

**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**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 4, District Zoning Regulations, expires on August 18, 2009. See: 40 N.J.R. 4696(a).

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

Chapter 4, District Zoning Regulations, was repealed and new rules were adopted by R.2004 d.76, effective February 17, 2004.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

Subchapter 12, 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).

**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).

##### 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;

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; and

16. To promote sustainable green building practices in accordance with U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) guidelines.

Amended by R.2006 d.397, effective November 20, 2006.

See: 38 N.J.R. 1797(a), 38 N.J.R. 4883(a).

In (a)15, substituted “; and” for a period at the end; and added (a)16.

### 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.

### 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.

## 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 words “New Jersey Meadowlands Commission” and “NJMC” mean a public body corporate and politic, constituting a political subdivision of the State of New Jersey, as defined in N.J.S.A. 13:17-1 et seq.;

12. The words “Board of Commissioners” mean the seven-member board that constitutes the NJMC, as defined in N.J.S.A. 13:17-5;

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

AcronymMeaning

AASHTO

American Association of State Highway and  
Transportation Officials

ADA

Americans with Disabilities Act

ANSI

American National Standards Institute

BMP

Best Management Practices

CERCLA

Comprehensive Environmental Response, Com-  
pensation, 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 Commit-  
tee

ITE

Institute of Transportation Engineers

Abbreviation or Acronym	Meaning
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.

Amended by R.2005 d.210, effective July 5, 2005.  
See: 36 N.J.R. 5659(a), 37 N.J.R. 426(a), 37 N.J.R. 2555(a).  
In (a), rewrote 11 and 12.

#### 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.

"Green building" means a building meeting or exceeding the minimum standard required for LEED accreditation.

"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 passen-

gers, 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.

"LEED" means Leadership in Energy and Environmental Design, a Green Building Rating System® developed by the United States Green Building Council as a standard for developing high-performance, sustainable buildings.

"LEED scorecard" means a voluntary checklist prepared by the applicant rating the subject application to the green building standards of the LEED Green Building Rating System.

"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 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.

Administrative correction.

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

Amended by R.2006 d.397, effective November 20, 2006.

See: 38 N.J.R. 1797(a), 38 N.J.R. 4883(a).

Added definitions "Green building", "LEED" and "LEED scorecard".

## 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.

### 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.

### 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

Amended by R.2005 d.295, effective September 6, 2005.

See: 37 N.J.R. 752(c), 37 N.J.R. 3455(a).

Amended by R.2008 d.10, effective January 7, 2008.

See: 39 N.J.R. 2338(a), 40 N.J.R. 195(a).

Amended by R.2008 d.128, effective May 19, 2008.

See: 40 N.J.R. 105(a), 40 N.J.R. 2565(b).

#### 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.

#### 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 Meadows District, as specified in N.J.A.C. 7:7E-3.45(b).

**19:4-3.8 (Reserved)**

Repealed by R.2007 d.57, effective February 5, 2007.  
See: 38 N.J.R. 3762(a), 39 N.J.R. 548(a).  
Section was "Affordable Housing".

**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.

(b) Temporary uses and structures may be permitted only in conjunction with an approved site activity, such as construction or site remediation, in order to provide protection for the public.

(c) Zoning certificate approval for temporary structures and uses shall be evaluated on a case-by-case basis. No approval shall be granted unless the applicant demonstrates the following:

1. Temporary uses and structures shall only be approved when evidence is provided to show that the structure or use serves a purpose that will protect the public health, safety, and welfare; and

2. Temporary uses and structures shall comply with all applicable zoning regulations, unless otherwise permitted by the Chief Engineer.

(d) The maximum duration of any temporary use shall be limited. The NJMC shall determine the maximum duration of a temporary use or structure based upon the nature of the circumstances.

#### 19:4-3.15 Number of structures on a lot

(a) Not more than one single-family or two-family detached dwellings shall be located on a lot. For all other permitted or special exception uses, more than one principal structure together with any accessory building(s) may be located on a lot provided it has a minimum area of one acre.

(b) The arrangement and location of structures, open space, landscaping, parking and circulation on a lot shall be evaluated as part of site plan review. The NJMC staff shall ensure that determinations are consistent with good planning and engineering practice. Adequate provisions shall be made for light and air, to protect against fire, and to ensure that efficient circulation and parking be provided.

#### 19:4-3.16 Frontage

Every principal building shall be built upon a lot with access upon an improved street.

#### 19:4-3.17 Bulk regulations

(a) In these regulations, bulk regulations are expressed in terms of maximum structure height, maximum lot coverage, maximum floor area ratio, minimum open space, minimum floor elevations, maximum density, minimum front, side and rear yards and minimum setbacks.

(b) No structure, or part thereof, shall hereafter be built, moved or remodeled, and no structure or land shall hereafter be used, occupied or designed for use or occupancy:

1. So as to exceed the maximum lot coverage percentage, the maximum structure height, the maximum floor area ratio, or the maximum density specified for the zone in which the structure is located; or

2. So as to provide less than the minimum floor elevation, setback, front, side, or rear yard or an amount of open space specified for the zone in which such structure or use of land is located or maintained.

#### 19:4-3.18 Yards

(a) No yard or other open space provided around any structure for the purpose of complying with these regulations shall be considered as providing a yard or open space for any other structures, and no yard or other open space on one lot shall be considered as providing a yard or open space for a structure on any other lot, other than those comprising a zoning lot of record.

(b) All yards provided in connection with any structure or use in order to comply with the provisions of these regulations shall be located on the same lot as such structure or use.

(c) Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except for the following:

1. Ordinary projections allowed by the New Jersey Uniform Construction Code (NJ UCC), N.J.A.C. 5:23, provided that none of the said projections shall extend into the minimum required yards more than 24 inches, unless otherwise provided herein;

2. Open terraces, porches and patios not over four feet above the average level of the adjoining ground, and projecting six feet or less into the required yard;

3. Awnings, canopies, or weather protection enclosures projecting six feet or less into the required yard, and totaling less than 60 square feet in plan area;

4. Sidewalks and steps four feet or less above grade which are necessary for access to a permanent structure or for access to a lot from a street;

5. One-story bay windows, eaves and gutters, and fireplaces projecting 30 inches or less into the required yard;

6. Flag poles, signs, and fences to the extent permitted elsewhere in these regulations;

7. Retaining walls;

8. Transformers and underground utility vaults;

9. Recreational equipment, in any yard except a required front yard;

10. Outdoor seating areas, in accordance with N.J.A.C. 19:4-5.7;

11. Parking areas, in any yard except a required front yard, in accordance with N.J.A.C. 19:4-8.2;

12. Loading areas, in any yard except a front yard, in accordance with N.J.A.C. 19:4-8.3;

13. Private roads or driveways serving uses on other lots, in any yard except a required front yard, which may only traverse the front yard perpendicular to the front property line. All required setbacks shall be measured from the private road; and

14. Guard booths with a floor area of up to 100 square feet and barrier gate arms located at an appropriate setback to provide sufficient queuing area for vehicles, as determined by the Chief Engineer, but in no case less than 15 feet from all property lines.

#### 19:4-3.19 Yard designation

(a) Lots with more than one front yard shall maintain front yard requirements and setbacks from all front lot lines.

(b) For every lot with more than one front yard, the property owner shall designate one rear yard, with the remaining yards designated as side yards.

(c) In the case of a triangular or otherwise irregularly shaped lot, the rear lot line shall be construed to be a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line, for the purpose of bulk regulation.

#### 19:4-3.20 Height of buildings and structures

Height limitations in these regulations shall not apply to mechanical equipment, elevator enclosures, or solar energy systems installed on the roof of any structure, provided that they are erected to the minimum height necessary to accomplish the purpose they are intended to serve.

#### 19:4-3.21 Allocation of required lot area, open space, off-street parking and loading spaces

(a) Lot area and open space provided in connection with any structure or use in order to comply with the provisions of these regulations shall be located on the same lot as such structure or use.

(b) No part of the lot area, open space, or off-street parking or loading space provided in connection with any structure or use, including any existing structure or use, shall be subsequently reduced below, or further reduced if already less than, the minimum requirements of these regulations for equivalent new construction.

#### 19:4-3.22 Zoning lot of record

(a) A zoning lot of record may be established in order to utilize two or more lots as a united parcel. Zoning lots of record shall meet the following requirements:

1. The zoning lot of record shall be designed, developed, built, and used as a single unit. Usage of open space, parking, and other site-related amenities are to be shared by the site users.

2. The individual lots within a zoning lot of record shall be under some form of single ownership at the time of development. This form of ownership and the zoning lot of record agreement shall be approved by the NJMC. A zoning lot of record agreement shall be recorded in the county registrar's office. All future owners or mortgage holders shall be bound by the recorded form of single ownership and the zoning lot of record agreement. Any nonconformity resulting from the elimination of the zoning lot of record shall be classified as an existing legal nonconformity.

3. The zoning lot of record shall be comprised of lots which are contiguous and within the same zone. Whether or not lots or portions of lots that are separated by a manmade or natural barrier, such as a waterway or ROW, will be considered to be contiguous shall be determined by the NJMC, based upon the nature and extent of such barrier and the area in which such barrier is located.

4. A zoning lot of record shall be considered a lot for the purposes of these regulations.

#### 19:4-3.23 Easements

Where deemed necessary by the NJMC, the owner of property which is the subject of a development application may be required, as a condition of approval, to dedicate drainage easements, access easements, conservation easements, line-of-sight triangle easements, shade tree easements, utility easements, or other such easements.

#### 19:4-3.24 Open space

(a) All open space, including yards, shall be landscaped with lawns, trees, shrubbery, and other appropriate plant material, unless such open space is wetlands. Uses shall be screened where required by these regulations and where otherwise necessary to ensure privacy, protect and enhance property values, or promote the general welfare.

(b) All open space, and facilities and structures thereon, shall be properly maintained.

(c) In the event that the applicant or his successors shall at any time after the issuance of occupancy certification fail to maintain any open space, the NJMC may serve written notice setting forth any failure to maintain the open space in a reasonable condition and said notice shall include a demand that such deficiencies of maintenance be cured within four weeks thereof and shall state the date and place of any hearing thereon which may be held. If the deficiencies set forth in the original notice or in the modifications thereof are not cured within said four weeks or any extension thereof, the NJMC, in order to preserve the taxable values of the surrounding properties and to prevent the open space from becoming a public nuisance, may enter upon the open space and maintain the same for a period of one year. Before the expiration of said year, the NJMC shall, upon its initiative or upon the request of the applicant, call a public hearing at which the applicant shall show cause why such maintenance by the NJMC shall not, at the election of the NJMC, continue for a succeeding year. If the NJMC shall determine that the applicant is ready and able to maintain the open space during the next succeeding year, and subject to a similar hearing and determination, in each year thereafter, the maintenance responsibility shall revert to the owner.

(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.

### 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 façade materials;
      - (16) A zoning summary table; and
      - (17) The elevation in relation to mean sea level to which any structure has been floodproofed; 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; and
      - (2) Certification by a New Jersey-licensed professional engineer or registered architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in N.J.A.C. 19:4-9.20(b).
  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.2006 d.163, effective May 1, 2006.

See: 37 N.J.R. 4198(a), 38 N.J.R. 1860(a).

In (d)li, deleted "and" from the end of (15) and inserted (17), in lii, substituted "; and" for a period at the end of (1) and inserted (2).

#### 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. Concerning transportation:

i. 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;

ii. Compliance with the requirements of N.J.A.C. 19:4-7.10, Performance standards; traffic; and

iii. Compliance with the requirements of N.J.A.C. 19:7, District Transportation Plan Rules.

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.

Amended by R.2009 d.11, effective January 5, 2009.

See: 40 N.J.R. 3971(a), 41 N.J.R. 288(b).

Added new (c)2; recodified former (c)2 as (c)2i; and added (c)2ii and (c)2iii.

#### 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.

#### 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, re-modeled 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.

#### **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.

#### **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 nonconforming 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.

#### 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.

#### 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.

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.

(b) An application for a special exception use made to the NJMC shall be filed with the NJMC staff, 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 at the specified location will contribute to and promote the welfare or convenience of the public;
2. The proposed special exception use will not cause substantial injury to the value of other property in the neighborhood;
3. 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;
4. Adequate utilities, drainage and other necessary facilities have been or will be provided;
5. 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
6. 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 deci-

sion 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.

(h) Failure to comply with any of the conditions or restrictions placed on a special exception use 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 advise the applicant of the applicant's right to appeal said decision. Any decision of the Executive Director shall constitute a decision that may be appealed in accordance with N.J.A.C. 19:4-4.19.

(j) Immediately after deciding upon an application for a special exception use, the Executive Director shall transmit to the Board of Commissioners a copy of the decision, a copy of the plan, and any other information relevant to the matter.

(k) The Board of Commissioners may, by a concurring vote of a majority of its members, affirm or reverse, wholly or partly, or modify such decision, 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.

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

(m) 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.

(n) 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.2005 d.210, effective July 5, 2005.  
Sec: 36 N.J.R. 5659(a), 37 N.J.R. 427(a), 37 N.J.R. 2555(a).

Rewrote the section.

#### 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 made to the NJMC shall be filed with the NJMC staff, 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 the 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;

(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.

#### 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) For variance applications, 12 copies of any plans, reports, exhibits, or other data submitted as evidence during a public hearing shall be required to be submitted.

1. Failure to produce 12 copies of such plans, reports, exhibits, or other data submitted as evidence at the public hearing shall not invalidate the proceedings.

2. In cases where the public hearing has been waived per subsection (j) below, 12 copies of any supporting documentation shall be submitted by the close of the public comment period specified in the public notice.

3. Failure to submit 12 copies of any plans, reports, exhibits, or other data submitted as evidence within one week of the public hearing, or by the end of the public comment period in cases where the public hearing has been waived in accordance with (j) below, shall cause the NJMC staff to reproduce the required number of copies, the cost of which shall be borne by the applicant.

i. Photographs of three-dimensional exhibits shall be deemed acceptable copies.

(d) 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.

(e) 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.

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

(g) 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.

(h) 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.

(i) 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. The public record shall be closed at the time of conclusion of the public hearing(s).

(j) 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.2005 d.210, effective July 5, 2005.  
See: 36 N.J.R. 5659(a), 37 N.J.R. 427(a), 37 N.J.R. 2555(a).  
Rewrote the section.

#### 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 variance recommendation or decision of the NJMC 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. Any recommendation of the NJMC staff, other than a variance recommendation, shall not be subject to appeal.

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

1. The person or entity appealing a decision or variance recommendation of the NJMC 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 NJMC staff decision or variance recommendation 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 NJMC staff's decision or variance recommendation 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 NJMC staff decision or variance recommendation, 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 Board of Commissioners, 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 Board of Commissioners determine that the third party appeal may proceed, the Board of Commissioners 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 NJMC staff decision or variance recommendation, 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 Board of Commissioners, 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 or proceedings before the Board of Commissioners. In the case of a third party appeal, the Board of Commissioners shall grant a request for stay if the appellant shows good cause why the proceeding or action of the Board of Commissioners should be stayed.

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

(e) An appellant aggrieved by the final decision of the Board of Commissioners pursuant to (d) above may seek further judicial review by the Superior Court of New Jersey Appellate Division by filing a Notice of Appeal pursuant to R. 2:1 et seq.

(f) The NJMC staff shall maintain complete records of all actions of the Board of Commissioners 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.2005 d.210, effective July 5, 2005.

See: 36 N.J.R. 5659(a), 37 N.J.R. 427(a), 37 N.J.R. 2555(a).

Rewrote the section.

#### 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 im-

posed, 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.

**19:4-4.23 Prohibition against improper influence**

No person shall, with respect to any application made to the NJMC, whether such application requires a decision by the staff or the NJMC, attempt to contact any member of the NJMC staff or a Commissioner in an effort to improperly influence them with respect to their decision regarding the subject application. This prohibition shall also apply to rule-making. Any member of the NJMC staff or a Commissioner who has been contacted in this regard shall immediately report such contact to the Office of the Attorney General, which shall take any necessary and appropriate action.

New Rule, R.2008 d.129, effective May 19, 2008.  
See: 39 N.J.R. 5191(a), 40 N.J.R. 2567(a).

## 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.

8. Where development includes housing to meet municipal growth share obligations in N.J.A.C. 19:4-12, the bulk, layout, and design requirements in N.J.A.C. 19:4-12.8 through 12.11 shall apply.

Administrative correction.

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

Amended by R.2007 d.57, effective February 5, 2007.

See: 38 N.J.R. 3762(a), 39 N.J.R. 548(a).

Added (a)8.

**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.

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

#### 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.

#### 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.

#### 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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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:

- i. Maximum lot coverage: 30 percent;
- ii. Minimum open space: 35 percent;
- iii. Maximum density: 10 dwelling units per acre; and
- iv. Yards:
  - (1) Minimum front yard: 25 feet; except where the front yard setback of a building façade is staggered, the setback may be reduced to not less than 20 feet with an average setback for the building of 25 feet;
  - (2) Minimum side yard: 20 feet; and
  - (3) Minimum rear yard: 25 feet;
3. Other permitted uses and special exceptions:
  - i. Maximum lot coverage: 30 percent;
  - ii. Minimum open space: 35 percent; and
  - iii. Yards:
    - (1) Minimum front yard: 25 feet;
    - (2) Minimum side yard: 20 feet;
    - (3) Minimum rear yard: 30 feet; and
  4. Maximum building height: 35 feet.

**19:4-5.30 Low Density Residential zone; access to land in other zones**

No land which is located in the Low Density Residential zone shall be used for a driveway, walkway or access purpose to any land which is located in any zone created by N.J.A.C. 19:4-5.45 through 5.122.

**19:4-5.31 Low Density Residential zone; performance standards**

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

**19:4-5.32 Planned Residential zone; purposes**

The Planned Residential zone is designed to accommodate high-density residential development that includes a mix of housing types; small-scale commercial uses that provide for the needs of and increase the convenience to residents; community and institutional uses that are compatible with the character of a residential district; and preserved open space and wetlands.

**19:4-5.33 Planned Residential zone; permitted uses**

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

1. Commercial recreation, indoor;
2. Community residences and shelters;
3. Day care facilities;

4. Essential public services;
5. Health centers;
6. Marinas;
7. Multi-family dwellings;
8. Offices;
9. Parks or recreation facilities;
10. Personal services;
11. Restaurants, not including drive-in or drive-through facilities;
12. Retail;
13. Senior housing; and
14. Townhome dwellings.

**19:4-5.34 Planned Residential zone; special exception uses**

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

1. Assisted living facilities;
2. Banks;
3. Cultural facilities;
4. Houses of worship;
5. Institutional uses;
6. Nursing or rehabilitation facilities;
7. Primary and secondary schools;
8. Public utility uses, light; and
9. Social services.

**19:4-5.35 Planned Residential zone; lot size requirements**

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

1. Minimum lot area: one acre; and
2. Minimum lot width: 100 feet.

**19:4-5.36 Planned Residential zone; bulk regulations**

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

1. Maximum lot coverage: 40 percent;
2. Minimum open space: 30 percent;
3. Yards:
  - i. Minimum front yard: 25 feet;
  - ii. Minimum side yard: 20 feet; and
  - iii. Minimum rear yard: 20 feet; and
4. Maximum density: 25 dwelling units per acre.

**19:4-5.37 Planned Residential zone; performance standards**

(a) All uses in the Planned Residential 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; and
2. Category A performance standards shall apply for hazardous materials, liquids, and chemicals.

**19:4-5.38 Neighborhood Commercial zone; purposes**

The Neighborhood Commercial zone is intended to provide uses compatible with the scale and character of the neighboring residential areas, serving both residents and area employees.

**19:4-5.39 Neighborhood Commercial zone; permitted uses**

(a) The permitted uses in the Neighborhood Commercial zone are:

1. Banks;
2. Business support services;
3. Commercial recreation, indoor;
4. Community residences and shelters;
5. Cultural facilities;
6. Day care facilities;
7. Essential public services;
8. Funeral homes and mortuaries;
9. Health centers;
10. Houses of worship;
11. Offices;
12. Parks or recreation facilities;
13. Personal services;
14. Restaurants, excluding drive-through or drive-in facilities;
15. Residential dwellings accessory to a permitted use;
16. Retail;
17. Single-family and two-family dwellings; and
18. Social services.

