

NEW JERSEY MEADOWLANDS COMMISSION

CHAPTER 3

ADMINISTRATION

Authority

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

Source and Effective Date

R.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 3, Administration, expires on August 18, 2009, except Subchapter 3, Disability Discrimination Procedure, which is exempt as Federally required under 42 U.S.C. §§12101 et seq. See: 40 N.J.R. 4696(a).

Chapter Historical Note

Chapter 3, First Stage of the Master Plan for the Comprehensive Development of the Hackensack Meadowlands District, was adopted as R.1970 d.46, effective May 1, 1970. See: 1 N.J.R. 17(b), 2 N.J.R. 8(b), 2 N.J.R. 52(a). Subchapter 1, Revised Fee Schedule, implementing Stage I of the Master Plan was adopted as R.1970 d.118, effective September 25, 1970. See: 2 N.J.R. 95(b). Subchapter 1 was replaced by new Revised Fee Schedules as R.1973 d.334, effective November 30, 1973. See: 6 N.J.R. 39(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, First Stage of the Master Plan for the Comprehensive Development of the Hackensack Meadowlands District, was readopted as R.1988 d.281, effective May 26, 1988. See: 20 N.J.R. 743(a), 20 N.J.R. 1467(b).

Public Notice: Routine program implementation. See: 25 N.J.R. 1010(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, First Stage of the Master Plan for the Comprehensive Development of the Hackensack Meadowlands District, was readopted as R.1993 d.176, effective March 29, 1993. See: 24 N.J.R. 4503(a), 25 N.J.R. 1887(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, First Stage of the Master Plan for the Comprehensive Development of the Hackensack Meadowlands District, was readopted as R.1998 d.77, effective January 5, 1998. See: 29 N.J.R. 3704(a), 30 N.J.R. 566(a).

Chapter 3, First Stage of the Master Plan for the Comprehensive Development of the Hackensack Meadowlands District, was readopted as R.2003 d.9, effective December 9, 2002. See: 34 N.J.R. 2539(a), 35 N.J.R. 258(a).

Chapter 3, First Stage of the Master Plan for the Comprehensive Development of the Hackensack Meadowlands District, was repealed and new rules were adopted as Chapter 3, Administration, by R.2004 d.76, effective February 17, 2004. See: Source and Effective Date.

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

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

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. RULEMAKING

- 19:3-1.1 Rulemaking
- 19:3-1.2 Petitions for rulemaking

- 19:3-1.3 Contents of petition to amend Official Zoning Map
- 19:3-1.4 Action on petition
- 19:3-1.5 Rulemaking process

SUBCHAPTER 2. FLOOD INSURANCE

- 19:3-2.1 Purpose
- 19:3-2.2 Required land use and control measures
- 19:3-2.3 Securing coverage under the National Flood Insurance Program

SUBCHAPTER 3. DISABILITY DISCRIMINATION PROCEDURE

- 19:3-3.1 Definitions
- 19:3-3.2 Purpose
- 19:3-3.3 Required ADA notice
- 19:3-3.4 Designated ADA coordinator
- 19:3-3.5 Complaint procedure
- 19:3-3.6 Complaint contents
- 19:3-3.7 Complaint form
- 19:3-3.8 Investigations

SUBCHAPTER 4. PROFESSIONAL SERVICES CONTRACTS

- 19:3-4.1 Applicability
- 19:3-4.2 Definitions
- 19:3-4.3 Filing of current statements of qualification and supporting data
- 19:3-4.4 Solicitation of additional statements of qualification
- 19:3-4.5 Criteria for the selection of the most highly qualified professional firms
- 19:3-4.6 Negotiation of final agreement
- 19:3-4.7 Circumstances under which advertising is unnecessary

SUBCHAPTER 5. REDEVELOPMENT AREAS

- 19:3-5.1 Intent and purpose
- 19:3-5.2 Commission authorization
- 19:3-5.3 Petitions for the designation of redevelopment areas
- 19:3-5.4 Preliminary investigation
- 19:3-5.5 Public notice
- 19:3-5.6 Establishment of areas in need of redevelopment
- 19:3-5.7 Criteria for determination of need for redevelopment
- 19:3-5.8 Redevelopment plan
- 19:3-5.9 Relationship of redevelopment plan to NJMC Master Plan
- 19:3-5.10 Adoption of redevelopment plan
- 19:3-5.11 Applicability of redevelopment plan
- 19:3-5.12 Deviations from redevelopment plan
- 19:3-5.13 Amendments to redevelopment area boundary
- 19:3-5.14 Expansion of nonconformities
- 19:3-5.15 Amendments to redevelopment plan
- 19:3-5.16 Period of validity

