart from the literal requirements of a zoning ordinance, pursuant to N.J.S.A. 40:55D-40b., 70c., and 70d. (MLUL).

“Wet Pond” (see “retention basin”).

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

5:21-1.5 Scope and applicability

(a) These rules shall govern any site improvements carried out or intended to be carried out or required to be carried out in connection with any application for residential subdivision, site plan approval, or variance before any planning board or zoning board of adjustment created pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.); or in connection with any other residential development approval required or issued by any municipality or agency or instrumentality thereof.

(b) Except as is otherwise specifically provided, these rules shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, maintenance, and use of any site improvements constructed by a developer in connection with residential development. Except as otherwise required by rules or other permit requirements of the Department of Environmental Protection regarding storm water management, the rules are to be interpreted as the minimum required to ensure public health and safety, and the maximum that may be required in connection with residential development.

(c) These rules shall apply to all site improvement work and appurtenant construction including streets, roads, parking facilities, sidewalks, drainage structures, grading, and utilities which are undertaken by a developer in connection with residential development or use.

1. Where both residential and commercial development are planned in a mixed-use development, these rules shall apply to the residential part or parts of such development where such residential part or parts are discrete and separate from planned commercial parts as evidenced by, for example, separate building(s), separate parking, and separate access features.

2. These rules shall apply to all utilities created by or deriving their authority from municipal ordinance to operate within a given jurisdiction.

3. Choice among options contained in these rules shall be the applicant's unless otherwise specified in these rules.

(d) Nothing contained in these rules shall be construed to limit the powers of any municipality to establish and enforce any requirement concerning:

1. Layout, arrangement, and location of improvements, shade trees, landscaping, or reservation of areas for public use, pursuant to N.J.S.A. 40:55D-38;

2. Preservation of existing natural resources; arrangement of physical elements for safe and efficient vehicular and pedestrian circulation, by, for example, traffic calming measures as described in “Residential Street Design and Traffic Control,” by W. S. Homburger et al. (Institute of Transportation Engineers, 1989), parking, and loading; screening, landscaping, and location of structures; or conservation of energy and use of renewable resources; pursuant to N.J.S.A. 40:55D-41; or

3. Use, bulk, height, number of stories, orientation, and size of buildings and other structures; the percentage of lot or development area that may be occupied by structures, lot sizes and dimensions, floor area ratios, or other measures to control development intensity; or the provision of adequate light and air pursuant to N.J.S.A. 40:55D-65.

(e) The provisions of these rules shall not preempt or in any way affect the exercise of any authority by the State or any county government with respect to site improvements conferred by any State law or any rule promulgated thereunder. Nor shall these rules be in any way interpreted to modify or otherwise affect rules promulgated pursuant to the Pinelands Commission Act, N.J.S.A. 13:18A-1 et seq. (N.J.A.C. 7:50). It is the intent of these rules to be consistent with all other applicable laws, rules and regulations. Where these rules and any other State or county laws, rules or regulations establish differing requirements, then the requirements of these rules shall govern, except where any such differing requirement is more restrictive.

(f) These rules shall not apply to driveways on private property held in fee-simple as individual residential lots outside of the public right-of-way, including common driveways established by easements shared by more than one dwelling unit on private property.

(g) These rules are intended to ensure the public health, safety, and welfare insofar as they are affected by site improvement work, and shall be so construed.

Administrative correction.

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

Amended by R.1998 d.399, effective August 3, 1998.

See: 30 N.J.R. 1660(a), 30 N.J.R. 2861(a).

In (b), inserted “Except as otherwise required by rules or other permit requirements of the Department of Environmental Protection regarding storm water management, the” at the beginning of the second sentence.

Case Notes

Storm water management regulation promulgated by Department of Community Affairs (DCA), which conflicted with storm water management regulation promulgated by the Department of Environmental Protection, was invalid. New Jersey State League of Municipalities v. Department of Community Affairs, 310 N.J.Super. 224, 708 A.2d 708 (A.D.1998).

5:21-1.6 Development over limestone geologic formations

(a) A number of areas in northern New Jersey are underlain by solution-prone carbonate rocks (limestone, dolomite, and marble) which pose unusual and complex problems in relation to development activities. As such, these areas are quite sensitive to development improvements and may re-

quire special investigative, design, and construction techniques to protect both the eventual property owner as well as those in the immediate surroundings. It is not the intention of these site improvement standards to address such unusual subsurface conditions or to attempt to supersede definitive local ordinances addressing such concerns.