**19:4-5.40 Neighborhood Commercial zone; special exception uses**

(a) The special exception uses in the Neighborhood Commercial zone are:

1. Assisted living facilities;

2. Car washes;
3. Fuel service stations;
4. Institutional uses;
5. Movie theaters;
6. Nursing or rehabilitation facilities;
7. Primary and secondary schools;
8. Public utility uses, light; and
9. Senior housing.

**19:4-5.41 Neighborhood Commercial zone; use limitations**

(a) The use limitations in the Neighborhood Commercial zone are:

1. At all restaurants, the serving of food shall be the principal use. Entertainment shall be permitted only as accessory to the principal use and shall not be the main focus of the use on the site or in a specific restaurant. No accessory entertainment use shall occupy more than 20 percent of the restaurant's floor area.
2. No fuel service station shall be located closer than 1,000 feet to another fuel service station.
3. No car wash shall be located closer than 1,000 feet to another car wash.
4. Fuel service stations, when permitted as a special exception use, shall not dispense fuel to semi-trailers.

**19:4-5.42 Neighborhood Commercial zone; lot size requirements**

(a) The lot size requirements in the Neighborhood Commercial zone are:

1. Minimum lot area: 7,500 square feet; and
2. Minimum lot width: 50 feet.

**19:4-5.43 Neighborhood Commercial zone; bulk regulations**

(a) The bulk regulations in the Neighborhood Commercial zone are:

1. Maximum lot coverage: 40 percent;
2. Minimum open space: 15 percent;
3. Yards:
  - i. Minimum front yard: two feet;
  - ii. Minimum side yard: 12 feet total, two-foot minimum, except where abutting a residential use, the minimum side yard shall be 10 feet; and
  - iii. Minimum rear yard: five feet, except where abutting a residential use, the minimum rear yard shall be 10 feet; and
4. Maximum building height: 35 feet.

**19:4-5.44 Neighborhood Commercial zone; performance standards**

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

**19:4-5.45 Commercial Park zone; purposes**

The Commercial Park zone is designed to accommodate commercial mixed use developments in compact centers designed to be interrelated to provide a mitigating effect upon peak hour traffic that would normally be generated from single commercial uses. Development should provide for safe and unimpeded pedestrian movement.

**19:4-5.46 Commercial Park zone; permitted uses**

(a) The permitted uses in the Commercial Park zone are:

1. Banks;
2. Business support services;
3. Commercial recreation, indoor;
4. Cultural facilities;
5. Day care facilities;
6. Health centers;
7. Hospitals;
8. Hotels and motels;
9. Marinas;
10. Offices, provided that one or more of the permitted uses in this zone are included;
11. Parks or recreation facilities;
12. Personal services;
13. Public utility uses, light;
14. Restaurants, excluding drive-in or drive-through facilities;
15. Retail; and
16. Social services.

**19:4-5.47 Commercial Park zone; special exception uses**

(a) The special exception uses in the Commercial Park zone are:

1. Assisted living facilities;
2. Movie theaters;
3. Nursing or rehabilitation facilities; and
4. Helistops.

**19:4-5.48 Commercial Park zone; lot size requirements**

(a) The lot size requirements in the Commercial Park zone are:

1. Minimum lot area: three acres; and
2. Minimum lot width: 200 feet.

**19:4-5.49 Commercial Park zone; bulk regulations**

(a) The bulk regulations in the Commercial Park zone are:

1. Maximum lot coverage: 50 percent;
2. Minimum open space: 25 percent;
3. Yards:
  - i. Minimum front: 0.3 feet per foot of height of principal structure, but in no case less than 35 feet;
  - ii. Minimum side: 30 feet; and
  - iii. Minimum rear: 30 feet; and
4. FAR: 1.25, not including the floor area of parking garages.

**19:4-5.50 Commercial Park zone; performance standards**

(a) All uses in the Commercial Park 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; and
2. Category A performance standards shall apply for hazardous materials, liquids, and chemicals.

**19:4-5.51 Regional Commercial zone; purposes**

The Regional Commercial zone contains large-scale commercial development proximate to major roadways and is designed to accommodate a range of commercial uses serving a regional market area. Development in the zone should incorporate regional retail facilities and large-scale commercial employment centers.

**19:4-5.52 Regional Commercial zone; permitted uses**

(a) The permitted uses in the Regional Commercial zone are:

1. Banks;
2. Business services;
3. Commercial recreation, indoor;
4. Commercial recreation, outdoor;
5. Convention centers;
6. Cultural facilities;
7. Day care facilities;
8. Health centers;
9. Hotels and motels;

10. Movie theaters;
11. Offices;
12. Parks or recreation facilities;
13. Personal services;
14. Public utility uses, light;
15. Restaurants;
16. Retail;
17. Self-storage facilities; and
18. Social services.

**19:4-5.53 Regional Commercial zone; special exception uses**

(a) The special exception uses in the Regional Commercial zone are:

1. Communications transmission towers;
2. Essential public services; and
3. Helistops.

**19:4-5.54 Regional Commercial zone; use limitations**

(a) The use limitations in the Regional Commercial zone are:

1. Accessory outdoor display areas shall be permitted only in connection with retail sales, when provided in accordance with the following:
  - i. Such areas shall be located immediately adjacent to the building;
  - ii. Such areas shall not exceed 20 percent of the ground floor area of the building, with the total area included within the permitted floor area of the site; and
  - iii. Such areas shall be fenced and screened in accordance with N.J.A.C. 19:4-8.9, and shall not conflict with pedestrian or vehicular circulation.
2. Accessory outdoor storage areas shall be permitted only in connection with a principal retail use and used solely for the staging of new products, in accordance with the following:
  - i. Such areas shall not exceed 10 percent of the ground floor area of the building, with the total area included within the permitted floor area of the site;
  - ii. Such areas shall be fenced and screened in accordance with N.J.A.C. 19:4-8.9; and
  - iii. Materials within accessory outdoor storage areas shall not exceed the height of the screening.

**19:4-5.55 Regional Commercial zone; lot size requirements**

(a) The lot size requirements in the Regional Commercial zone are:

1. Minimum lot area: three acres; and
2. Minimum lot width: 300 feet.

**19:4-5.56 Regional Commercial zone; bulk regulations**

(a) The bulk regulations in the Regional Commercial zone are:

1. Maximum lot coverage: 40 percent;
2. Minimum open space: 20 percent;
3. Yards:
  - i. Minimum front yard: 50 feet for all structures, 25 feet for at-grade parking areas;
  - ii. Minimum side yard: 40 feet; and
  - iii. Minimum rear yard: 30 feet;
4. FAR: 0.75, not including the floor area of parking garages, restaurants, hotels and motels; and
5. Maximum number of hotel and motel rooms per acre: 25 rooms.

**19:4-5.57 Regional Commercial zone; performance standards**

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

**19:4-5.58 Highway Commercial zone; purposes**

The Highway Commercial zone is designed to accommodate commercial uses oriented toward, and located in proximity to, highways.

**19:4-5.59 Highway Commercial zone; permitted uses**

(a) The permitted uses in the Highway Commercial zone are:

1. Automobile repair facilities, minor;
2. Banks;
3. Car washes;
4. Essential public services;
5. Fuel service stations;
6. Hotels and motels;
7. Parks or recreation facilities;
8. Personal services;
9. Public utility uses, light;
10. Restaurants; and

## 11. Retail.

**19:4-5.60 Highway Commercial zone; special exception uses**

(a) The special exception uses in the Highway Commercial zone are:

1. Automobile rental facilities;
2. Communications transmission towers; and
3. Day care facilities.

**19:4-5.61 Highway Commercial zone; use limitations**

(a) The use limitation in the Highway Commercial zone is that accessory outdoor display areas shall be permitted only in connection with retail sales, when provided in accordance with the following:

1. Such areas shall not exceed 20 percent of the ground floor area of the building, with the total area included within the permitted floor area of the site; and
2. Such areas shall not conflict with pedestrian or vehicular circulation.

**19:4-5.62 Highway Commercial zone; lot size requirements**

(a) The lot size requirements in the Highway Commercial zone are:

1. Minimum lot area: 20,000 square feet; and
2. Minimum lot width: 100 feet, except that fuel service stations, hotels and motels, and restaurants shall have a minimum lot width of 150 feet.

**19:4-5.63 Highway Commercial zone; bulk regulations**

(a) The bulk regulations in the Highway Commercial zone are:

1. Maximum lot coverage: 50 percent;
2. Minimum open space: 15 percent;
3. Yards:
  - i. Minimum front yard: 25 feet;
  - ii. Minimum side yard: 10 feet; and
  - iii. Minimum rear yard: 25 feet; and
4. FAR: 0.75.

**19:4-5.64 Highway Commercial zone; performance standards**

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

**19:4-5.65 Aviation Facilities zone; purposes**

The Aviation Facilities zone is designed to accommodate airport and aviation uses and those uses which are custom-

arily associated with or benefit from proximity to such facilities.

**19:4-5.66 Aviation Facilities zone; land exemptions**

Any land acquired by the Port Authority of New York and New Jersey (PANY/NJ) and subject to its jurisdiction under N.J.S.A 32:1-1 et seq. shall be exempt from NJMC regulations.

**19:4-5.67 Aviation Facilities zone; permitted uses**

(a) The permitted uses in the Aviation Facilities zone are:

1. Airports;
2. Automobile rental facilities;
3. Aviation support facilities;
4. Day care facilities;
5. Essential public services;
6. Heliports;
7. Helistops;
8. Light industry;
9. Offices;
10. Parks or recreation facilities;
11. Personal services;
12. Public utility uses, light;
13. Research and development facilities;
14. Self-storage facilities;
15. Taxi and limousine services;
16. Warehouse and distribution facilities; and
17. Wholesale establishments.

**19:4-5.68 Aviation Facilities zone; special exception uses**

(a) The special exception uses in the Aviation Facilities zone are:

1. Automobile sales;
2. Bus garages;
3. Commercial off-street parking as a principal use;
4. Commercial recreation, indoor;
5. Communications transmission towers;
6. Hotels and motels;
7. Institutional uses;
8. Passenger rail terminals; and
9. Restaurants.

**19:4-5.69 Aviation Facilities zone; lot size requirements**

(a) The lot size requirements in the Aviation Facilities zone are:

1. Minimum lot area: three acres; and
2. Minimum lot width: 200 feet.

**19:4-5.70 Aviation Facilities zone; bulk regulations**

(a) The bulk regulations in the Aviation Facilities zone are:

1. Maximum lot coverage: 50 percent;
2. Minimum open space: 25 percent;
3. Yards:
  - i. Minimum front yard: 35 feet;
  - ii. Minimum side yards: 30 feet; and
  - iii. Minimum rear yard: 25 feet; and
4. FAR: 2.0.

**19:4-5.71 Aviation Facilities zone; performance standards**

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

**19:4-5.72 Light Industrial A zone; purposes**

The Light Industrial A zone is designed to accommodate on large lots a wide range of industrial, distribution, commercial and business uses that generate a minimum of detrimental environmental effects.

**19:4-5.73 Light Industrial A zone; permitted uses**

(a) The permitted uses in the Light Industrial A zone are:

1. Automobile rental facilities;
2. Automobile repair facilities, minor;
3. Automobile sales;
4. Banks;
5. Business support services;
6. Car washes;
7. Commercial recreation, indoor;
8. Day care facilities;
9. Disaster recovery facilities;
10. Essential public services;
11. Institutional uses;
12. Light industry;
13. Offices;
14. Parks or recreation facilities;
15. Personal services;

16. Public utility uses, light;
17. Research and development facilities;
18. Self-storage facilities;
19. Social services;
20. Studios;
21. Taxi and limousine services;
22. Warehouse and distribution facilities, which may include accessory retail sales of products stored therein; and
23. Wholesale establishments.

**19:4-5.74 Light Industrial A zone; special exception uses**

(a) The special exception uses in the Light Industrial A zone are:

1. Bus garages;
2. Class A recycling facilities;
3. Class D recycling facilities;
4. Commercial recreation, outdoor;
5. Communications transmission towers;
6. Convention centers;
7. Fuel service stations;
8. Health centers;
9. Helistops;
10. Hospitals;
11. Hotels and motels;
12. Houses of worship;
13. Movie theaters;
14. Restaurants; and
15. Retail.

**19:4-5.75 Light Industrial A zone; use limitations**

(a) The use limitations in the Light Industrial A zone are:

1. Accessory outdoor display areas shall be permitted only in connection with retail sales, when provided in accordance with the following:
  - i. Such areas, with the exception of automobile sales areas, shall not exceed 20 percent of the ground floor area of the building, with the total area included within the permitted floor area of the site; and
  - ii. Such areas, with the exception of automobile sales areas, shall be screened in accordance with N.J.A.C. 19:4-8.9, and shall not conflict with pedestrian or vehicular circulation.

2. Accessory outdoor storage areas shall be permitted only in connection with a principal retail use and used solely for the staging of new products, in accordance with the following:

i. Such areas, with the exception of automobile sales uses, shall not exceed 10 percent of the ground floor area of the building, with the total area included within the permitted floor area of the site;

ii. Such areas shall be fenced and screened in accordance with N.J.A.C. 19:4-8.9; and

iii. Materials within accessory outdoor storage areas shall not exceed the height of the screening.

3. For studio uses, accessory outdoor operations and storage shall be permitted, pursuant to an approved site plan, when in accordance with the following:

i. Accessory outdoor operations and the outdoor storage of materials shall relate to the functions of the studio, including set construction and filming, and shall meet all setbacks;

ii. Accessory storage of facility vehicles, including temporary trailers, shall be permitted;

iii. No such areas shall be located in the front yard or in the required parking area;

iv. Such areas shall be heavily screened in accordance with N.J.A.C. 19:4-8.9; and

v. Noise from any outdoor operations shall be buffered from adjoining properties and public ROWs.

#### 19:4-5.76 Light Industrial A zone; lot size requirements

(a) The lot size requirements in the Light Industrial A zone are:

1. Minimum lot area: three acres; and
2. Minimum lot width: 200 feet.

#### 19:4-5.77 Light Industrial A zone; bulk regulations

(a) The bulk regulations in the Light Industrial A zone are:

1. Maximum lot coverage: 60 percent;
2. Minimum open space: 15 percent;
3. Yards:
  - i. Minimum front yard: 50 feet;
  - ii. Minimum side yards: 90 feet total, no less than 30 feet on any one side; and
  - iii. Minimum rear yard: 75 feet; and
4. FAR: 2.5.

#### 19:4-5.78 Light Industrial A zone; performance standards

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

#### 19:4-5.79 Light Industrial B zone; purposes

The Light Industrial B zone is designed to accommodate a wide range of industrial, distribution, and commercial uses that generate a minimum of detrimental environmental effects.

#### 19:4-5.80 Light Industrial B zone; permitted uses

(a) The permitted uses in the Light Industrial B zone are:

1. Automobile repair facilities, minor;
2. Automobile rental facilities;
3. Automobile sales;
4. Banks;
5. Boat sales, rental and repair;
6. Bus garages;
7. Business support services;
8. Car washes;
9. Class A recycling facilities;
10. Class D recycling facilities;
11. Day care facilities;
12. Disaster recovery facilities;
13. Essential public services;
14. Fuel service stations;
15. Institutional uses;
16. Light industry;
17. Manufactured home and trailer sales, rental and repair;
18. Parks or recreation facilities;
19. Public utility uses, light;
20. Research and development facilities;
21. Self-storage facilities;
22. Taxi and limousine services;
23. Truck sales;
24. Truck terminals;
25. Warehouse and distribution facilities, which may include accessory retail sales of products stored therein; and
26. Wholesale establishments.

**19:4-5.81 Light Industrial B zone; special exception uses**

(a) The special exception uses in the Light Industrial B zone include:

1. Automobile repair facilities, major;
2. Class B recycling facilities;
3. Commercial recreation, indoor;
4. Communications transmission towers;
5. Health centers;
6. Heavy industry;
7. Hotels and motels;
8. Offices;
9. Public utility uses, heavy;
10. Restaurants;
11. Retail; and
12. Truck rental facilities.

**19:4-5.82 Light Industrial B zone; use limitations**

(a) The use limitations in the Light Industrial B zone are:

1. Accessory outdoor display areas shall be permitted only in connection with retail sales, when provided in accordance with the following:
  - i. Such areas, with the exception of vehicle sales areas, shall not exceed 20 percent of the ground floor area of the building, with the total area included within the permitted floor area of the site; and
  - ii. Such areas, with the exception of vehicle sales areas, shall be screened in accordance with N.J.A.C. 19:4-8.9, and shall not conflict with pedestrian or vehicular circulation.
2. Accessory outdoor storage areas shall be permitted only in connection with a principal retail use and used solely for the staging of new products, in accordance with the following:
  - i. Such areas, with the exception of vehicle sales uses, shall not exceed 10 percent of the ground floor area of the building, with the total area included within the permitted floor area of the site;
  - ii. Such areas shall be fenced and screened in accordance with N.J.A.C. 19:4-8.9; and
  - iii. Materials within accessory outdoor storage areas shall not exceed the height of the screening.

**19:4-5.83 Light Industrial B zone; lot size requirements**

(a) The lot size requirements in the Light Industrial B zone are:

1. Minimum lot area: one acre;

2. Minimum lot width: 100 feet; and
3. Minimum lot depth: 150 feet.

**19:4-5.84 Light Industrial B zone; bulk regulations**

(a) The bulk regulations in the Light Industrial B zone are:

1. Maximum lot coverage: 50 percent;
2. Minimum open space: 15 percent;
3. Yards:
  - i. Minimum front yard: 35 feet;
  - ii. Minimum side yards: 20 feet; and
  - iii. Minimum rear yard: 30 feet; and
4. FAR: 2.5.

**19:4-5.85 Light industrial B zone; performance standards**

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

**19:4-5.86 Intermodal A zone; purposes**

The Intermodal A zone is designed to accommodate transportation facilities that are located proximate to rail lines in the District and whose operations are related to port, rail, and trucking activities, and complementary light industrial uses.

**19:4-5.87 Intermodal A zone; permitted uses**

(a) The permitted uses in the Intermodal A zone are:

1. Automobile rental facilities;
2. Automobile repair facilities, minor;
3. Automobile sales;
4. Bus garages;
5. Class A recycling facilities;
6. Class D recycling facilities;
7. Fuel service stations;
8. Intermodal facilities;
9. Light industry;
10. Parks or recreation facilities;
11. Passenger rail terminals;
12. Public utility uses, light;
13. Self-storage facilities;
14. Taxi and limousine services;
15. Warehouse and distribution facilities; and
16. Wholesale establishments.

**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					FAR
	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Minimum Open Space	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	
EC	-	-	-	-	-	-	-	-	-
PA	-	-	-	-	-	-	-	-	-
WR	1 acre	-	-	30%	40%	25 feet	25 feet	25 feet	0.75
LDR <sup>1</sup> —									
One/Two-family	7,500 sq. ft.	75 feet	100 feet	30%	40%	25 feet <sup>2</sup>	10 feet	20 feet	-
Townhome <sup>a</sup>	10,000 sq. ft.	100 feet	100 feet	30%	35%	25 feet <sup>3</sup>	20 feet	25 feet	-
Other <sup>b</sup>	10,000 sq. ft.	100 feet	100 feet	30%	35%	25 feet	20 feet	30 feet	-
PR <sup>4</sup>	1 acre	100 feet	-	40%	30%	25 feet	20 feet	20 feet	-
NC <sup>5</sup>	7,500 sq. ft.	50 feet	-	40%	15%	2 feet	12 feet total/ 2 feet each <sup>6</sup>	5 feet <sup>7</sup>	-
CP	3 acres	200 feet	-	50%	25%	35 feet <sup>8</sup>	30 feet	30 feet	1.25 <sup>9</sup>
RC <sup>10</sup>	3 acres	300 feet	-	40%	20%	50 feet <sup>11</sup>	40 feet	30 feet	0.75 <sup>12</sup>
HC	20,000 sq. ft.	100 feet <sup>13</sup>	-	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 <sup>14</sup>	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 <sup>15</sup>	1 acre	100 feet	150 feet	50%	15%	-	-	-	Note 16

**NOTES AND ADDITIONAL REQUIREMENTS:**

<sup>1</sup> Additional requirements:

<sup>a</sup> Townhome—Maximum density: 10 dwelling units per acre

<sup>b</sup> 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.