SUBCHAPTER 6. AFFORDABLE HOUSING

- 19:3-6.1 Intent and purpose
- 19:3-6.2 Words and phrases defined
- 19:3-6.3 Municipal Housing Elements and Fair Share Plans
- 19:3-6.4 Affordable housing trust fund
- 19:3-6.5 Municipal request for rezoning

SUBCHAPTER 7. DEBARMENT AND SUSPENSION FROM CONTRACTING

- 19:3-7.1 Definitions
- 19:3-7.2 Causes for debarment
- 19:3-7.3 Conditions for debarment
- 19:3-7.4 Procedures, period and scope of debarment

- 19:3-7.5 Suspension and causes therefore
- 19:3-7.6 Conditions for suspension
- 19:3-7.7 Procedures, period and scope of suspension
- 19:3-7.8 Applicability
- 19:3-7.9 Exclusions
- 19:3-7.10 Notice
- 19:3-7.11 Lists
- 19:3-7.12 Discretion

SUBCHAPTER 1. RULEMAKING

19:3-1.1 Rulemaking

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

19:3-1.2 Petitions for rulemaking

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

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

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

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

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

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

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

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

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

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

19:3-1.4 Action on petition

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

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

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

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

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

19:3-5.14 Expansion of nonconformities

A request to expand an existing use or structure rendered nonconforming by a redevelopment plan shall require a variance, in accordance with the provisions of N.J.A.C. 19:4-4.14.

19:3-5.15 Amendments to redevelopment plan

(a) Amendments to an adopted redevelopment plan, as proposed by the NJMC staff or by any other interested party, may be brought before the Commission by the NJMC staff.

(b) Petitions for amendments to an adopted redevelopment plan shall be submitted in writing. A petition shall include:

1. The full name and address of the petitioner;
2. The block and lot number designation of the properties;
3. A statement indicating why the redevelopment plan should be amended; and
4. Such other information from a specific petitioner as may be deemed necessary by the NJMC staff.

(c) The NJMC staff shall review all petitions for amendments to an adopted redevelopment plan.

(d) If the NJMC staff determines that the petition does not meet the intent and purpose of the redevelopment plan, the petition shall not require further agency action. An appeal from the NJMC staff determination may be made in accordance with N.J.A.C. 19:4-4.19.

(e) If the NJMC staff determines that the petition lacks sufficient information on which to proceed, the petition shall be deemed incomplete. The document shall be returned to the petitioner with an explanation of the deficiencies. The petitioner may address these reasons and resubmit.

(f) Upon receipt of a complete petition, the NJMC staff shall proceed with a public hearing in accordance with N.J.A.C. 19:4-4.17 and the notice requirements of N.J.A.C. 19:3-5.5.

(g) Subsequent to the public comment period, the NJMC staff shall submit a recommendation to the Commission to either approve, deny, or modify the proposed amendments.

(h) Amendments to the redevelopment plan shall not impact the "in need of redevelopment" designation for the area in question.

(i) The amended redevelopment plan shall supersede all previous redevelopment plans for the area in question.

19:3-5.16 Period of validity

The redevelopment plan shall remain in effect until such time as the NJMC amends the redevelopment plan, adopts a

new redevelopment plan, or proceeds with a rezoning in accordance with this chapter.

SUBCHAPTER 6. AFFORDABLE HOUSING**19:3-6.1 Intent and purpose**

It is the intent and purpose of this subchapter to facilitate the ability of the municipalities of the Hackensack Meadowlands District to meet their affordable housing obligations in accordance with the requirements of the New Jersey Council on Affordable Housing (COAH), as governed by COAH's rules at N.J.A.C. 5:94 and 5:95 and the New Jersey Housing and Mortgage Finance Agency (HMFA)'s rules at N.J.A.C. 5:80-26.

19:3-6.2 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. 5:94-1.4, as amended or updated.

19:3-6.3 Municipal Housing Elements and Fair Share Plans

(a) A municipality shall submit a copy of its adopted Housing Element and Fair Share Plan, including any amendments, to the NJMC at the same time it petitions or re-petitions COAH for substantive certification or for an amendment to such certification.