#### 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.

#### 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 un-serviceable 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.

#### 19:4-6.6 Green buildings

(a) The New Jersey Meadowlands Commission (NJMC) shall promote sustainable green building practices in accordance with U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) guidelines in the Meadowlands District through the methods provided in this section. The LEED standards are incorporated herein by reference, as amended and supplemented, and may be found at <http://www.usgbc.org>, or by contacting the U.S. Green Building Council, 1015 18th Street, NW, Suite 508, Washington, DC 20036.

(b) Applications for development are encouraged, but are not required, to comply with LEED criteria.

(c) Only projects involving an application for LEED accreditation meeting a minimum of 26 points for LEED – New Construction, and 32 points for LEED – Existing Buildings on the LEED rating system, or the minimum rating to be designated an LEED Certified development, whichever is greater, shall be eligible for the incentives in this section.

(d) Review of applications proposing to meet a minimum accreditation level of LEED Certified shall be expedited by NJMC staff by receiving priority review before other applications.

(e) A refund of zoning certificate application fees required in N.J.A.C. 19:4-11.2 shall be provided upon the applicant's written request, accompanied by submission of proof of LEED certification by the USGBC, within one year of such certification, as follows:

1. LEED Platinum = 30 percent refund of fees;
2. LEED Gold = 25 percent refund of fees;
3. LEED Silver = 20 percent refund of fees; and
4. LEED Certified = 15 percent refund of fees.

(f) In any zone, the following density incentives shall be provided for zoning certificate applications for new buildings and additions upon compliance with the requirements of (g) below:

1. LEED Platinum = additional 0.30 floor area ratio (FAR) or additional three dwelling units per acre, where residential uses are permitted;

2. LEED Gold = additional 0.25 FAR or additional two dwelling units per acre, where residential uses are permitted;

3. LEED Silver = additional 0.20 FAR or additional one dwelling unit per acre, where residential uses are permitted; and

4. LEED Certified = additional 0.15 FAR or additional 0.5 dwelling unit per acre, where residential uses are permitted.

(g) The following process shall apply to applicants seeking a density incentive pursuant to LEED guidelines, as set forth in (f) above:

1. A LEED scorecard shall be submitted with a zoning certificate application detailing which credits the applicant shall seek to apply to the project, and the method that will be utilized to satisfy the credit.

2. The applicant shall register the proposed project with the USGBC, and shall submit written proof of such registration, prior to any incentive being granted by the NJMC.

3. All plans submitted for review shall contain the project components listed on the LEED scorecard.

4. A zoning certificate or variance approval granted pursuant to green building incentives as provided in this section shall contain conditions that such LEED certification be achieved and maintained.

5. Prior to issuance of the zoning certificate, a performance guarantee shall be completed by the applicant and property owner in accordance with N.J.A.C. 19:4-4.20.

6. If the applicant is unable to include the approved LEED components during the project implementation, the applicant shall replace the approved components with comparable, alternative green building components, subject to prior written approval by the NJMC for each substitution, maintaining the minimum required rating for the level of LEED certification sought.

7. Monthly reports by the project's LEED accredited professional shall be submitted to the NJMC to monitor the progress of the implementation of the green building components.

8. A maintenance plan for the LEED components shall be submitted for review and approval by the NJMC.

9. Upon completion of the project, an as-built analysis of the project in relation to the approved project shall be prepared by an independent LEED accredited professional architect, the cost of which shall be borne by the applicant.

10. If the final project does not include the approved green building components, the NJMC shall not issue a certificate of completion and/or occupancy certification. In cases where temporary approvals have been issued, the NJMC reserves the right to revoke said approvals until the required green building components have been installed and/or pursue enforcement pursuant to N.J.A.C. 19:4-4.21.

11. The application for LEED certification and rating shall be submitted by the applicant to the USGBC near or at completion of the project.

12. Final occupancy certification shall be issued by the NJMC upon certification by the USGBC that the project achieved the approved level of LEED certification. The applicant shall provide a copy of such certification to the NJMC.

(h) In cases where an application cannot comply with the design requirements in N.J.A.C. 19:4-8 due solely to the ability to install a LEED-recognized green building component, the NJMC may consider a LEED waiver from such requirements pursuant to the following process:

1. A request for a LEED waiver shall be made in writing to the Chief Engineer.

2. A request for a LEED waiver shall specify the regulation from which the waiver is requested and a detailed reason(s) for the request.

3. The Chief Engineer may grant LEED waivers in writing, and impose conditions upon such waivers, upon finding that the LEED waiver is necessary to install the green building component and that such waiver shall not result in a threat to public health, safety, and/or order and will not result in a detriment to the intent of the regulation. The Chief Engineer shall have the authority to decide that a variance procedure would be a more appropriate method in which to consider the proposed deviation from the regulations.

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

5. Upon a substantive change of an application or unforeseen circumstance, the NJMC reserves the right to require a waived requirement when deemed necessary by the Chief Engineer.

New Rule, R.2006 d.397, effective November 20, 2006.  
See: 38 N.J.R. 1797(a), 38 N.J.R. 4883(a).

## 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 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.

#### 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.

**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.

**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.

**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.

#### 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 background 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

#### 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 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.

#### 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 transporta-

tion 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.

## 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.

3. Required parking facilities shall be solely for the parking of motor vehicles, registered and in operating condition, of patrons, occupants, or employees of such uses.

4. The number, dimensions, location, and construction of barrier free parking spaces shall meet the requirements set forth in the NJ UCC Barrier Free Subcode, N.J.A.C. 5:23-7.

5. Adequate pedestrian circulation shall be provided between parking areas and the structures and uses served, and shall include methods to separate pedestrian and vehicular traffic.

6. No motor vehicle repair, work or service of any kind shall be permitted in connection with any non-residential parking facility, except where otherwise permitted.

7. All areas to be maintained for fire fighting or other emergency purposes shall be appropriately designed and designated in accordance with the New Jersey Uniform Fire Code (NJ UFC), N.J.A.C. 5:18, as determined by the municipal fire official, and identified on a site plan.

(b) Location requirements are as follows:

1. No vehicular use areas are permitted in required front yards or within required buffer areas. Driveways shall intersect ROW's at right angles, or as close as practicable, and shall traverse the required front yard in the shortest path practical.

2. All vehicular use areas shall maintain a five-foot setback from side and rear property lines, except in the Low Density Residential and Neighborhood Commercial zones, where a two-foot setback shall be maintained.

3. Entrances and exits shall not be located within the required line-of-sight triangle of an intersection or less than 50 feet from the intersection of the projected curb lines, except in the Low density residential zone.

(c) Design requirements are as follows:

1. A minimum six feet of landscaped open space shall be maintained as a buffer between buildings and vehicular use areas, exclusive of loading areas.

2. Entrances and exits shall be located in a safe and convenient manner with minimal impact on traffic movement on adjacent streets. All entrances and exits to parking areas shall have appropriate directional signage for traffic control.

3. Adequate space for queuing of vehicles shall be provided. Uses with drive-through facilities shall provide an adequate queuing lane.

4. All parking stalls shall be marked with four-inch wide lines.

5. All vehicular use areas, except those in the Environmental Conservation zone and single-family and two-family detached residences, shall be curbed with full depth concrete or granite block and paved or otherwise improved with an all-weather dustless material.

6. All vehicular use areas shall be provided with adequate drainage facilities in accordance with N.J.A.C. 19:4-8.6.

7. All vehicular use areas shall be properly screened and landscaped in accordance with N.J.A.C. 19:4-8.9.

8. All vehicular use areas shall be adequately and properly lit in accordance with N.J.A.C. 19:4-8.13.

9. Parking spaces that back-out directly into a street are prohibited, except for single-family and two-family detached dwellings.

10. Two feet in any stall length may be provided as a landscape overhang area, provided that required curbing is installed. Landscape overhang areas shall not be permitted in the following locations:

i. The required front yard;

ii. The five-foot property line buffer required in N.J.A.C. 19:4-8.2(b)2;

iii. The six-foot building buffer required in N.J.A.C. 19:4-8.2(c)1;

iv. The required open space area; and

v. The ends of parking stalls angled less than 60 degrees.

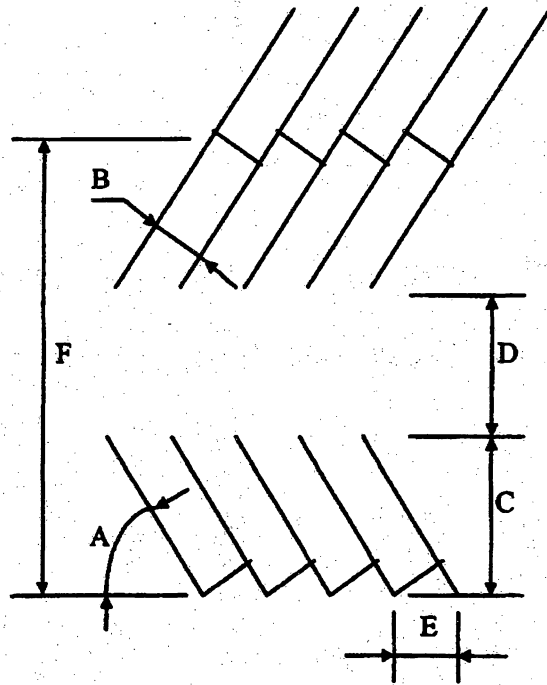
11. Safety islands, with a minimum dimension of five feet, shall be provided between the ends of a parking bay and any driveway, aisle or other areas as deemed necessary by the NJMC. Such islands shall be curbed with full-depth concrete or granite block and landscaped with shade trees and other appropriate vegetation.

12. All parking areas shall be arranged and designed so as to prevent damage to adjacent fences, walls, plantings and lighting structures.

13. Parking areas shall be designed in accordance with Figure 8-1, as follows:

**Figure 8-1  
Parking Dimensions and Layout**

A	0°	20°	30°	45°	60°	70°	80°	90°
B	8 ft. - 6 in.	8 ft. - 6 in.	8 ft. - 6 in.	8 ft. - 6 in.	8 ft. - 6 in.	8 ft. - 6 in.	8 ft. - 6 in.	8 ft. - 6 in.
C	8 ft. - 6 in.	14 ft. - 2 in.	16 ft. - 4 in.	18 ft. - 9 in.	19 ft. - 10 in.	19 ft. - 10 in.	19 ft. - 2 in.	18 ft. - 0 in.
D	11 ft. - 8 in.	10 ft. - 8 in.	10 ft. - 8 in.	13 ft. - 0 in.	17 ft. - 11 in.	18 ft. - 11 in.	23 ft. - 4 in.	24 ft. - 0 in.
E	23 ft. - 0 in.	24 ft. - 10 in.	17 ft. - 0 in.	12 ft. - 0 in.	9 ft. - 10 in.	9 ft. - 1 in.	8 ft. - 8 in.	8 ft. - 6 in.
F	28 ft. - 8 in.	39 ft. - 0 in.	43 ft. - 4 in.	50 ft. - 6 in.	57 ft. - 7 in.	58 ft. - 7 in.	61 ft. - 8 in.	60 ft. - 0 in.



- A Parking angle
- B Stall width
- C Stall to curb
- D Aisle width
- E Curb length per car
- F Width of double row with aisle between

(d) The minimum number of required parking spaces per use are as follows:

1. The number of parking spaces provided for all classifications of uses on a site shall be required in accordance with N.J.A.C. 19:4-8.4.
2. Where there is more than one use on a site, the number of required parking spaces shall be the sum of required parking spaces for each use.
3. Space allocated for required parking shall not be used for the parking of vehicles for sale, lease, or rental in conjunction with vehicle sales and rental facilities.
4. Space allocated for required parking shall not be used to satisfy any portion of the site's loading requirement, nor shall such space be used for storage and trailer parking, or any other purpose.
5. Space allocated for required parking shall not be utilized for any loading or truck maneuvering.
6. When required parking calculations result in a fraction of a space, that figure shall be rounded to the closest whole space.

(e) In conjunction with an application for new development, land-banking of required parking may be considered by the NJMC in accordance with the following:

1. The applicant shall satisfactorily demonstrate that the full amount of required parking will not be needed to support a specific tenant or use, or until a later phase of development or construction.
2. The land-banked parking area shall comply with all applicable regulations.
3. All land-banked parking areas shall be deed restricted.

(f) Shared parking requirements are as follows:

1. Parking areas may be shared by more than one use if a shared parking plan prepared in accordance with these regulations is approved by the NJMC. A shared parking plan prepared by a New Jersey-licensed professional engineer or other individual determined by the NJMC to be qualified as an expert in traffic engineering shall be submitted to the NJMC and shall include the following:

- i. Determination of required number of spaces:

- (1) For new construction, the minimum number of parking spaces constructed for a shared use project shall be determined by a shared parking plan, developed in accordance with the Urban Land Institute's (ULI) Shared Parking Manual, 1983, incorporated herein by reference, as amended and supplemented, or other similarly recognized publication. The Shared Parking Manual can be obtained from the Urban Land

Institute, 1025 Thomas Jefferson Street, N.W., Suite 500 West, Washington, DC 20007.

- (2) If the shared parking plan assumes the use of an existing parking facility already being utilized by continuing uses, then parking surveys shall be conducted twice during a typical week for a minimum of one month to determine actual parking usage. The surveys shall include morning, afternoon, and evening peaks as appropriate.

- ii. A site plan shall show how the actual number of parking spaces required in N.J.A.C. 19:4-8.4 could be provided on the site. The banked parking areas shall be indicated in the site plan as excess open space or future parking garage.

- iii. The design of the banked parking area shall comply with all applicable regulations and shall be practical, feasible, and compatible with the site plan.

- iv. A shared parking plan may include trip reduction elements, such as shuttle bus operations, that would reduce parking demand.

2. All zoning certificates issued for projects involving shared parking shall be conditioned upon the property owner submitting a study of actual parking usage and demand performed within two years of the issuance of occupancy certification for 85 percent of the development. The NJMC has the right to require the property owner to submit periodic monitoring reports for a period not to exceed 10 years.

3. The property owner shall provide a performance bond sufficient to construct the banked parking area. The performance bond shall be valid for a minimum of two years after the issuance of occupancy certification for 85 percent of the development. The NJMC will authorize the release of the performance bond upon submittal and acceptance of the parking usage study.

4. A deed restriction shall be executed guaranteeing that the property owner will construct the banked parking area directly if the NJMC determines that the shared parking plan should be modified or revoked. Insufficient parking supply shall be evidenced by parking occupancy rates over 98 percent for at least two consecutive hours on at least three typical days within a single month.

5. Before a change in use or operating hours that could increase peak parking demand by at least 10 percent, the property owner shall provide a follow-up study analyzing the change in demand patterns. Any forecasted deficiency shall be met by the construction of additional parking spaces.

6. Parking spaces to be shared cannot be reserved for specific uses, tenants, or individuals.

7. If any shared parking arrangement fails to meet the criteria in this section, the NJMC has the right to terminate

the shared parking plan and to enforce the construction of the required parking.

(g) Captive parking will be considered and/or allowed by the NJMC based upon the submission of evidence by the applicant to support a reduction in the total number of parking spaces due to an overlap of separate uses on the same site. Evidence may include studies of similar uses and traffic engineering studies.

### 19:4-8.3 Loading

(a) General requirements concerning loading 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 loading spaces are provided in accordance with N.J.A.C. 19:4-8.4.

2. All required loading facilities shall be located off-street and on the same lot occupied by the use served.

3. Loading areas are not required in conjunction with development in the Low Density Residential zone.

4. Loading areas shall be on the site plan and shall consider the following:

- i. Safe and efficient layout;
- ii. Consistency with the size and proposed use of the facility;
- iii. The nature and location of adjacent uses; and
- iv. Pedestrian and vehicular circulation.

5. Space allocated for loading or truck maneuvering shall not be used to satisfy any portion of the site's required parking.

6. Vehicle repair and/or service of any kind are not allowed in loading areas.

(b) Location requirements for loading are as follows:

1. Loading shall not be permitted in any front yard.
2. Loading areas, including accessory trailer parking areas, shall be located in the rear yard. Where this is not possible due to technical reasons related to site layout, loading areas may be located in a side yard.
3. No loading area shall be located within 10 feet of an open ditch.

4. All entrances and exits to loading areas shall be located in a safe and convenient manner with minimal impact on traffic movement on the site and adjacent streets.

5. Entrances and exits shall not be located within the required line-of-sight triangle of an intersection.

(c) Design requirements for loading are as follows:

1. All loading areas shall be paved or improved with a compacted select gravel base, not less than eight inches thick, and surfaced with an all-weather dustless material. Reinforced concrete dolly pads, not less than eight inches thick, shall be constructed for all loading docks.

2. All loading areas shall be provided with adequate drainage facilities in accordance with N.J.A.C. 19:4-8.6.

3. All loading areas shall be screened and landscaped in accordance with N.J.A.C. 19:4-8.9(d)6iii.

4. All loading areas shall be adequately and properly lit in accordance with N.J.A.C. 19:4-8.13.

5. The circulation and maneuvering of trucks on site shall comply with established American Association of State Highway and Transportation Officials (AASHTO) truck turning templates, found in the AASHTO manual, "A Policy on Geometric Design of Highways and Streets," Fourth Edition, 2001, incorporated herein by reference, as amended and supplemented. A copy of the manual can be obtained from the American Association of State Highway and Transportation Officials, 444 North Capitol Street, N.W., Suite 249, Washington, DC 20001. The templates used for the design of loading areas shall be for trucks of a size comparable to the maximum loading space required. Truck maneuvering shall not conflict with circulation and parking areas.

(d) Loading requirements are as follows:

1. The minimum requirements for the number and size of the required loading facilities shall be in accordance with N.J.A.C. 19:4-8.4.