(b) The NJMC shall review the Housing Element and Fair Share Plan and submit a written report of its findings regarding lands within the Hackensack Meadowlands District to COAH within 45 days of the municipality's publication of the notice of its petition or re-petition. Such report may comment upon any aspects of the Housing Element and Fair Share Plan that the NJMC deems appropriate, including, but not limited to, the following:

1. The municipality's growth share projection with respect to lands located within the District;
2. Any request for an adjustment to the Remaining Prior Round Obligation where the request is based, in whole or in part, upon the lack of available land within the District;
3. The means by which the municipality proposes to meet its fair share obligation, including the appropriateness of locations, types, and densities of development proposed for housing within the District; and
4. The need for any amendments to the NJMC's rules to enable the municipality to implement its fair share housing plan.

(c) A municipality that has substantive certification or a judgment of compliance shall provide the NJMC with copies

of all monitoring reports and relevant correspondence submitted to COAH or the Superior Court at the same time such documentation is submitted to these parties.

19:3-6.4 Affordable housing trust fund

(a) All payments in lieu of constructing affordable housing units on site and funds from units with extinguished controls, collected by the NJMC in accordance with N.J.A.C. 19:4-11.7 and 12, shall be deposited in separate interest-bearing escrow accounts per constituent municipality.

(b) The escrow accounts shall be established and maintained by the NJMC on behalf of each constituent municipality.

(c) In creating such escrow accounts, the NJMC shall establish a three-party escrow agreement between each constituent municipality, the financial institution, and the NJMC, addressing the collection and disbursement of funds by the NJMC.

(d) The NJMC shall release such funds to a municipality, including accrued interest, when:

1. The municipality petitions COAH for substantive certification or the municipality receives a judgment of compliance from the Superior Court; and

2. The municipality has entered into an escrow agreement with COAH and the financial institution governing an affordable housing trust fund into which such disbursements shall be made pursuant to N.J.A.C. 5:94-6.

(e) If the requirements of (d) above are satisfied at the time the NJMC receives such funds, the NJMC shall deposit these funds into the escrow account and promptly remit same to the municipality.

1. The municipality shall be required to deposit any such funds it receives from the NJMC into its own affordable housing trust fund and administer and expend such funds in accordance with the provisions of this chapter and COAH's requirements in N.J.A.C. 5:94-6.

(f) The NJMC shall redirect the manner in which funds held on behalf of the municipality shall be expended under the following circumstances:

1. A municipality does not petition COAH for substantive certification by February 5, 2009; or

2. The Superior Court revokes a judgment of compliance and no court-required COAH oversight has been established.

(g) The NJMC shall designate entities that may receive funds when the NJMC takes action pursuant to (f) above.

1. To select entities, the NJMC shall solicit proposals and statements of qualifications from private and public sector and non-profit agencies.

2. Funds shall be used to create affordable housing pursuant to N.J.A.C. 5:94 within the District's constituent municipalities and in accordance with the following:

i. The NJMC shall assign funds to projects planned within the municipality that generated the revenues to the extent practicable.

ii. Projects involving new construction shall be built in accordance with an agreement between the developer and the NJMC.

19:3-6.5 Municipal request for rezoning

Municipalities may seek to rezone land to meet their affordable housing obligations in accordance with COAH requirements and the regulations set forth in N.J.A.C. 19:3.

SUBCHAPTER 7. DEBARMENT AND SUSPENSION FROM CONTRACTING

19:3-7.1 Definitions

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

"Affiliates" means persons having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another.

"Commission" means New Jersey Meadowlands Commission.

"Contracting" means any arrangement giving rise to an obligation to supply any thing or perform any service, other than by virtue of State employment, or to supply any thing to or perform any service for a private person where the Commission provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or service or the persons who may supply or perform the same.

"Debarment" means an exclusion from contracting, on the basis of a lack of responsibility evidenced by an offense, failure, or inadequacy of performance, for a reasonable period of time commensurate with the seriousness of the offense, failure or inadequacy of performance.

"Person" means any natural person, company, firm association, corporation, or other entity.

"State" means the State of New Jersey, or any of the departments or agencies in the executive branch of government with the lawful authority to engage in contracting.

"Suspension" means an exclusion from contracting for a temporary period of time, pending the completion of an investigation of legal proceedings.