2. All loading spaces shall have a minimum vertical clearance of 14 feet.

### 19:4-8.4 Parking and loading requirements

(a) The following shall be the minimum parking and loading requirements per use:

Table 8-1

#### Parking and Loading Requirements

Use	Minimum Parking Requirements	Minimum Loading Requirements
1. Airport	One space per four seats for waiting passengers; and one space per two employees on the shift of maximum employment	Two loading spaces; 12 feet x 60 feet

	<u>Use</u>	<u>Minimum Parking Requirements</u>	<u>Minimum Loading Requirements</u>
2.	%Assisted living facility	%0.5 spaces per bed	One loading space; 12 feet x 30 feet
3.	Automobile rental facility	One space per employee; 2.5 spaces per 1,000 sq. ft. of enclosed floor area; and 0.33 spaces per 1,000 sq. ft. of open lot vehicle storage area	One loading space; 12 feet x 30 feet
4.	Automobile repair facility, major and minor	One space per employee but not fewer than five employee parking spaces; two spaces per service bay; and five spaces per 1,000 sq. ft. of floor area of accessory retail, but no fewer than five spaces	One loading space; 12 feet x 30 feet
5.	Automobile sales facility	One space per employee; 2.5 spaces per 1,000 sq. ft. of enclosed floor area; 0.33 spaces per 1,000 sq. ft. of open lot vehicle storage area; and two spaces per service bay	One loading space; 12 feet x 30 feet
6.	Bank	Four spaces per 1,000 sq. ft. of floor area	One loading space; 12 feet x 30 feet
7.	Boat sales, rental and repair facility	One space per employee; and 0.33 spaces per 1,000 sq. ft. of open lot area devoted to the sale and display of merchandise	One loading space; 12 feet x 60 feet
8.	Building materials yard or facility	One space per 1,000 sq. ft. of floor area; and one space per facility vehicle	One loading space; 12 feet x 30 feet
9.	Bus garage	One space per two bus parking spaces	One loading space; 12 feet x 60 feet
10.	Business support services	2.5 spaces per 1,000 sq. ft. of floor area	One loading space; 12 feet x 30 feet
11.	Car wash (full service)	One space per two employees; and one per vacuum	One loading space; 12 feet x 30 feet
12.	Car wash (self service)	One space per employee; and one per vacuum	One loading space; 12 feet x 30 feet
13.	Class A, B, or D recycling facility	One space per 1,000 sq. ft. of floor area; and one space per facility vehicle	One loading space (12 feet x 60 feet) for structures up to and including 40,000 sq. ft.; two loading spaces (12 feet x 60 feet) for structures over 40,000 sq. ft. and up to and including 100,000 sq. ft.; and one loading space (12 feet x 60 feet) per additional 100,000 sq. ft. over 100,000 sq. ft.
14.	Commercial off-street parking	One space per employee	Not required
15.	Commercial recreation, indoor (see also "swimming pool")	Three spaces per 1,000 sq. ft. of floor area; 10 spaces per basketball court; and four spaces per tennis or similar court	One loading space; 12 feet x 30 feet
16.	Commercial recreation, outdoor (see also "swimming pool")	Three spaces per 1,000 sq. ft. of field area; 10 spaces per basketball court; and four spaces per tennis or similar court	One loading space; 12 feet x 30 feet
17.	Community residence or shelter	0.5 spaces per bedroom; and one space per employee on the shift of maximum employment	One loading space; 12 feet x 30 feet
18.	Construction equipment sales, rental, and repair	0.33 spaces per 1,000 sq. ft. of open lot area; and one space per employee	One loading space; 12 feet x 60 feet
19.	Contractor's yard or facility	One space per 1,000 sq. ft. of floor area; and one space per facility vehicle	One loading space; 12 feet x 30 feet
20.	Convention center	2.5 spaces per 1,000 sq. ft. of floor area	Four loading spaces; 12 feet x 60 feet
21.	Cultural facilities	2.5 spaces per 1,000 sq. ft. of floor area or one space per four seats, whichever is greater	One loading space (12 feet x 60 feet) for structures up to and including 100,000 sq. ft.; and one additional loading space (12 feet x 60 feet) per additional 100,000 sq. ft. over 100,000 sq. ft.
22.	Day care facility	One space per employee; one space per facility vehicle; and one space per 10 children or other persons requiring care	One loading space; 12 feet x 30 feet
23.	Disaster recovery facility	1.25 spaces per 1,000 sq. ft. of floor area	Two loading spaces; 12 feet x 60 feet
24.	Dwelling, single family	Two spaces per unit	Not required
25.	Dwelling, two family	Two spaces per unit	Not required

	<u>Use</u>	<u>Minimum Parking Requirements</u>	<u>Minimum Loading Requirements</u>
26.	Dwelling, multiple family	One space per unit for units restricted as affordable in accordance with N.J.A.C. 5:80-26; two spaces per unit for all other units; and one visitor space per four units	Not required, except when greater than four stories: one loading space; 12 feet x 30 feet
27.	Essential public services	One space per employee on the shift of maximum employment; and one space per facility vehicle	One loading space; 12 feet x 30 feet
28.	Fuel service station	One space per employee, but not fewer than five employee parking spaces; five spaces per 1,000 sq. ft. of floor area of accessory retail, but not fewer than five spaces; and two spaces per service bay	One loading space; 12 feet x 30 feet
29.	Funeral home and mortuary	One space per four seats or 20 spaces per 1,000 sq. ft. of public assembly area, whichever is greater; one space per employee; and one space per facility vehicle	One loading space; 12 feet x 30 feet
30.	Health center	Two spaces per examination or treatment room; and one space per employee (including doctors and staff)	One loading space; 12 feet x 30 feet
31.	Heavy industry	One space per 1,000 sq. ft.	Two loading spaces (12 feet x 60 feet) for structures up to and including 40,000 sq. ft.; three loading spaces (12 feet x 60 feet) for structures over 40,000 sq. ft. and up to and including 100,000 sq. ft.; and one loading space (12 feet x 60 feet) per additional 100,000 sq. ft. over 100,000 sq. ft.
32.	Heliport	One space per 1,000 sq. ft. of exterior operational area	Not required
33.	Helistop, commercial	Five spaces	Not required
34.	Helistop	Two spaces	Not required
35.	Hospital	Two per bed; and one space per two employees	One loading space (12 feet x 60 feet) per 100,000 sq. ft. of floor area
36.	Hotel and motel	One space per guest room; and such other spaces for accessory uses as required herein	Hotel, full service: One loading space; 12 feet by 60 feet; Hotel, limited service: one loading space; 12 feet by 30 feet
37.	House of worship	One space per five persons in the main place of worship, based on maximum occupancy as determined by the NJ UCC	One loading space; 12 feet x 30 feet
38.	Institutional use	Cumulative parking requirement per use	One loading space; 12 feet x 30 feet
39.	Intermodal facility	One space per 1,000 sq. ft.	Two loading spaces (12 feet x 60 feet) for structures up to and including 40,000 sq. ft.; three loading spaces (12 feet x 60 feet) for structures over 40,000 sq. ft. and up to and including 100,000 sq. ft.; and one loading space (12 feet x 60 feet) per additional 100,000 sq. ft. over 100,000 sq. ft.

40.	Light industry	One space per 1,000 sq. ft. of floor area	Two loading spaces (12 feet x 60 feet) for structures up to and including 40,000 sq. ft.; three loading spaces (12 feet x 60 feet) for structures over 40,000 sq. ft. and up to and including 100,000 sq. ft.; and one loading space (12 feet x 60 feet) per additional 100,000 sq. ft. over 100,000 sq. ft.
41.	Manufactured home and trailer sales, rental, and repair	One space per employee; and 0.33 space per 1,000 sq. ft. of open lot area devoted to the sale and display of merchandise	One loading space; 12 feet x 60 feet
42.	Manufactured home park	Two spaces per unit; and one space per employee	Not required
43.	Marina	One space per two docking berths, plus 10 spaces per 1,000 linear feet of usable water frontage, plus one trailer space per two docking berths	One loading space; 12 feet x 60 feet
44.	Materials recovery facility	One space per 1,000 sq. ft. of floor area; and one space per facility vehicle	One loading space; 12 feet by 60 feet
45.	Membership club or lodge, private	One space per four persons based on maximum occupancy as determined by the NJ UCC	One loading space; 12 feet x 30 feet
46.	Movie theater	One space per four seats	One loading space (12 feet x 60 feet) for structures up to and including 100,000 sq. ft.; two loading spaces (12 feet x 60 feet) for structures greater than 100,000 sq. ft.
47.	Nursing or rehabilitation facility	0.5 spaces per bed	One loading space; 12 feet x 30 feet
48.	Office	2.5 spaces per 1,000 sq. ft. of floor area	One loading space (12 feet x 30 feet) for structures up to and including 100,000 sq. ft.; one loading space (12 feet x 60 feet) for structures over 100,000 sq. ft. and up to and including 500,000 sq. ft.; and one loading space (12 feet x 60 feet) per additional 100,000 sq. ft. over 500,000 sq. ft.
49.	Park or recreation facility	See "commercial recreation, indoor" and "commercial recreation, outdoor"	Not required
50.	Personal services	Five spaces per 1,000 sq. ft. of floor area	One loading space; 12 feet x 30 feet
51.	Place of assembly	10 spaces per 1,000 sq. ft. of floor area	One loading space (12 feet x 30 feet) for structures up to and including 100,000 sq. ft.; two loading spaces (12 feet x 60 feet) for structures over 100,000 sq. ft. and up to and including 500,000 sq. ft.; and one loading space (12 feet x 60 feet) per additional 100,000 sq. ft. over 500,000 sq. ft.
52.	Public utility uses, heavy	One space per 1,000 sq. ft. of floor area; and one space per facility vehicle	One loading space (12 feet x 60 feet) for structures up to and including 40,000 sq. ft.; two loading spaces (12 feet x 60 feet) for structures over 40,000 sq. ft. and up to and including 100,000 sq. ft.; and one loading space (12 feet x 60 feet) per additional 100,000 sq. ft. over 100,000 sq. ft.
53.	Public utility uses, light	One space per 1,000 sq. ft. of floor area; and one space per facility vehicle	Not required

54.	Research and development facility	2.5 spaces per 1,000 sq. ft. of floor area	Two loading spaces (12 feet x 60 feet) for structures up to and including 40,000 sq. ft.; three loading spaces (12 feet x 60 feet) for structures over 40,000 sq. ft. and up to and including 100,000 sq. ft.; and one loading space (12 feet x 60 feet) per additional 100,000 sq. ft. over 100,000 sq. ft.
55.	Resource recovery facility	One space per 1,000 sq. ft. of floor area; and one space per facility vehicle	One loading space; 12 feet x 60 feet
56.	Restaurant Sit-down	Eight spaces per 1,000 sq. ft. of floor area	One loading space; 12 feet x 30 feet
	Carry-out	10 spaces per 1,000 sq. ft. of floor area	One loading space; 12 feet x 30 feet
	Fast-food	13 spaces per 1,000 sq. ft. of floor area	One loading space; 12 feet x 60 feet
57.	Restaurant, accessory outdoor seating	Up to 20 seats may be provided with no additional parking requirement; and 0.33 space per additional seat	None required
58.	Retail	Five spaces per 1,000 sq. ft. of floor area and outdoor display area	One loading space (12 feet x 30 feet) for structures up to 30,000 sq. ft.; two loading spaces (12 feet x 60 feet) for structures greater than 30,000 sq. ft.; and one additional loading space (12 feet x 60 feet) per additional 50,000 sq. ft. over 30,000 sq. ft.
59.	School, primary or intermediate, public or private	One space per employee	One loading space; 12 feet x 30 feet
60.	School, secondary and post-secondary, public or private	One space per employee; and one space per 10 students based on maximum occupancy as determined by the NJ UCC	One loading space; 12 feet x 30 feet
61.	Self-storage facility	One space per 100 storage units or one space per 10,000 sq. ft., whichever is less, but in no case less than six spaces	Two loading spaces (12 feet by 60 feet) for structures up to and including 30,000 sq. ft.; three loading spaces (12 feet by 60 feet) for structures over 30,000 sq. ft.; and one additional loading space (12 feet by 60 feet) per additional 50,000 sq. ft. over 30,000 sq. ft.
62.	Senior housing	One space per dwelling unit	Not required, except when greater than four stories: one loading space; 12 feet x 30 feet
63.	Social services	One space per employee; and 2.5 spaces per 1,000 sq. ft. of floor area	One loading space; 12 feet x 30 feet
64.	Solid waste transfer station	One space per facility vehicle, plus one space per 1,000 sq. ft. of floor area	One loading space (12 feet x 60 feet) for structures up to and including 40,000 sq. ft.; two loading spaces (12 feet x 60 feet) for structures over 40,000 sq. ft. and up to and including 100,000 sq. ft.; and one loading space (12 feet x 60 feet) per additional 100,000 sq. ft.
65.	Studio	1.5 spaces per 1,000 sq. ft. of studio and production area; one space per facility vehicle; 10 spaces per 1,000 sq. ft. of assembly areas; 2.5 spaces per 1,000 sq. ft. of office area; and such other cumulative parking requirements per use as applicable	One loading space (12 feet x 60 feet) per 25,000 sq. ft.
66.	Swimming pool, public or swim club, private	One space per 38 sq. ft. of water surface area, or 15 spaces per site acre, whichever is greater	One loading space; 12 feet x 30 feet
67.	Taxi and limousine service	One space per facility vehicle; and 2.5 spaces per 1,000 sq. ft. of enclosed floor area	One loading space; 12 feet x 30 feet

	<u>Use</u>	<u>Minimum Parking Requirements</u>	<u>Minimum Loading Requirements</u>
68.	Truck rental facility	One space per employee; 2.5 spaces per 1,000 sq. ft. of enclosed floor area; and 0.33 spaces per 1,000 sq. ft. of open lot vehicle storage area	One loading space; 12 feet x 60 feet
69.	Truck repair facility	One space per employee but not fewer than five employee parking spaces; two spaces per service bay; and five spaces per 1,000 sq. ft. of floor area of accessory retail, but no fewer than five spaces	One loading space; 12 feet x 30 feet
70.	Truck sales	One space per employee; 2.5 spaces per 1,000 sq. ft. of enclosed floor area; 0.33 spaces per 1,000 sq. ft. of open lot vehicle storage area; and two spaces per service bay	One loading space; 12 feet x 60 feet
71.	Truck stop	Cumulative parking requirement per use	One loading space; 12 feet x 60 feet
72.	Truck terminal	One space per loading door or one space per employee on the shift of maximum employment, whichever is greater; and one space per facility vehicle	One loading space; 12 feet x 60 feet
73.	Truck wash (full-service)	One space per two employees; and one per vacuum	One loading space; 12 feet x 30 feet
74.	Truck wash (self-service)	One space per employee; and one per vacuum	One loading space; 12 feet x 30 feet
75.	Warehouse and distribution facility	One space per 1,500 sq. ft. of floor area	Two loading spaces (12 feet x 60 feet) for structures up to and including 40,000 sq. ft.; three loading spaces (12 feet x 60 feet) for structures over 40,000 sq. ft. and up to and including 100,000 sq. ft.; and one loading space (12 feet x 60 feet) per additional 100,000 sq. ft. over 100,000 sq. ft.
76.	Wholesale establishment	One space per 1,500 sq. ft. of floor area	Two loading spaces (12 feet x 60 feet) for structures up to and including 40,000 sq. ft.; three loading spaces (12 feet x 60 feet) for structures over 40,000 sq. ft. and up to and including 100,000 sq. ft.; and one loading space (12 feet x 60 feet) per additional 100,000 sq. ft. over 100,000 sq. ft.

(b) Minimum parking and loading requirements for uses not listed in this section shall be provided in accordance with the determination of the NJMC.

Administrative correction.

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

Amended by R.2007 d.57, effective February 5, 2007.

See: 38 N.J.R. 3762(a), 39 N.J.R. 548(a).

In Table 8-1, Use 26, under "Minimum Parking Requirements", substituted "One space per unit for units restricted as affordable in accordance with N.J.A.C. 5:80-26; two" for "Two" and inserted "for all other units".

#### 19:4-8.5 Line-of-sight triangle

(a) Line-of-sight triangles shall be provided in accordance with established American Association of State Highway and Transportation Officials (AASHTO) design recommendations for intersection sight distances/sight triangles as found in the AASHTO manual, "A Policy on Geometric Design of Highways and Streets," Fourth Edition, 2001, incorporated herein

by reference, as amended and supplemented, and shall be indicated on the site plan.

(b) Line-of-sight triangles shall be provided at the intersection of a driveway and a street or other public ROW, or at the intersection of two or more streets or public ROWs.

(c) Unless more stringent requirements are provided in these regulations, at the intersection of two or more streets or the intersection of a driveway and one or more streets, no hedge, planting, fence, screening or wall higher than 30 inches above curb level, nor any obstruction to a motorist's line of vision, other than a post not exceeding one foot in diameter, shall be permitted on any property within the line-of-sight triangle.

(d) Property within the line-of-sight triangles shall be maintained, trimmed and/or cleared of any material that could obstruct vision within the line-of-sight triangle.

**19:4-8.6 Drainage**

(a) General requirements for drainage are as follows:

1. Drainage plans shall be signed and sealed by a New Jersey-licensed professional engineer or other professional authorized to prepare drainage plans.

2. All vehicular use areas shall be drained so as to direct surface water runoff to a stormwater drainage system for eventual subsurface or stream disposal. Conveyance via vegetated channels is acceptable but shall be supported with calculations verifying stability during peak flows.

3. A watershed runoff hydrograph that displays and compares the peak discharge rate and volume shall be prepared for both pre-and post-development conditions. Runoff volume calculations shall be used to determine the sizing of detention facilities, if necessary.

4. The receiving stormwater drainage system (pipe flow or open channel flow) shall be analyzed to ensure that it has the additional capacity necessary to handle any increase in stormwater flow during the 25-year design storm. The analysis shall include all upstream and downstream runoff peak contributions, estimated per N.J.A.C. 19:4-8.6(b)3, to a downstream point established by the NJMC. If the receiving stormwater drainage system is at or over capacity, or is not analyzed, detention and/or infiltration facilities shall be provided in order to maintain site runoff peak flow at pre-development levels.

5. The size of the drainage area shall include on-site and off-site lands contributing stormwater to the discharge point. Additionally, the pre-development drainage patterns of any off-site contributions shall be maintained unless a compensatory system is provided, which, at a minimum, maintains the pre-development on-site capacity to carry neighboring stormwater runoff peak flow during the 25-year storm.

6. An operation and maintenance manual for stormwater drainage systems, including stormwater quality measures, shall be provided to ensure proper function and operation of the system and in a manner consistent with N.J.A.C. 7:8, the Stormwater Management Rules. The operation and maintenance manual shall be updated as necessary. Updates shall be provided to the NJMC.

(b) Design requirements for drainage are as follows:

1. The applicant shall provide information sufficient for the NJMC to determine compliance with the applicable sections of N.J.A.C. 7:8, the Stormwater Management Rules. With regard to water quality, proposed development and redevelopment that may introduce petroleum hydrocarbons to runoff water shall install stormwater management measures that target and remove such pollutants.

2. All drainage systems shall be designed for a 25-year storm event. The magnitude of the 25-year rainfall depth and/or rainfall intensity specific to each site shall be

developed from the "Precipitation-Frequency Atlas of the United States," National Oceanic and Atmospheric Administration (NOAA) Atlas 14, Volume 2, Version 2, incorporated herein by reference, as amended and supplemented. This document is available from the NOAA National Weather Service, Office of Hydrologic Development, Hydro-meteorological Design Studies Center, Bldg. SSMC2 W/OHD13, 1325 East-West Highway, Silver Spring, MD 20910-3283, or online at [http://hdsc.nws.noaa.gov/hdsc/pfds/orb/nj\\_pfds.html](http://hdsc.nws.noaa.gov/hdsc/pfds/orb/nj_pfds.html). An outline of the above document, specific to New Jersey, is available from the National Resources Conservation Service (NRCS) New Jersey State Office (NJSO). This outline, NJ Bulletin No. NJ210-4-1, dated September 8, 2004, incorporated herein by reference, as amended and supplemented, is available through the NRCS New Jersey State Office, 220 Davidson Avenue, 4th Floor, Somerset, New Jersey 08873, or online at [www.state.nj.us/dep/damsafety/nrcs\\_24hour\\_rainfall.pdf](http://www.state.nj.us/dep/damsafety/nrcs_24hour_rainfall.pdf). Per N.J.A.C. 7:8, the Stormwater Management Rules, properties within the District and outside the FEMA Special Flood Hazard Area (SFHA) may be required to meet water quality control requirements for events greater than the 25-year event. Additionally, the water quality design storm shall be developed pursuant to N.J.A.C. 7:8-5.5.

3. Runoff estimation:

i. The Rational Method, utilizing the rational formula listed in Figure 8-2 below, shall be used for computing the runoff from any drainage area up to 20 acres. The antecedent precipitation factor (Ca) shall be used with the Rational and Modified Rational Method, as shown in the Standards for Soil Erosion and Sediment Control in New Jersey at N.J.A.C. 2:90-1.3, incorporated herein by reference, as amended and supplemented. For areas larger than 20 acres, the National Resources Conservation Service's (NRCS), Technical Release No. 55 (TR-55), "Urban Hydrology for Small Watersheds," incorporated herein by reference, as amended and supplemented, or equivalent approved by the NJMC, shall be used. A copy may be obtained from the NRCS New Jersey State Office, 220 Davidson Avenue, 4th floor, Somerset, New Jersey 08873, or online at the NRCS website, <http://www.wcc.nrcs.usda.gov/hydro/hydro-tools-models-tr55.html>; and

Figure 8-2

Rational Formula

$$Q = ciA$$

where:

- Q = Peak flow in cubic feet per second (cfs)  
 c = Runoff coefficient (weighted) x the antecedent precipitation factor  
 i = Rainfall intensity in inches per hour (in/hr)  
 A = Drainage area in acres (ac)

ii. The runoff coefficients (c) listed in Table 8-2 below shall be used in the rational formula:

Table 8-2  
Coefficient of Runoff Values

Land Use	Description	Hydrologic Soils Group			
		A	B	C	D
Cultivated Land:	Without conservation treatment	0.50	0.70	0.80	0.90
	With conservation treatment	0.30	0.45	0.65	0.70
Pasture:	Poor condition	0.40	0.65	0.75	0.85
Grassland or Range Land	Fair condition	—	0.25	0.50	0.65
Meadow	Good condition	—	—	0.40	0.60
Wood or Forest Land:	Poor cover; thin stand, no mulch	—	0.35	0.60	0.70
	Good cover	—	—	0.45	0.60
Open Space:	Poor condition (grass cover < 50 percent)	—	0.65	0.70	0.85
	Lawns, Parks, Golf Courses, etc. Fair condition (grass cover 50 percent to 75 percent)	—	0.45	0.60	0.75
	Good condition (grass cover > 75 percent)	—	0.25	0.50	0.65
Urban Areas:	Commercial and Business 85 percent impervious	0.85	0.90	0.90	0.95
	Industrial 72 percent impervious	0.65	0.80	0.90	0.90
Residential:	Average percent impervious:				
Average Lot Size (acres):					
1/8	65	0.60	0.75	0.85	0.90
1/4	38	0.30	0.55	0.70	0.80
1/3	30	—	0.50	0.70	0.80
1/2	25	—	0.45	0.65	0.75
1	20	—	0.40	0.65	0.75
Impervious Areas:	Parking lots, roofs, driveways, etc.	0.99	0.99	0.99	0.99
	Paved Streets and roads	0.99	0.99	0.99	0.99
	Gravel Streets and roads	0.60	0.75	0.85	0.90
	Dirt Streets and roads	0.50	0.70	0.80	0.85

Note: Hydrologic Soil Groups Texture descriptions are the following:  
 A Sand, loamy sand, or sandy loam  
 B Silt loam or loam  
 C Sandy clay loam  
 D Clay loam, silty clay loam, sandy clay, silty clay, or clay

iii. The time of concentration (T<sub>c</sub>) used shall be calculated using the NRCS TR-55 methodology or other method approved on a case-by-case basis by the NJMC. The time of concentration shall have a sheet flow component of no greater than 150 feet on paved surfaces. Vegetated surfaces shall have a sheet flow component no greater than 100 feet. The minimum time of concentration shall be six minutes.

4. Stormwater drainage collection system design requirements are as follows:

i. The design of pipes and conduits shall use Manning's equation, listed in Figure 8-3 below, to determine capacity.

Figure 8-3

Manning's Equation

$$Q = (1.486/n)AR^{2/3}S^{1/2}$$

where:

Q = Flow, cubic feet per second (cfs)

n = Manning's roughness coefficient

A = Cross-sectional area of flow in square feet (sf)

R = Hydraulic radius in feet, R=A/P, where P is the wetted perimeter, measured in feet and defined as the length of the line of contact between the flowing water and the channel (ft)

S = Slope of energy grade in feet per foot (ft/ft)

ii. Pipe sizes shall be determined using the design runoff, conduit entrance conditions and hydraulic capacity. No stormwater systems may be designed to function under a pressure condition unless justified by the design professional and approved by the NJMC.

iii. Design velocities in pipes shall be a minimum of two feet per second, or as otherwise approved on a case-by-case basis by the NJMC, to allow for self-cleaning and a maximum of 15 feet per second to prevent scouring of pipes, manholes, and inlets and erosion at points of discharge.

iv. The materials used in the construction of storm sewers shall be reinforced concrete, ductile iron, corrugated polyethylene, or other as approved by NJMC. Corrugated metal and steel shall not be permitted. Should existing corrugated metal or steel pipes be incorporated into a proposed system, their condition shall be verified.

v. The Manning's roughness coefficient "n" for circular cross section, nonporous concrete pipe shall be 0.013. Other cross sections or pipe materials shall have commensurate friction factors.

vi. All transitions in pipe slopes, junctions and changes in pipe sizes shall be confined to manholes, catch basins, or other accessible structures designed for one or more of these purposes. Additionally, all manhole, catch basin, and other pipe connections to structures shall be equipped with flexible, water-tight joints.

vii. Where a drainage system discharges to a tidal waterway, tide gates, constructed of cast iron or other corrosion-proof material, shall be provided at every discharge point. Additionally, the backwater condition generated by the mean high water (MHW) tide shall be considered in the drainage calculations associated with tidally influenced areas. Data on the tide elevations throughout the District is available from the NJMC.

viii. Where a drainage system starts at or discharges into a stream, ditch or other body of water, a concrete headwall with wing-walls and a rip-rap apron pad, or other as approved by the NJMC, shall be constructed. The apron pad and/or scour hole design shall consider the tailwater elevation to be equal to the mean low water (MLW) elevation if tidally influenced.

ix. Roof runoff shall be conveyed via roof leaders to a stormwater collection system, where feasible. Should direct connection to a stormwater collection system be impractical, roof leaders shall first discharge to stable, vegetated areas, where feasible, and then be directed to a stormwater collection system.

x. Roof leaders and their respective receiving systems shall be sized to pass a minimum rainfall intensity per N.J.A.C. 5:23-3.15(b)12ii of the Uniform Construction Code (UCC).

5. Surface and subsurface detention basins shall be designed in accordance with N.J.A.C. 7:8, the Stormwater Management Rules, and the NJDEP "New Jersey Stormwater BMP Manual," each incorporated herein by reference, as amended and supplemented. The New Jersey Stormwater BMP Manual is available online at [http://www.state.nj.us/dep/stormwater/bmp\\_manual2.htm](http://www.state.nj.us/dep/stormwater/bmp_manual2.htm). The following are exceptions to the above requirements:

i. The design storm shall be reduced to the 25-year storm unless constructed outside of the FEMA Special Flood Hazard Area (SFHA). The NJDEP stormwater quantity requirements, which include larger storm events, shall apply to areas outside of the SFHA.

ii. Backwater calculations shall be included in the design, per (b)4vii, above.

iii. Subsurface detention systems that rely on infiltration for discharge shall only be designed in locations without known soil contamination or other issues which may threaten the quality of groundwater.

iv. Detention basins shall be maintained to prevent clogging and/or siltation. A maintenance plan shall be submitted to the NJMC for review and approval.

6. Stormwater pollutant removal shall be performed in compliance with N.J.A.C. 7:8, the Stormwater Management Rules. In addition:

i. Stormwater quality control devices shall be installed off-line unless it is demonstrated that resuspension of collected soils will not occur during storm intensities or depths greater than the NJDEP Water Quality Storm as defined in N.J.A.C. 7:8-5.5.

ii. Similar structural stormwater management measures may not be used in series to achieve the required 80-percent TSS removal unless approved by the NJMC.

iii. Stormwater management measures, such as detention basins, swales and sand filters, shall not receive stormwater runoff until the site has been stabilized per the Standards for Soil Erosion and Sediment Control in New Jersey at N.J.A.C. 2:90-1.3.

iv. All subsurface stormwater management measures shall have a clearly identified method of clean-out.

Administrative correction.

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

Amended by R.2006 d.163, effective May 1, 2006.

See: 37 N.J.R. 4198(a), 38 N.J.R. 1860(a).

In (a), rewrote 2, 4, and 5, deleted 6, recodified former (7) as (6) and rewrote present (6); and rewrote (b).

#### 19:4-8.7 Buffers

(a) Waterway buffers shall be provided as follows:

1. There shall be a minimum 50-foot-wide landscaped buffer measured from the mean high water line or top of bank where any development borders the Hackensack River, tributaries, or streams located in the District.

2. At man-made watercourses, the location and measured dimension of the buffer shall be determined by the NJMC.

3. No fill, structures, or impervious pavement shall be permitted within the waterway buffer, unless required by other agencies having jurisdiction for the purpose of environmental remediation.

4. Stormwater management facilities are permitted within the waterway buffer.

5. Water dependent aspects of marinas are exempt from this section.

(b) Residential buffers shall be provided as follows, measured from the property line:

1. Where an industrial use is proposed abutting a residential use or zone, a 25-foot landscaped buffer shall be provided in accordance with N.J.A.C. 19:4-8.9.

2. Where a commercial use is proposed abutting a residential use or zone, a 15-foot landscaped buffer shall be provided in accordance with N.J.A.C. 19:4-8.9, except in the Neighborhood commercial zone.

#### 19:4-8.8 Open space

(a) General requirements for open space are as follows:

1. Open space shall be required on all developed sites in the District in accordance with the bulk regulations of the applicable zone in which the property is located.

2. An open space plan shall be submitted in conjunction with all applications for new construction, additions and site improvements, or as otherwise required by these regulations, in accordance with of N.J.A.C. 19:4-4.4.

3. The following areas shall fulfill open space requirements:

i. Landscaped and natural areas at grade level which meet the minimum open space dimensions, in accordance with the following:

(1) Open space areas that have a minimum dimension of five feet in any direction and a minimum area of 50 square feet.

(2) Landscaped safety islands within parking lots equal or greater than five feet dimension in any direction;

ii. Hardscape areas at grade level having a minimum of 20 percent of the total hardscape area planted, inclusive of permanent landscaped planters;

iii. Stormwater management areas that are at least 50 percent vegetated; and

iv. Sidewalks provided within an open space area.

4. The following areas shall not fulfill open space requirements:

i. The overhang area for parking stalls in accordance with N.J.A.C. 19:4-8.2(c)10; and

ii. Vehicular use areas including all parking, loading, access drives, accessory trailer parking; outdoor storage; tower foundations; refuse and recycling areas; and foundations for satellite antennas exceeding a diameter of six feet.

(b) Open space plan requirements are as follows:

1. The open space plan shall indicate the location and area of open space proposed on a site with hatch patterns;

2. An open space summary table shall be included on the open space plan indicating the total area of the lot, open space, and vehicular use areas.

#### 19:4-8.9 Landscaping

(a) A landscape plan shall be submitted with all applications for new construction, additions and site improvements, or as otherwise required by these regulations, in accordance with N.J.A.C. 19:4-4.4.

(b) The landscape plan shall include the following:

1. Proposed plantings, hardscape areas, stormwater management areas, and items requiring screening;

2. Existing trees with a six-inch caliper or greater;

3. All trees to be preserved or relocated;

4. A plant schedule indicating botanical and common names, quantity, size at time of planting and maturity, and spacing of all proposed plantings; and

5. Construction details and notes for plantings.

(c) Plant standards for landscaping are as follows:

1. All proposed plantings shall conform to the American Standard for Nursery Stock, (ANSI Z60.1-1996), published November 6, 1996 by the American Nursery and Landscape Association, 1000 Vermont Avenue, NW, Suite 300, Washington, DC 20005 incorporated herein by reference, as amended and supplemented. Plantings shall also conform to hardiness zone 6 standards of the United States Department of Agriculture (USDA) Plant Hardiness Zone Map, as developed by the USDA, Miscellaneous Publication No. 1475, issued January 1990, incorporated herein by reference, as amended and supplemented. The map is available through the USDA and other cooperative extensions. A web-based interactive Plant Hardiness Zone Map (2001 US National Arboretum "Web Version" of the USDA Plant Hardiness Zone Map) can be found in the United States National Arboretum website at <http://www.usna.usda.gov/Hardzone/ushzmap.html>.

2. All shade trees shall be a minimum of two and one-half to three inches in caliper and 12 feet in height at the time of planting.

3. All evergreen and ornamental trees shall not be less than six feet in height at the time of planting.

4. All upright shrubs shall not be less than 24 to 30 inches in height at the time of planting; all spreading shrubs shall not be less than 24 to 30 inches in spread at the time of planting.

(d) Design requirements for landscaping are as follows:

1. Plants located within the line of sight triangles in accordance with N.J.A.C. 19:4-8.5 shall not exceed a height of 30 inches at maturity.

2. Shade trees shall be provided in the required front yard adjacent to public streets. At least one shade tree for each 40 linear feet of frontage shall be provided.

3. A minimum of one shade tree shall be provided for every 10 parking spaces or 3,000 square feet of vehicular use area, whichever is greater, which shall be distributed evenly within the vehicular use area.

4. A five-foot-wide landscape strip with shade trees to be planted on 25 to 40 foot centers shall be provided along all side and rear property lines, unless otherwise determined to be infeasible by the NJMC.

5. A minimum of 40 percent of all new trees and shrubs shall be native to the State of New Jersey. The planting of Purple Loosestrife (*Lythrum salicaria*) and all of its varieties is prohibited in the District. A list of suggested and discouraged plants is available from the NJMC.

6. Screening requirements are as follows:

i. All parking areas containing six or more parking spaces shall be effectively screened from public or private ROWs by a fence, wall, landscaped berm, or densely planted evergreens sufficient to reduce head-

light glare. Deciduous shrubs may be used for screening in conjunction with a berm not less than two and one-half feet in height.

ii. All parking areas shall be screened from adjacent residential uses by a solid and continuous fence, wall, landscaped berm or densely planted evergreens capable of maturing to a minimum of six feet in height.

iii. All loading and trailer parking areas shall be effectively screened with a solid and continuous fence in accordance with N.J.A.C. 19:4-8.10, supplemented by evergreens capable of maturing to a height and width sufficient to screen such areas and vehicles from public ROWs and adjacent residential uses.

iv. All site service improvements and utility improvements, such as transformer compounds and external heating and cooling equipment; refuse and recycling areas; and outdoor storage, display or work areas, where permitted, shall be enclosed by a solid and continuous fence, wall, or evergreen plant material sufficient to screen such activity from adjacent properties and public ROWs.

(e) All landscaping shall be completed before occupancy certification is issued by the NJMC. Delay in performance may be permitted by the posting of sufficient security in a form acceptable to the NJMC to ensure completion of this requirement.

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

#### 19:4-8.10 Fences and screening walls

(a) Fences or walls in excess of 24 inches in height shall be permitted in accordance with the following:

1. Fences or walls shall not be permitted in required front yards except for the following:

i. Fences or walls on any existing single-family dwelling or two-family dwelling lot with a maximum height of four feet, provided that they are not chain link fences.

ii. Notwithstanding the other provisions of this section, fences or walls in the Intermodal B and Heavy Industrial zones.

iii. Fences or walls, not exceeding four feet in height, on undeveloped properties that are subject to illegal dumping. The determination that illegal dumping occurs must be confirmed by an inspection by the NJMC prior to the erection of the fence. Before a certificate of completion can be issued for the fence or wall, the property shall be cleared of debris. The fence shall be removed once the site is developed.

iv. Construction fences not exceeding eight feet in height. Said fences shall be removed prior to the issuance of occupancy certification.

v. Fences or walls erected at the front building line of a principal structure extending to the side or rear lot lines, provided that they do not exceed a maximum height of six feet in the Low Density Residential zone and eight feet in all other zones.

2. Fences and walls located in side and rear yards shall not exceed a height of six feet in residential zones and eight feet in all other zones.

3. No fence, wall, hedges, or other landscaping shall be constructed or installed so as to constitute a hazard to traffic or safety.

4. The face or finished side of a fence or wall shall face the adjacent property.

5. No fence or wall shall be constructed with metal spikes, or topped with concertina or razor wire, broken bottles or similar materials, or constructed in such manner as to be dangerous to animals or humans.

**19:4-8.11 Retaining walls**

(a) Retaining walls having an exposed height of four feet or more shall require design stability calculations signed and sealed by a New Jersey-licensed professional engineer.

(b) The height and location requirements for screening walls in N.J.A.C. 19:4-8.10 shall not apply to retaining walls.

**19:4-8.12 Sidewalks**

(a) Sidewalks shall be provided and maintained along public streets on which a property fronts, subject to the approval of the appropriate governmental entity having jurisdiction.

(b) Where possible, sidewalks shall be located parallel to the public street and shall connect to existing sidewalks on adjacent properties.

(c) The minimum sidewalk width shall be four feet. Where a sidewalk abuts a curb or the edge of pavement, the minimum width shall be six feet.

(d) Sidewalks shall be constructed of either four-inch-thick concrete, concrete pavers, or other appropriate material. Sidewalks shall be designed to meet the conditions of the sub-grade material and the proposed loads.

(e) The area between the sidewalk and the edge of pavement or curb shall be landscaped.

**19:4-8.13 Lighting**

(a) Adequate site illumination for uncovered areas shall be provided in accordance with the following:

1. Uncovered areas shall be adequately illuminated during non-daylight hours. Adequate illumination shall be provided for all vehicular use areas and pedestrian areas.

2. Illumination levels in these areas shall maintain an average-to-minimum uniformity ratio not exceeding 4:1.

3. Evenly distributed, minimum illumination levels shall be maintained throughout the uncovered areas during non-daylight hours as per Table 8-3 below.

Table 8-3

Site Illumination Requirements for Uncovered Areas

Use	Minimum Average Footcandle Level
Parking Lots	1.0
Loading, Unloading and Material Handling Areas	4.0
Driveway Entrances and Exits	2.0
Pedestrian Walkway Areas	0.5

4. Site illumination for environmental conservation areas shall be limited to that which is minimally required to serve the needs of employees, users, and visitors of these areas, as determined by the NJMC.

5. The maximum average illumination level for fuel service stations, including areas under canopies, shall be 20 footcandles.

6. Site illumination design shall comply with the following:

i. All light sources shall be shielded and positioned to prevent glare from becoming a hazard or a nuisance, or having a negative impact on site users, adjacent properties, or the traveling public.

ii. All light sources with illumination levels greater than one foot-candle shall be arranged to reflect away from adjacent properties.

iii. The number and spacing of required light pole standards in a parking lot shall be determined based on the type of fixture, height of pole, number of fixtures on the pole, and desired lighting level.

iv. Poles shall be made of rustproof metal, cast iron, fiberglass, finished wood or similar structural material.

v. Pole heights shall be measured from the ground surface at the base of the pole to the top of the pole. The height of poles mounted on pedestals shall include the height of the pedestal.

vi. Light sources mounted on a pole shall not exceed the height of the pole.

vii. Poles dedicated to lighting pedestrian areas shall not be greater than 15 feet in height and shall utilize underground wiring.

viii. Poles in all other areas shall not exceed 25 feet in height, and shall utilize underground wiring.

ix. Poles greater than 25 feet in height, but not exceeding 40 feet, and utilizing overhead wiring, may be permitted under specific written request of, and authorization by, the NJMC due to specific site or use-related, technical reasons.

x. Poles shall be located so as not to interfere with site circulation and shall be coordinated with stall and aisle layouts in vehicular use areas. Where practical, poles shall be located near the end of parking rows or around the perimeter of the lot. When located at parking stall boundaries, poles shall be located as to minimize vehicle damage, and shall be mounted on concrete pedestals. Where raised medians or islands are used to separate adjacent stalls, poles shall be placed in these areas unless pedestrian circulation will be adversely effected.

xi. Light sources mounted on a building façade shall not exceed 25 feet in height, or the height of the structure, whichever is less.

(b) Adequate site illumination for covered parking and loading areas shall be provided in accordance with the following:

1. Covered parking and loading areas shall be adequately illuminated during daylight and non-daylight hours. Adequate illumination of covered parking and loading facilities shall be provided for general parking and loading areas, pedestrian areas, ramps, corners, entrance areas, and stairways.
2. Illumination levels in these areas shall maintain an average-to-minimum uniformity ratio not exceeding 4:1.
3. Evenly distributed, minimum illumination levels shall be maintained at all times as in Table 8-4 below.

Table 8-4

Site Illumination Requirements for Covered Areas

Area	Minimum Footcandles in Covered Area	
	Day	Night
General Parking and Pedestrian Areas	5	5
Ramps, Aisles and Corridors	10	10
Parking Storage Areas	5	5
Entrance Areas	20	10
Elevator Areas, Walkways, and Cashiers' Booths	20	20
Stairwells	50	50

4. Illumination levels for the top level of a parking facility, if not covered, shall conform to the standards for uncovered vehicular areas, as per Table 8-3.

5. Illumination design for covered facilities shall comply with the following:

i. All light sources shall be shielded and positioned to prevent glare from becoming a hazard or a nuisance,

or having a negative impact on site users, adjacent properties, or the traveling public.

ii. All light sources with illumination levels greater than one foot-candle shall be arranged to reflect away from adjacent properties.

iii. Light sources shall be appropriately located in order to avoid adverse impacts to drivers and pedestrians.

iv. Light sources shall be protected from vehicular damage, vandalism, and weather.

19:4-8.14 Signs

(a) No sign, unless exempt under (d) and (e) below, shall be constructed, erected, moved, remodeled, or expanded unless a zoning certificate for such sign has been issued by the NJMC.

(b) Signage types are as follows:

1. "Billboard sign" means a sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located or to which it is affixed.

2. "Construction sign" means a temporary sign that displays information regarding a proposed development, including the names of individuals, organizations, or businesses involved in the design, construction, or financing of a project, during the construction period.

3. "Educational sign" means a sign that provides site users with cultural, historical or environmental information.

4. "Flashing sign" means any illuminated sign that exhibits changing natural or artificial light or color effects by any means.

5. "Identification sign" means any sign indicating the name, address, service, or product of a business, building, or development. Such sign may be wholly or partly devoted to a readily recognized symbol.

6. "Nameplate sign" means any sign indicating only the name, address, or profession of an owner or occupant of a building or premises on which it is located.

7. "Reader board sign" means a sign with changeable copy, either manually or electronically (LED), including signs displaying the time and temperature.

8. "Real estate sign" means a sign pertaining to the sale or lease of the lot or tract of land on which the sign is located, or to the sale or lease of one or more structures or a portion thereof located thereon.

9. "Temporary sign" means any sign displayed for a limited period of time, not to exceed 30 days in a consecutive 90-day period.

(c) Structural sign types are as follows:

1. "Awning sign" means any sign mounted or painted on or attached to an awning or canopy, which is otherwise permitted by these regulations. No such sign shall project above, below, or beyond the physical dimensions of the awning or canopy.

2. "Banner sign" means a strip of cloth, vinyl, or similar material on which a temporary sign is printed, and is not permanently affixed to a frame.

3. "Ground sign" means any sign placed upon or supported by the ground independent of the building or structure on the property.

4. "Pole sign" means any sign mounted on a free-standing pole, where the bottom edge of the sign is six feet or more above ground level.

5. "Projecting sign" means any sign that is wholly or partly attached to a building for support and projects horizontally more than 12 inches from the building.

6. "Roof sign" means any sign fastened to or painted on the roof of a building or structure.

7. "Wall sign" means any sign, excluding banner signs, fastened to a wall or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such building.

8. "Window sign" means any sign placed on a window intended to be visible from the exterior of the building.

(d) The following signs shall be exempt from these regulations:

1. Flags or emblems of a government or of a political, civic, philanthropic, education, or religious organization, displayed on private property, provided that no sign exceeds 250 square feet;

2. Signs of a duly constituted governmental body including traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping, or similar activities;

3. Address numerals and other signs required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the sign do not exceed the requirements of such law, order, rule or regulations;

4. Memorial signs and tablets, identifying the names of buildings, dates of erection, monumental citations, commemorative tablets, and the like when made an integral part of the structure;

5. Signs commonly associated with and limited to information and directions typically used for the convenience of the public, including signs identifying entrance and exit drives, parking areas, shipping and receiving doors, one-way drives, rest rooms, freight entrances, and refuse and recycling areas. Such signs are exempted, provided that each such sign is limited to wall, ground, or window, is 10 square feet or less in area, and is not illuminated except from a concealed light source;

6. Nameplate signs accessory to a dwelling not exceeding three square feet in area;

7. Identification signs accessory to a multiple-family dwelling not exceeding 20 square feet in area; and

8. Signs accessory to a house of worship, school, or public or non-profit organization not exceeding 20 square feet in area.

(e) The following signs are exempt from zoning certificate approval and shall not be included in sign calculations determining gross sign area or number of signs, but shall comply with all other requirements:

1. Temporary signs for the purposes of warehouse sales, temporary/ seasonal outdoor sales, and the sale of Christmas trees, when approved in compliance with N.J.A.C. 19:4-6.3, and grand opening sales, shall be limited to one per lot and shall not exceed the maximum size of any single sign as listed in Table 8-5 below. These signs shall conform to the following:

i. Sale event signs or banners may be erected up to seven days before the scheduled event and shall be removed immediately following the event. Where approved sale dates occur more than seven consecutive days apart, the sign shall be removed in the interim time period and may be reposted in accordance with the aforementioned time frame;

ii. Grand opening signs may be erected up to seven days before the event and shall remain no longer than 14 days;

2. A maximum of two construction signs per project, each having a maximum area of 32 square feet. The signs shall be confined to the site of the construction and shall be removed upon receipt of occupancy certification; and

3. Real estate signs, in accordance with the following:

i. Real estate signs in the Low Density Residential zone shall not exceed a total area of six square feet per side, with a maximum of two sides;

ii. Real estate signs in all other zones shall not exceed a total area of 24 square feet per side, with a maximum of two sides;

iii. There shall be no more than one real estate sign per front yard; and

iv. Signs shall be removed within 14 days of the sale, rental or lease of the subject property.

(f) The sign area shall be the area of the background structure that supports the message, including letters, logos, and/or symbols, except in the case of wall signs consisting of wall-mounted letters and symbols. The area of such wall signs shall be the area of the smallest rectangular figure that can encompass all of the letters, logos, and/or symbols and their supporting elements. The sign area shall not include any structural element lying outside the limits of the wall sign and that does not form an integral part of the display.

1. The gross area of a multi-faced sign shall be the total area of all faces of the sign. Multi-faced signs shall be considered to be one sign and their total area shall not exceed the maximum permitted sign area as per applicable zone regulations.

2. Window signs designed to be read from the exterior of a building shall be included as part of the maximum sign area and total number of signs permitted.

3. Sign height shall be measured from ground level at the base of or below the sign to the highest element of the sign.

4. The main building façade used for signage calculations shall be the largest façade of the principal structure(s). The area of the main building façade shall be the total area measured from side to side of the structure and from the ground level to the top of the roof on flat roof structures, excluding parapets, and to the top of the highest occupied story on peak roof structures.

(g) Safety and maintenance requirements for signs are as follows:

1. No sign shall be permitted where, by reason of its position, size, shape, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic control sign, signal or device, or where it may interfere with, mislead or confuse traffic.

2. No sign shall be permitted on trees, radio towers and similar structures or elements.

3. No flashing signs, rotating or moving signs, animated signs, signs with moving lights, or signs that create the illusion of movement shall be permitted in any zone except for reader board signs and signs displaying the time and/or temperature. Such signs shall not be deemed to be a flashing sign if the lighting changes are not more frequent than every 15 seconds.

4. Any illuminated sign located on a lot adjacent to or across a ROW from any permitted residential use shall not be illuminated between the hours of 10:00 P.M. and 7:00 A.M. Such signs shall not have white illuminated backgrounds and shall be screened from residential uses where deemed necessary by the NJMC.

5. All signs shall be kept in good repair. Good repair shall include replacement or repair of broken or missing structural elements, casings, or faces, maintenance of legibility, and maintenance of all lighting elements.

6. Signs advertising a warehouse sale shall apply only to sale events approved in accordance with N.J.A.C. 19:4-6.3 and shall apply only to the dates approved by the NJMC to conduct a warehouse sale.

(h) The allowable signage per zone shall be as listed in Table 8-5 below, and the following:

1. For signage on any property designated as a conservation area, regardless of the zone, the sign regulations of the Environmental Conservation zone shall apply.

2. Signage for multi-tenanted structures or multi-structure development shall be considered in accordance with the prevailing regulations of (i) below.

3. For the purpose of sign calculations, no building shall have more than one main façade.

4. Maximum gross sign area permitted shall not exceed five percent of the main façade of the building, except as follows:

i. For vacant land, the maximum gross sign area shall be one square foot for each linear foot of street frontage;

ii. Where additional sign area is permitted by (i) below; and

iii. Where otherwise permitted.

5. No part of a wall sign, where permitted, shall exceed the wall height of the structure on which it is placed.

6. All required setbacks shall be measured from the property line.

7. Concerning billboards:

i. Applications for zoning certificates for a proposed billboard shall receive the prior approval of the New Jersey Department of Transportation (NJDOT) and other agencies having jurisdiction. A copy of such approval(s) shall accompany the application for the zoning certificate.

ii. The following concern billboard locations:

(1) Notwithstanding the provisions of Table 8-5, billboards shall only be permitted within a ROW having a posted speed limit of 55 mph or higher, or within 50 feet thereof.

(2) Billboards shall not be permitted within 500 feet of a residential zone.

(3) Billboards shall not obstruct scenic view sheds within the District.

- iii. The maximum permitted number of billboards is one per lot.
- iv. Maximum permitted billboard dimensions shall be 14 feet by 48 feet per side, with a maximum of two sides.
- v. The maximum permitted height shall be 30 feet above the grade level of the adjacent roadway surface.
- vi. Billboard signage shall not be included in sign calculations related to allowable signage on the site.

vii. Billboards shall be appropriately landscaped and screened at grade level in accordance with N.J.A.C. 19:4-8.9.

viii. A report prepared by a New Jersey-licensed professional engineer shall be submitted to the NJMC and shall include an analysis of the safety, environmental, and visual impacts of the proposed billboard.

Table 8-5

Allowable Signage by Zone

√ = Permitted X = Not Permitted  
 sf = square feet sf/du = square feet/dwelling unit

	<u>EC</u>	<u>PA</u>	<u>LDR</u>	<u>NC, WR</u>	<u>CP, RC</u>	<u>HC</u>	<u>AF, HI, I-A, I-B, LI-A, LI-B, PU</u>	<u>PR, TC, RA<sup>1</sup></u>
<b>Signage type:</b>								
Billboard <sup>2</sup>	X	X	X	X	√	√	√	X
Construction	32 sf	32 sf	32 sf	√	√	√	√	√
Educational	24 sf	24 sf	20 sf	√	√	√	√	√
Flashing	X	X	X	X	X	X	X	X
Identification	32 sf	32 sf	20 sf	√	√	√	√	√
Nameplate	X	X	6 sf	√	√	√	√	√
Reader board	X	20 sf	20 sf	√	√	√	√	√
Real estate	X	X	6 sf/du or 60 sf max	√	√	√	√	√
Temporary	20 sf	20 sf	20 sf	√	√	√	√	√
<b>Structural type:</b>								
Awning	X	X	√	√	√	√	√	√
Banner	√	√	√	√	√	√	√	√
Ground	√	√	√	√	√	√	√	√
Pole	X	X	X	√	√	√	√	√
Projecting	X	X	X	√	X	√	√	X
Roof	X	X	X	X	√	√	√	X
Wall	X	√	√	√	√	√	√	√
Window	X	X	√	√	√	√	√	√
<b>Illumination:</b>	X	√	Note 4	√	√	√	√	√
<b>Measurement:</b>								
Maximum height <sup>1</sup>	10 feet	15 feet	10 feet	15 feet	30 feet	30 feet	30 feet	30 feet

Minimum setback	15 feet	15 feet	15 feet	NC= 5 ft WR=15 ft	15 feet	15 feet	15 feet	15 feet
Maximum gross sign area	n/a	n/a	See signage type	Note 5	Note 5	Note 5	Note 5	Note 5
Maximum area of any single sign	See signage type	See signage type	See signage type	100 sf	300 sf	300 sf	300 sf	300 sf
Maximum number of signs per front yard	n/a	n/a	1	2	2	2	2	2

Notes:

- Note 1: Sign regulations may be superseded by individual redevelopment plans.
- Note 2: See also paragraph (h)7.
- Note 3: The maximum height of a ground, pole, or roof sign shall be measured from the ground level.
- Note 4: None, except reader boards may be directly illuminated.
- Note 5: See paragraph (h)4 above.

(i) Signs in multi-tenanted structures or multi-structure developments shall be governed by the following sign regulations:

1. An integrated sign plan shall be submitted to the NJMC for each development. Such sign plan shall include the dimensions, locations, heights, and details of all signs, including lettering style, lighting, color, and materials, and dimensions of all building façades.
2. Each of the above elements shall be consistent with each other, the architecture and materials of principal structures, and the landscape plan. Where there is existing signage on the property, the sign plan shall include details for both existing and proposed signs. Signs shall be installed in accordance with the approved sign plan as changes occur.
3. The maximum allowable area of any single sign shall be 300 square feet.
4. The total sign area permitted shall be five percent of the building's main façade. The NJMC may permit a total sign area of up to 10 percent of the building's main façade if, in the opinion of the NJMC, such additional area shall assist in developing a more integrated sign plan. For the purposes of these calculations, no building shall have more than one main façade.
5. The maximum height of a wall sign shall be the wall-height of the structure. The height of roof, pole, and ground signs shall not exceed a maximum of 30 feet above ground level.
6. The minimum setback of any sign shall be 15 feet from any property line, except in the Neighborhood Commercial zone, where a minimum setback of five feet from any property line shall apply.

(j) Fuel service stations shall be permitted to display only the following signs:

1. One pole sign, in accordance with the following:
  - i. The gross sign area shall not exceed 120 square feet, inclusive of all faces;

ii. The minimum sign height shall be 10 feet above ground level;

iii. The maximum sign height shall comply with Table 8-5; and

iv. The sign shall be set back a minimum of 10 feet from any property line.

2. One reader board, with a maximum area of 36 square feet per side, with a maximum of two sides, installed on the sign pole.

3. One temporary sign, specifically advertising special or seasonal servicing of motor vehicles, provided such sign does not exceed 15 square feet in size. The location of the temporary sign shall not interfere with vehicular circulation or visibility.

4. Canopy signs may be installed on all faces of the canopy and shall be no larger than 20 inches in height. Total canopy sign area shall not exceed one-third of the total area of the canopy faces.

5. Buildings accessory to the principal fuel service station use, shall be permitted two identification wall signs per front yard, no larger than five percent of the building's main façade, and shall not exceed the wall height of the structure.

Administrative correction.  
See: 36 N.J.R. 2203(a).

19:4-8.15 Site service improvements

(a) Outdoor storage, where permitted, shall be located to provide minimal visual impact from within and outside the site. Screening and fencing shall be provided in accordance with N.J.A.C. 19:4-8.9(d)6iv and 8.10.

(b) Distribution and service lines for telephone, electricity and any other utility cables to buildings and sites shall be placed underground wherever technologically possible. All utility lines remaining aboveground shall be located to minimize adverse visual impacts.

(c) Requirements for wireless communication antennas and unmanned equipment structures are as follows:

1. All wireless communication antennas shall comply with the applicable regulations of the Federal Communications Commission (FCC).
2. Wireless communication antennas and unmanned equipment rooms shall comply with the following:
  - i. All wireless communication antennas and equipment structures shall meet the applicable setback requirements.
  - ii. Wireless communication antennas are permitted to be roof mounted or affixed to the face of buildings.
  - iii. Wireless communication antennas may be located on a ground or roof mounted monopole or tower. Any approval of a monopole or tower shall be contingent upon the monopole or tower owner permitting the future co-location of additional cellular antennas, regardless of ownership if space for such additional future installations by others is available on the monopole or tower. The maximum height of the monopole or tower shall be the minimum height necessary to accommodate the proposed wireless communication antennas and one future array of antennas.
  - iv. The height of wireless communication antennas shall be established at the minimum height necessary to effectively transmit and receive radio signals.
  - v. Equipment buildings, whether located on a roof or at grade, shall be constructed in such a manner as to be compatible with the architectural design, color, and materials of the existing structures on the site.
  - vi. The color of wireless communication antennas mounted on the face of a building shall match the color of the building. The color of all other antennas shall be as unobtrusive as possible.
  - vii. Monopoles or towers, if approved, shall be located as to minimize impacts on adjacent property owners. These structures shall be designed and constructed to minimize any adverse visual impact from the public ROW.
  - viii. The applicant shall demonstrate that there is adequate on-site parking to accommodate maintenance vehicles.

(d) Requirements for satellite or dish antennas are as follows:

1. All satellite or dish antennas shall comply with the applicable regulations of the FCC.
2. All satellite or dish antennas shall comply with the following:
  - i. Such antennas shall be located on the same lot as the principal use and shall be considered accessory thereto.

ii. No antenna shall be located in the front yard. All antennas shall be screened from the public ROW and adjacent properties in accordance with N.J.A.C. 19:4-8.9(d)6iv and 8.10.

iii. There shall be a minimum setback of 10 feet from the antenna and its foundation to the side and rear property lines.

iv. All satellite antennas shall be located to minimize motor noise from the public ROW's and adjacent properties.

v. An antenna mounted on the ground shall not exceed 15 feet in height above the ground level. An antenna mounted on a building or roof shall not exceed 15 feet in height above the roof. An antenna shall not project above the peak or highest point of the roof line in the Low density residential zone. The height of an antenna shall be measured from the bottom of its base to the highest point of the antenna when in its most vertical position.

vi. The diameter of the antenna shall be:

(1) A maximum of six feet in the Low Density Residential zone; and

(2) A maximum of 12 feet in all other zones.

vii. The color of all antennas shall be as unobtrusive as possible and shall not have brightly colored or reflective surfaces.

(e) Requirements for mechanical equipment are as follows:

1. Mechanical equipment, such as transformer compounds, external heating and cooling equipment, and other utility improvements shall be located to minimize adverse visual impacts from within and outside the site. Screening shall be provided in accordance with N.J.A.C. 19:4-8.9(d)6iv and 8.10, and shall be designed to allow adequate access to the equipment for maintenance.

2. Mechanical equipment located on the building shall be concealed by structures that are integrally designed with the building or are otherwise rendered not visible from adjoining lots and public ROWs.

(f) Requirements for recycling and refuse areas are as follows:

1. Recycling and refuse areas shall be provided as follows:

i. A recycling area for the collection and storage, but not processing, of site generated Class A recyclable materials shall be provided in accordance with the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99 et seq.

ii. All refuse shall be placed in covered containers and/or dumpsters and placed in designated refuse areas for collection.

2. The total area of either recycling or refuse areas on a lot shall not exceed 600 square feet each. The dimensions of such areas shall be sufficient to accommodate containers of adequate size and number consistent with anticipated usage and current methods of collection.

3. No recycling or refuse areas shall be located in a front yard, except where front yard loading is a pre-existing nonconformity and other yards are not adequate.

4. The surface of all recycling and refuse facilities shall be concrete.

5. Recycling and refuse areas shall not be located in posted fire lanes, as determined by the municipal fire official.

6. The following setbacks shall apply:

i. Refuse areas may be located adjacent to the building and at a minimum setback of five feet from all property lines in instances where the location does not conflict with the provisions of the NJ UFC, as determined by the municipal fire official.

ii. Recycling areas shall maintain a minimum setback of 15 feet from all buildings and property lines or shall conform to the setbacks required in the NJ UFC as determined by the municipal fire official, whichever is more restrictive.

7. Recycling and refuse areas shall be placed adjacent to each other and loading areas, where feasible. Their location shall provide safe, clean, and efficient servicing. No containers shall be stored outside of the defined area at any time.

8. Recycling and refuse areas shall be screened from adjacent properties and public ROWs, and from within the site, where feasible. Screening and fencing shall be provided in accordance with N.J.A.C. 19:4-8.9(d)6iv and 8.10. No element of these areas, including materials contained therein, shall be higher than the surrounding screening, and in no case greater than eight feet.

9. The recycling and refuse areas shall be well lit, and shall be safely and easily accessed by users of the site and collection vehicles.

10. Where regular access to recycling or refuse areas by residents or users of the site is required, walkways shall be provided to these areas.

11. Signs clearly identifying the recycling and refuse areas and the materials accepted therein shall be posted adjacent to all points of access to the area.

12. The recycling and refuse areas and the containers therein shall be designed to provide protection against adverse environmental conditions. All containers shall have lids.

(g) An accessory area for the temporary storage of equipment and materials related to snow and ice removal shall be permitted pursuant to an approved site plan, in accordance with the following:

1. General requirements are as follows:

i. Such area shall be permitted to be utilized only between the months of November and April. The area shall remain vacant at all other times.

ii. Such area may include temporary outdoor storage of snow removal and de-icing equipment and materials, including salt and sand.

iii. Such area shall be utilized only in conjunction with the treatment or removal of snow and ice on-site or within a development where properties are under common ownership. The storage of equipment and materials related to such operations on other properties is prohibited.

2. Location requirements are as follows:

i. Such area shall meet all applicable setbacks for the zone in which it is located.

ii. Such area shall be located in the rear yard to the extent practicable. Where this is not feasible due to technical reasons related to site layout, such area may be located in a side yard. In no case shall such area shall be located in a front yard.

iii. Such area shall not be located within a required parking area.

3. Design requirements are as follows:

i. The surface of such area shall be paved and adequate drainage and water quality measures shall be implemented in order to prevent infiltration and contamination of surrounding areas.

ii. Such area shall be screened in accordance with N.J.A.C. 19:4-8.9.

iii. Materials within such area shall be stored no higher than 8 feet, and shall be covered with a tarp or otherwise protected from adverse environmental conditions.

iv. Such area shall not exceed 100 square feet per acre of property or development serviced, and in no case shall the total area exceed one-half acre.

#### **19:4-8.16 Fill, excavation, regrading and surcharge standards**

(a) No filling, excavation, regrading or surcharging of land shall commence without having first obtained approval from the NJMC. Such approval shall be granted as follows:

1. All filling, excavation, regrading or surcharge operations directly related to the construction of any structure shall be considered approved only if such filling, excavation and grading operations are clearly indicated with approximate quantities on the approved plans for the proposed structure.

2. A zoning certificate for filling, excavation, regrading or surcharge operations may be issued by the NJMC if a schematic site plan showing the envisioned ultimate use of the property is submitted. This plan shall meet all applicable use and bulk regulations.

(b) Prior to the issuance of any zoning certificate that involves filling operations, a detailed geotechnical investigation report, prepared by a geotechnical engineer, shall be submitted for approval. This report shall be prepared in accordance with the requirements of N.J.A.C. 19:4-4.4(d) 6iii(3).

(c) All fill or excavation operations shall comply with the recommendations of the approved geotechnical investigation report.

(d) Fill which does not conform with the NJDEP Solid Waste Management definition of "clean fill," per N.J.A.C. 7:26-1.4, shall not be used unless the NJMC grants a waiver from this requirement. The applicant shall show just cause for a waiver of this requirement based on engineering constraints. This waiver shall not relieve the applicant from obtaining all other federal, state, or local permits which may be required to utilize such fill material.

(e) Nothing in this section shall be construed to allow the filling of wetlands without the required approvals of the governmental authorities with jurisdiction.

(f) A copy of a Soil Erosion and Sediment Control Certification issued by the governing Soil Conservation District shall be submitted to the NJMC prior to the start of earthwork operations.

## SUBCHAPTER 9. FLOOD PLAIN MANAGEMENT

### 19:4-9.1 Title

This subchapter shall be known and may be referred to as the Flood Plain Management Regulations of the Hackensack Meadowlands District.

### 19:4-9.2 Purposes

This subchapter sets forth procedures and engineering and planning standards in accordance with which the NJMC shall review and approve or disapprove applications for the development or use of land within the District. It is designed to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed: to protect human life and health; to minimize expenditure of public money for costly flood control projects; to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; to minimize prolonged business interruptions; to minimize damage to new and existing construction; to minimize damage to public and private facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard; to help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas; to ensure that potential buyers are notified that property is in an area of special flood hazard; to ensure that those who own or occupy the areas of special flood hazard assume responsibility for their actions; and generally to provide for the exercise of the powers regarding the review and regulation of land use and development conferred upon the NJMC by Chapter 404 of the Laws of 1968. In order to accomplish its purpose, this subchapter includes methods and provisions for: restricting or prohibiting uses which are dangerous to health, safety and property due to water hazards, or which result in damaging increases in flood heights; requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; controlling the alteration of natural flood plains, stream channels, and natural protective barriers which help accommodate or channel flood waters; controlling filling, grading, dredging and other development which may increase flood damage; and preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Amended by R.2006 d.163, effective May 1, 2006.

See: 37 N.J.R. 4198(a), 38 N.J.R. 1860(a).

Substituted "NJMC" for "Commission" in the first and second sentences and substituted "ensure" for "insure" following "blight areas" in the second sentence.

### 19:4-9.3 Words and phrases defined

Unless specifically defined in N.J.A.C. 19:4-2 or below, words or phrases used in this subchapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM) with a one percent or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist; where the path of flooding is unpredictable; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater change of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year. The base flood is also described as the 100-year flood.

"Base flood elevation" means the height of the base flood in relation to the National Geodetic Vertical Datum (NGVD) of 1929, as determined by the National Geodetic Survey of the National Ocean Service, incorporated herein by reference, as amended and supplemented, for which information is available at NGS Information Services, NOAA, N/NGS12, National Geodetic Society, SSMC-3, #9202, 1315 East-West Highway, Silver Spring, MD 20910-3282.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

"Elevated building" means a non-basement building that is:

1. In the case of a building in an area of special flood hazard, built to have the top of the elevated floor, or in the case of a building in a coastal high hazard area, built to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water; and

2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

3. In an area of special flood hazard, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

"Expansion to an existing mobile home park or mobile home subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation utilities, either final site grading or pouring of concrete or the construction of streets).

"FIA" means the Federal Insurance Administration.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal water; and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map" (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood insurance study" means the official report provided in which the FIA has provided flood profiles, as well as the FIRM's and the water surface elevation to the base flood.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in the states without approved programs.

"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 New Jersey Uniform Construction Code, N.J.A.C. 5:23. The term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

"Manufactured home park or manufactured home subdivision" means a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the "start of construction" commenced on or after February 17, 2004 and includes any subsequent improvements to such structures.

"New mobile home park or mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after February 17, 2004.

"Recreational vehicle" means a vehicle that is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the longest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Start of construction" for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearings, grading, and filling, nor does it include the excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or improvement of a structure, the cost

of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial destruction, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications that have been identified by the local code enforcement officer and that are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Amended by R.2006 d.163, effective May 1, 2006.  
See: 37 N.J.R. 4198(a), 38 N.J.R. 1860(a).

Rewrote the definitions for "Area of shallow flooding", "Development", "Elevated building", "Flood Insurance Rate Map", "Flood insurance study", "Manufactured home", "New construction", "Start of construction" and "Substantial improvement"; inserted the definitions for "FIA", "Highest adjacent grade", "Historic structure" and "Recreational vehicle".

#### 19:4-9.4 Lands to which this subchapter applies

This subchapter shall apply to all areas of special flood hazards within the boundaries of the District.

#### 19:4-9.5 Basis for establishing the areas of special flood hazard

The areas of special flood hazard identified by the FIA in a scientific and engineering report entitled, "Flood Insurance Study, Hackensack Meadowlands District, New Jersey, Bergen and Hudson Counties," dated September 30, 2005, with accompanying FIRM, Panel numbers 0245G, 0252G, 0253G, 0254G, 0256G, 0257G, 0258G, 0259G, 0261G, 0262G, 0263G, 0264G, 0266G, 0267G, 0268G, 0307G, 0331G, and 0332G, is hereby incorporated by reference, as amended and supplemented, and declared to be a part of this chapter. The Flood Insurance Study and FIRM mapping are on file at the Offices of the New Jersey Meadowlands Commission, One DeKorte Park Plaza, Lyndhurst, New Jersey 07071.

Amended by R.2006 d.163, effective May 1, 2006.  
See: 37 N.J.R. 4198(a), 38 N.J.R. 1860(a).

Substituted "the FIA" for "FEMA", "September 30, 2005" for "June 15, 1982", "Panel numbers 0245G, 0252G, 0253G, 0254G, 0256G, 0257G, 0258G, 0259G, 0261G, 0262G, 0263G, 0264G, 0266G, 0267G, 0268G, 0307G, 0331G, and 0332G" for "Number 340570" and "and FIRM mapping are" for "is".

#### 19:4-9.6 Fees

(a) Any requests for flood hazard certification or variances and appeals shall be submitted to the NJMC and accompanied by such fee as set forth in N.J.A.C. 19:4-11.2.

(b) Any requests for copies of the regulations, study, or maps submitted to the NJMC shall be accompanied by a copying fee as specified in N.J.S.A. 46:1A-1 et seq.

#### 19:4-9.7 Penalties and enforcement

Penalties and enforcement of these regulations shall be enforced as per N.J.A.C. 19:4-4.21.

#### 19:4-9.8 Other permits

No building permit, zoning certificate, occupancy certification, subdivision plat approval, or implementation plan approval shall be issued by any official or agency of the NJMC on any land, or portion thereof, that is within an area of special flood hazard until there has been compliance with these regulations. Any approvals issued in conflict with this subchapter shall be null and void.

#### 19:4-9.9 Abrogation and greater restrictions

This subchapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this subchapter and other regulations conflict or overlap, whichever imposes the more restrictive regulation shall prevail.

#### 19:4-9.10 Warning and disclaimer of liability

The degree of flood protection required by this subchapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the NJMC, any officer or employee thereof, or the FIA for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

Amended by R.2006 d.163, effective May 1, 2006.  
See: 37 N.J.R. 4198(a), 38 N.J.R. 1860(a).

Substituted "FIA" for "FEMA" in the last sentence.

#### 19:4-9.11 Development permit required

No structure or land shall be constructed, moved, located, extended, converted or altered after February 17, 2004 within any area of special flood hazard established in N.J.A.C. 19:4-9.5 unless a zoning certificate, construction permit, occupancy certification, subdivision approval, sanitary landfill approval or other development permit approvals as required by Chapter 404 of the Laws of 1968 (N.J.S.A. 13:17-1 et seq.) shall first have been obtained from the NJMC certifying that the proposed construction, use or development complies with these regulations.

#### 19:4-9.12 Administration

The administration and implementation of this subchapter in accordance with its provisions is vested in the Chief Engineer,

floor is elevated to a minimum of one foot above the base flood elevation.

Amended by R.2006 d.163, effective May 1, 2006.  
See: 37 N.J.R. 4198(a), 38 N.J.R. 1860(a).

In (a), added the second sentence; rewrote the introductory paragraph of (b); in (b)1, substituted "floodproofed" for "floodproof"; and deleted last two sentences in (c).

#### 19:4-9.21 Building sites

(a) All building site construction, including, but not limited to, parking lots, driveways, sidewalks, truck maneuvering areas, and landscaped areas, shall be consistent with the need to minimize flood hazards and damage.

(b) All building site construction shall have public utilities and facilities such as sewer, gas, electric, and water systems located and constructed to minimize flood hazards and damage.

(c) Base flood elevation data shall be provided for building site proposals which contain at least three acres.

#### 19:4-9.22 Subdivision improvements

(a) All subdivision proposals, including roads, culverts, bridges, and tide gates, shall be consistent with the need to minimize flood hazards and damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electric, and water systems located and constructed to minimize flood hazards and damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(d) Base flood elevation data shall be provided for subdivision proposals which contain at least three lots or three acres (whichever is less).

#### 19:4-9.23 Anchoring

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(b) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

#### 19:4-9.24 Construction material and methods

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

#### 19:4-9.25 Utilities

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(c) On-site water disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(d) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### 19:4-9.26 Enclosure openings

(a) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or registered architect or must meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
2. The bottom of all openings shall be no higher than one foot above grade; and
3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

Amended by R.2006 d.163, effective May 1, 2006.  
See: 37 N.J.R. 4198(a), 38 N.J.R. 1860(a).

Rewrote the introductory paragraph of (a).

### SUBCHAPTER 10. PROJECT IMPACT ASSESSMENT

#### 19:4-10.1 Purpose

The purpose of a project impact assessment (PIA) is to provide information to allow the NJMC to assess the probable effects of a proposed project. In particular, the PIA shall consider the project's impact with respect to land, water, air, solid wastes, aquatic and terrestrial wildlife, social and economic conditions and aesthetics at the project site, as well as on the surrounding region.

**19:4-10.2 Applicability**

(a) The following projects shall require the submission of a PIA:

1. All retail development greater than 75,000 square feet;
2. All office and other commercial development, excluding retail, greater than 100,000 square feet;
3. All residential development over 25 dwelling units;
4. All industrial, warehouse/distribution or intermodal development over 15 acres in size; and
5. Any project that, in the opinion of the Chief Engineer, may have a substantial impact on the environment.

**19:4-10.3 Form of PIA**

(a) The applicant shall prepare and submit a PIA in the form and manner as set forth in this subchapter.

(b) The PIA shall be prepared by qualified professionals. The qualifications of the persons who prepared each element shall be identified in the appendix of the PIA.

(c) All maps, plans, and aerial photographs shall specify a north arrow, graphic scale, project name, location, name of preparer, date of preparation, and sources of information.

(d) If the applicant believes that specific elements of the PIA are not applicable to the proposed development, the applicant shall indicate "not applicable" under the appropriate heading and explain the reason why the information is not applicable. It is suggested that the applicant discuss the PIA requirements with the NJMC staff prior to its submission.

**19:4-10.4 Content of PIA**

(a) Each component of the PIA shall analyze existing conditions, proposed conditions, impacts, and mitigating factors. The following shall be the required components of the PIA:

1. Project summary: A detailed project description, including information sufficient to understand the nature of the proposed use;
2. Land use:
  - i. A description of the surrounding land uses within 500 feet of the project site and details of how the proposed use will affect the viability of the surrounding area and adjoining properties;
  - ii. A zoning summary statement, including a description of the project's degree of compliance with the regulations of the zone(s) in which it is located and any variances requested thereto;
  - iii. A topographic survey meeting the requirements of N.J.A.C. 19:4-4.4(c)1 for areas inclusive of the subject property and within 500 feet thereof; and

iv. A brief description of the visual character of the project site and how the proposed project affects the visual quality of the site and the surrounding environs;

## 3. Wetlands:

i. A delineation of existing wetlands and open water areas in accordance with Federal and State wetland delineation criteria;

ii. A discussion of off-site and on-site alternatives to the proposed wetland fill. The methodology for off-site alternatives analysis shall be discussed with the NJMC staff prior to conducting this study; and

iii. A discussion of the compensatory program for the loss of wetland function in conjunction with the proposed development;

4. Floodplain areas: The established 100-year flood plain delineation as determined by FEMA;

5. Riparian lands: All areas of riparian claim on the property and a discussion of how these claims will impact the site development, including the status of any actions of the New Jersey Bureau of Tidelands relative thereto;

## 6. Drainage and water quality:

i. A hydrologic and hydraulic study of the impacts of the proposed project, including existing drainage patterns; surface water hydrology and structure analysis tributary to and downstream of the project site; storm-water calculations for pre-and post-development conditions and a plan and discussion of storm water management practices to accommodate both storm water quantity and quality; and

ii. An assessment of the impact of the proposed development on water quality from effluent discharge or other sources;

## 7. Habitats:

i. An assessment of the impacts on wildlife and vegetation, including threatened and endangered species; and

ii. An assessment of the impacts on wildlife and vegetation using accepted ecological principles and scientific literature on each species. Both direct and indirect impacts of the proposed development shall be considered;

8. Transportation: A traffic impact analysis in accordance with N.J.A.C. 19:4-7.10;

## 9. Air quality:

i. An analysis of the impact on air quality from stationary sources to determine the effects of the proposed development on the ambient air quality;

ii. An analysis of the impact on air quality from mobile sources. An assessment of the effects of the project on regional and local ambient air quality, including the concentration of carbon monoxide emissions on adjacent roadways and within proximity of adjacent land uses shall be provided; and

iii. An analysis of short term impacts on air quality due to construction activities;

10. Noise:

i. An analysis of the noise generated at the project site;

ii. An analysis of the noise generated by the construction of the proposed project at the project site and at adjacent properties; and

iii. Comparison for the predicted noise levels with accepted standards, guideline levels, and noise evaluation criteria, including the performance standards of N.J.A.C. 19:4-7.3;

11. Site remediation:

i. Results of a historical records search of the former uses on the property;

ii. An assessment of any environmental and/or contamination issues on soil, air and groundwater; and

iii. An assessment of the feasibility of the site for the proposed use as well as a discussion of next steps with regard to remediation;

12. Cultural and historical resources: An analysis of historical landmarks and aspects of archeological impor-

tance in or adjacent to the site in consultation with the New Jersey State Historic Preservation Office;

13. Public services: Documentation from the agency or company responsible for utility service determining if sufficient capacity exists to accommodate the proposed development. This shall include wastewater treatment, water supply, energy supply and solid waste; and

14. Fiscal impact:

i. Demographics of the appropriate municipality and county, including population, age distribution, employment and income levels as provided in the appropriate census reports and/or other published sources;

ii. The current municipal and county budgets and the current municipal school budget, together with information on existing per capita costs and service levels in such areas as fire protection, police protection, governmental services, and schools;

iii. Evaluation of the projected ratables, estimated taxes, and municipal and school budget increases due to the proposed development. A calculation shall be made, in cooperation with NJMC staff, of the projects revenue/cost balance and its benefits in terms of its impacts on the Intermunicipal Tax Sharing Formula; and

iv. An estimate of the demands for services such as energy, solid waste, sanitary waste, potable water, transit, school children and schools, police, fire, emergency medical services and recreation and their impacts on municipal and/or county budgets.

**19:4-10.5 Adverse environmental impacts that cannot be avoided**

Unavoidable adverse environmental impacts, including irretrievable commitments of resources, that are expected to result if the project is implemented, shall be listed in the PIA in the approximate order of their relative magnitudes.

**19:4-10.6 Techniques to minimize or eliminate adverse environmental effects of the project**

The NJMC performance standards in N.J.A.C. 19:4-7, as well as applicable State and Federal regulations, shall be considered in developing techniques to minimize or eliminate adverse environmental effects of a project.

**19:4-10.7 Alternatives to the proposed project**

Alternatives to the various parts of the project, including a no-action alternative, shall be described in the PIA. Reasons for the acceptability or non-acceptability of each alternative will be given. Particular emphasis shall be given to the relative suitability of the various alternatives to the NJMC Master Plan.

**19:4-10.8 Licenses, permits and other approvals required by law**

The applicant shall list in the PIA all known licenses, permits, and other forms of approval that will be required by law for the construction and operation of the proposed project. This list shall include approvals required by the NJMC and other agencies having jurisdiction.

**19:4-10.9 Documentation**

All publications, file reports, manuscripts, or other written sources of information related to the project, the project site, and the District, that were consulted and employed in compilation of the PIA, shall be listed in the documentation section of the PIA. A list of all agencies and individuals from whom pertinent information was obtained orally or by letter shall be listed separately. Dates and locations of all meetings will be specified.

**19:4-10.10 Developer's agreement**

(a) The NJMC shall forward a copy of the Project Impact Assessment report accepted and deemed complete by the NJMC to the municipality in which the project is located.

(b) The subject municipality shall have 30 days within which to review and provide comment(s) on the report. Such time period may be extended upon written consent of the property owner and applicant (hereafter, "the developer").

(c) The developer of any project requiring an improvement pursuant to the results of the PIA where the total cost of required improvements is \$50,000 or more, shall enter into a developer's agreement, within 60 days of the issuance of a zoning certificate, with the NJMC.

(d) The developer shall agree to install the required improvements in accordance with the procedures required of a subdivider in N.J.A.C. 19:5-8.

**SUBCHAPTER 11. FEE SCHEDULE****19:4-11.1 General provisions**

(a) This fee schedule shall not be applicable to county or municipal government. Any fee, or portion thereof, provided for herein, may be waived by the Executive Director upon recommendation of the Chief Engineer upon good cause shown, including financial hardship, size and scope of the application and/or business entity, and general economic conditions in the regions. The NJMC shall automatically waive the required fee for zoning certificate and minor subdivision applications for residential development, or the residential portion of a mixed-use development, in which 100 percent of all housing units proposed in the application would be reserved as affordable units.

(b) Any single application that encompasses several uses will be subject to the appropriate fees enumerated in this subchapter.

(c) A full refund of fees may be made by the Executive Director provided that a written request to withdraw the application is received before the close of the second working day after receipt of the same.

(d) If any part or portion of this subchapter is invalidated by judicial decision, such decision shall not affect the remainder of this subchapter.

(e) This fee schedule shall take effect February 17, 2004.

(f) N.J.A.C. 19:4-11.2 shall not be applicable to applications for one-and two-family detached homes in the Low Density Residential zone. Such applications shall be reviewed in accordance with the following:

1. A fee of \$1.00 per 100 square feet of lot area or a minimum of \$50.00 is charged for a zoning certificate for a new building, and one-half of these fees for additions.

Amended by R.2007 d.57, effective February 5, 2007.

See: 38 N.J.R. 3762(a), 39 N.J.R. 548(a).

In (a), inserted the last sentence.

**19:4-11.2 Zoning**

(a) Zoning fees are as follows:

1. A fee of \$10.00 per 100 square feet of floor area or a minimum of \$500.00 is charged for a zoning certificate for a new building and a minimum fee of \$100.00 for additions;

2. A fee of \$100.00 plus \$2.00 per square foot of sign area is charged for the review of signs up to 300 square feet. For signs in excess of 300 square feet, a fee of \$500.00 plus \$2.00 per square foot of sign area is charged;

3. A fee of \$100.00 is charged for real estate sign reviews;

4. A fee of \$300.00 is charged for tank reviews;

5. A fee of \$200.00 is charged for the review of fences;

6. A fee of \$500.00 is charged for the review of retail sale events;

7. A fee of \$750.00 is charged for the review of site improvements. The NJMC shall automatically waive the fee for site improvements associated with barrier free accessibility upgrades or repairs as defined in the New Jersey Uniform Construction Code (NJ UCC);

8. A fee of \$1,500 is charged per special exception, \$3,000 for each use variance request, and \$2,000 for each other variance;

9. A fee of \$500.00 is charged for permit extensions;

10. A fee of \$50.00 is charged for FEMA/National Flood Insurance Program Elevation Certificates;

11. A fee of \$50.00 is charged for Coastal Zone Consistency Determinations;

12. A fee of \$300.00 is charged for review of satellite dishes;

13. A fee of \$500.00 each is charged for review of radio towers;

14. A fee of \$500.00 is charged for interior alterations involving a change in use and/or requiring a zoning certificate;

15. A fee of \$200.00 is charged for review of recycling areas; and

16. A fee of \$45.00 per hour is charged for the review of revisions to plans submitted for approval after the issuance of a zoning certificate.

(b) A fee of \$45.00 per hour is charged for the review of a petition to amend a redevelopment plan adopted by the Commission.

### 19:4-11.3 Subdivision

(a) A \$100.00 fee is charged for a sketch plat review of all subdivisions.

(b) The following fees are charged for a minor subdivision and technical major subdivision:

1. \$5.00 per 100 square feet of lot area up to and including one acre;

2. \$3,000 for lot area over one acre up to and including five acres;

3. \$4,000 for lot area over five acres up to and including 40 acres; and

4. \$7,000 for lot area over 40 acres.

(c) A fee for preliminary plat review is charged for a major subdivision equal to:

1. \$750.00 per acre of subdivided property for the first 10 acres; \$300.00 per acre of subdivided property for the next 40 acres; and \$150.00 per acre of subdivided property in excess of 50 acres; plus

2. A fee of two percent of the value of public improvements as determined by a certified estimate prepared by a New Jersey-licensed professional engineer is charged to cover the cost of inspections.

(d) A fee of \$750.00 is charged for final plat approval of any major subdivisions.

(e) A fee of \$1,500 is charged for each specific waiver request.

### 19:4-11.4 Construction permits

(a) General construction permit fee requirements are as follows:

1. The fee for plan review shall be paid at the time of application for a permit. The amount of this fee shall then be deducted from the amount of the fee due for a construction permit, when the permit is issued. Plan review fees are not refundable.

2. The fee to be charged for a construction permit will be the sum of the basic construction fee plus all applicable special fees, such as elevator or sign fees. This fee shall be paid before a permit is issued.

3. The fee to be charged for a certificate of occupancy shall be paid before a certificate is issued. This fee shall be in addition to the construction permit fee.

4. The NJMC, acting as agent for the New Jersey Department of Community Affairs, shall have the responsibility, pursuant to N.J.S.A. 13:17-1 et seq. for the approval of all plans, for issuing compliance with the NJ UCC and for all enforcement as contained in N.J.A.C. 19:6-1 et seq. Therefore, pursuant to N.J.A.C. 19:6-1.5, the fees in this section shall pertain.

5. The applicant, owner or developer of newly constructed or rehabilitated residential units that are to be legally restricted to occupancy by households of low or moderate income shall be exempted from the fees set forth in (b) and (c) below and otherwise payable to the NJMC.

(b) NJMC plan review fees are as follows:

1. The plan review fee for new construction shall be based upon the volume of the structure.

i. For buildings or structures in Use Groups A, F or S, the plan review fee shall be \$.010 per cubic foot;

ii. For health care facilities in Use Groups B or I, the plan review fee shall be \$.022 per cubic foot; and

iii. For all other buildings or structures, the plan review fee shall be \$.016 per cubic foot.

**19:4-11.7 Affordable housing**

(a) When a payment in lieu of constructing affordable housing units is made to satisfy the provisions of N.J.A.C. 19:4-12, the amount of the payment shall be determined and collected as follows:

1. The payment shall be calculated in accordance with the per-unit rates provided in Table 11-1. When the calculated obligation results in a fraction of a unit, that figure shall be rounded to the nearest hundredth decimal place and multiplied by the per-unit payment rate.

Table 11-1

Payments in Lieu of Construction

Municipality	Per Unit Amount
Carlstadt	\$147,072
East Rutherford	\$141,433
Jersey City	\$140,690
Kearny	\$142,887
Little Ferry	\$142,186
Lyndhurst	\$144,924
Moonachie	\$146,008
North Arlington	\$144,268
North Bergen	\$142,867
Ridgefield	\$153,596
Rutherford	\$145,328
Secaucus	\$144,128
South Hackensack	\$143,178
Teterboro	\$143,255

2. The NJMC shall not issue a certificate of completion or occupancy certification for the development that generated the affordable housing obligation until such payment is received in full or until a guaranteed payment plan is effectuated.

New Rule, R.2007 d.57, effective February 5, 2007.  
See: 38 N.J.R. 3762(a), 39 N.J.R. 548(a).

**SUBCHAPTER 12. AFFORDABLE HOUSING**

**19:4-12.1 Purpose**

This subchapter sets forth methods by which the NJMC shall assist constituent municipalities of the Hackensack Meadowlands District with meeting their fair share housing obligations in accordance with the New Jersey Council on Affordable Housing (COAH)'s rules at N.J.A.C. 5:94 and ensuring continuing uniform housing affordability controls pursuant to the HMFA's rules at N.J.A.C. 5:80-26.

**Case Notes**

In consolidated appeals challenging the failure of various entities to establish affordable housing, the New Jersey Meadowlands Commission's use of former N.J.A.C. 19:4-3.8 as an interim guideline was held to be a reasonable interim response to the recent court-ordered reworking of the Council on Affordable Housing's third round rules although the Commission has a constitutional responsibility to plan and zone for affordable housing to a far greater extent than is allowed by the rule; the

New Jersey Sports and Exposition Authority, on the other hand, was not responsible under the New Jersey Constitution for affordable housing within its portion of the Meadowlands District. In re Adoption of N.J.A.C. 19:3, 19:4, 19:5 and 19:6, 393 N.J. Super. 173, 922 A.2d 852, 2007 N.J. Super. LEXIS 153 (App.Div. 2007), cert. denied, 194 N.J. 267-68, 944 A.2d 28, 2008 N.J. LEXIS 156, 178 (2008).

**19:4-12.2 Words and phrases defined**

The words used in this subchapter shall be as defined by the NJMC in N.J.A.C. 19:4-2 or by COAH in N.J.A.C. 5:94, as amended or updated.

**19:4-12.3 Applicability**

(a) This subchapter shall apply to any zoning certificate application filed with the NJMC pursuant to N.J.A.C. 19:4-4.2 on or after February 5, 2007 except where otherwise exempted pursuant to N.J.A.C. 19:4-12.4.

1. The NJMC shall not issue a certificate of completion and/or occupancy certification unless the project is in compliance with all the requirements of this subchapter and N.J.A.C. 19:4-11.7.

**19:4-12.4 Exemptions**

(a) Zoning certificate applications for the following are exempt from the requirements of this subchapter:

1. Development limited to one or two market-rate dwelling units;
2. Development by municipal government; or
3. Development that would not generate a municipal affordable housing obligation pursuant to the application of standards published by COAH as N.J.A.C. 5:94, Appendix E.

(b) If a property is located within any of the following zones or Redevelopment Areas, any zoning certificate applications not otherwise exempt under (a) above shall be exempt from satisfying within the development the affordable housing growth share requirements in N.J.A.C. 19:4-12.5; however, such development shall provide for the municipal growth share obligation in accordance with one or more of the alternative methods of compliance in N.J.A.C. 19:4-12.14:

1. Environmental Conservation;
2. Parks and Recreation;
3. Aviation Facilities;
4. Light Industrial B;
5. Intermodal A;
6. Intermodal B;
7. Heavy Industrial;
8. Public Utilities; and

9. Redevelopment Areas that do not permit residential uses.

#### 19:4-12.5 Growth share obligation

(a) The applicant shall satisfy the growth share obligation generated by the development in accordance with the provisions of this subchapter, except where exempt in N.J.A.C. 19:4-12.4.

(b) The growth share obligation for residential and non-residential development shall be provided in accordance with the following, pursuant to N.J.A.C. 5:94, as amended and supplemented:

1. One affordable housing unit shall be provided within the development for every eight market-rate housing units; and

2. One affordable housing unit shall be provided for every 25 new jobs created, pursuant to the standards published by COAH as N.J.A.C. 5:94, Appendix E.

i. The growth share obligation resulting from non-residential development shall be provided within the development, unless the NJMC staff deems the site as unsuitable in accordance with N.J.A.C. 19:4-12.6 or the Board of Commissioners grants the applicant or affected municipality an inclusionary housing waiver in accordance with N.J.A.C. 19:4-12.13.

(c) The growth share obligation for mixed residential and non-residential development shall be provided within the development and shall be calculated as the sum of the obligations for each use.

(d) When the calculated growth share obligation results in a fraction of a unit, that figure shall be rounded to the nearest hundredth decimal place. A fractional obligation of less than one unit or a fractional obligation that falls between two whole numbers may be satisfied by providing one affordable unit or by making a pro-rated payment in lieu of construction in accordance with N.J.A.C. 19:4-11.7.

#### 19:4-12.6 Non-residential site suitability

(a) Prior to issuance of a zoning certificate, a non-residential development site shall be deemed unsuitable for the provision of affordable housing units generated by the growth share obligation upon a determination by NJMC staff that any of the following conditions exist:

1. The size, shape, or layout of any existing structures that shall remain, or other physical limitation(s), precludes development of the required housing units;

2. Residential development would not be compatible with the proposed use of the site;

3. The impacts of former and existing land uses, either on the site or in the vicinity of the site, may present residents with an unavoidable exposure to environmental hazards;

4. The site does not meet COAH's site suitability requirements at N.J.A.C. 5:94-1.4 and 4.5; or

5. The site is otherwise unsuitable for residential use in accordance with sound planning principles, including, but not limited to, the goals, policies, and strategies of the NJMC Master Plan.

(b) If the NJMC determines that the site is not suitable for residential use, the applicant shall address the proposed development's growth share obligation through one or more of the methods in N.J.A.C. 19:4-12.14.

#### 19:4-12.7 Permitted locations for affordable housing

(a) Development within the following zones or redevelopment areas shall include, as a permitted use, affordable housing needed to satisfy the growth share obligation in N.J.A.C. 19:4-12.5, unless otherwise exempted in N.J.A.C. 19:4-12.4:

1. Waterfront Recreation;
2. Low Density Residential;
3. Planned Residential;
4. Neighborhood Commercial;
5. Commercial Park;
6. Regional Commercial;
7. Highway Commercial;
8. Light Industrial A;
9. Transportation Center; and
10. Redevelopment Areas that permit residential uses.

#### 19:4-12.8 Bulk regulations

(a) The entire development, including any residential and non-residential uses, shall be subject to the bulk requirements of the zone, except as provided in this section.

(b) For mixed use development containing affordable units in the following zones, the floor area of residential development shall not exceed 50 percent of the floor area of the development:

1. Regional Commercial;
2. Highway Commercial;
3. Light Industrial A;
4. Light Industrial B; and
5. Transportation Center.

**19:4-12.9 Residential density**

For zones with no residential density requirements, the maximum permitted density shall be 25 dwelling units per acre, prior to the calculation of any bonuses at N.J.A.C. 19:4-12.10, and subject to any FAR limitation for the zone.

**19:4-12.10 Density bonuses**

(a) For development in which at least 20 percent of the residential units would be affordable, density bonuses shall be available as follows, and shall be exclusive of any bonus granted under (b) below:

1. The permitted floor area ratio in the zone may be increased by up to 0.25; or
2. The permitted residential density for the zone may be increased by up to three additional dwelling units per acre.

(b) A density bonus of three dwelling units per acre shall be permitted for every 25 affordable units reserved for renter households, said bonus to be exclusive of any bonus granted under (a) above.

**19:4-12.11 Layout and design**

(a) The layout and design of inclusionary developments shall be as follows:

1. Affordable housing units shall not be concentrated in one location within the development, but shall be dispersed throughout the development.
2. The affordable units shall be architecturally similar to the market-rate units within the development.

(b) The following minimum floor area per affordable housing unit, with the exception of units provided in assisted living facilities, shall be provided:

<u>Unit Size</u>	<u>Minimum Floor Area</u>
One bedroom	700 square feet
Two bedrooms	850 square feet
Three bedrooms	1,150 square feet
Four bedrooms	1,250 square feet

(c) At least one bedroom shall contain a minimum floor area of 140 square feet and each additional bedroom shall contain a minimum floor area of 90 square feet.

**19:4-12.12 Administration of affordable units**

(a) The administration of affordable housing units provided in accordance with this subchapter shall conform to the requirements of COAH's substantive rules, N.J.A.C. 5:94, and HMFA's Uniform Housing Affordability Controls, N.J.A.C. 5:80-26, as amended and supplemented. These provisions include, but are not limited to, requirements regarding phasing of units, controls on affordability, proportion of units allocated to persons of low- or moderate-income, heating sources, maximum rent and/or sales prices, affordability average, bedroom distribution, and affirmative marketing.

(b) The municipality shall be responsible for such administration, and may designate a COAH-approved entity to administer the affordable units for the duration of the required administration period.

1. The cost and expense of such administration may be imposed upon the developer pursuant to the terms and conditions of a duly adopted municipal ordinance;
2. The municipality shall enter into a contract with the designated entity; and

3. The entity shall assume the responsibilities of the administrative agent set forth by HMFA in N.J.A.C. 5:80-26.

(c) Where development is located within a municipality that has not petitioned for substantive certification or has not received a judgment of compliance, the following additional administrative provisions shall apply:

1. Any contract required in (b) above shall be submitted to the NJMC for review and approval to ensure compliance with the requirements of this section.
2. Funds from the sale of affordable units with extinguished affordability controls shall be deposited into the NJMC's affordable housing trust fund and disbursed in accordance with the provisions of N.J.A.C. 19:3-6.4.

**19:4-12.13 Inclusionary housing waivers**

(a) If a development is not otherwise exempt in N.J.A.C. 19:4-12.4 or 12.6(a), an applicant or the affected municipality may seek an inclusionary housing waiver from the requirement that development satisfy the growth share obligation within the development in accordance with N.J.A.C. 19:4-12.5.

(b) The inclusionary housing waiver procedure shall be as follows:

1. A request for an inclusionary housing waiver shall be made in writing to the NJMC and shall address the following:
  - i. The specific NJMC citation from which the waiver is requested. The NJMC shall not consider waivers to COAH's rules;
  - ii. Such a waiver shall not result in a threat to the public health, safety, and/or order;
  - iii. Where an applicant seeks a waiver, the applicant shall state which method(s) of compliance it shall provide pursuant to the alternative methods listed in N.J.A.C. 19:4-12.14;
  - iv. Where a municipality seeks a waiver, the municipality shall satisfactorily demonstrate that such waiver will not impair its ability to meet its total fair share housing obligation;
  - v. The strict application of the regulation would create an unnecessary environmental or other hardship; and
  - vi. Such waiver will not result in a substantial detriment to the intent of this subchapter and COAH's rules in N.J.A.C. 5:94.

2. If an applicant requests an inclusionary housing waiver, the NJMC shall forward a copy of the request to the municipality in which the project is located. If the municipality requests the waiver, the NJMC shall forward a copy of the request to the applicant and property owner.

i. The municipality or applicant receiving a copy of the request shall have 30 days within which to review and provide comment(s) on the request. Such time period may be extended upon written consent of the party requesting the waiver.

3. After the expiration of the comment period under (b)2i above, the NJMC staff shall submit a recommendation to the Board of Commissioners stating whether or not the waiver request should be approved.

4. The Board of Commissioners shall make a determination by resolution.

5. In granting waivers, the Board of Commissioners may impose such conditions, safeguards, and restrictions as, in its judgment, will be necessary to carry out the purposes, intent, and objectives of the provisions of this subchapter.

6. The Board of Commissioners shall have the authority to decide that a variance procedure would be a more appropriate method in which to consider the proposed deviation from the requirements of N.J.A.C. 19:4-12.5.

(c) If the waiver request is granted, the applicant shall provide for the municipal growth share obligation generated by the development in accordance with the alternative methods of compliance listed in N.J.A.C. 19:4-12.14.

#### 19:4-12.14 Alternative methods of compliance

(a) Where an application is exempt from satisfying within the development the growth share requirements at N.J.A.C. 19:4-12.4(b), or the NJMC determines at N.J.A.C. 19:4-12.6 that a site is not suitable to include affordable housing, or the NJMC grants an inclusionary housing waiver in accordance with N.J.A.C. 19:4-12.13, the applicant shall address the development's growth share obligation through one or more of the following methods prior to issuance of a certificate of completion and/or occupancy certification:

1. New construction of affordable units elsewhere within the subject municipality;

i. If the municipality has petitioned COAH for substantive certification or received a judgment of compliance from the Superior Court, the project shall be built in accordance with an agreement entered between the developer and the municipality.

ii. If the municipality has not petitioned COAH for substantive certification or received a judgment of compliance from the Superior Court, the project shall be built in accordance with an agreement entered between the developer and the NJMC.

2. A payment in lieu of construction in accordance with N.J.A.C. 19:4-11.7; and/or

3. The dedication of land to the subject municipality for affordable housing development.

i. For such dedication, the applicant shall provide details sufficient to show the following:

(1) The applicant has control over or has the ability to control the subject property;

(2) The subject property contains sufficient size and has no other physical limitations that would preclude development of the affordable units;

(3) A structural engineering report for existing structures in cases involving reconstruction;

(4) The impacts of former and existing land uses, both on the site and in the vicinity of the site, would not present residents with an unavoidable exposure to environmental hazards;

(5) If the site is located within the jurisdiction of the NJMC, the units could be developed in accordance with this chapter;

(6) If the site is located outside the jurisdiction of the NJMC, the units could be developed in accordance with municipal ordinances;

(7) The integrity of a historic or architecturally important site or district listed on the State or National Register of Historic Places would be maintained;

(8) The site meets COAH site suitability requirements at N.J.A.C. 5:94-1.4 and 4.5; and

(9) The site is otherwise appropriate for residential development in accordance with sound planning principles.