

**CHAPTER 7****DISTRICT TRANSPORTATION PLAN RULES****Authority**

N.J.S.A. 13:17-1 et seq., specifically 13:17-6(i),  
and 13:17-99 et seq.

**Source and Effective Date**

R.2009 d.11, effective January 5, 2009.  
See: 40 N.J.R. 3971(a), 41 N.J.R. 288(b).

**Chapter Expiration Date**

Chapter 7, District Transportation Plan Rules, expires on January 5, 2014.

**Chapter Historical Note**

Chapter 7, Sanitary Landfill Regulations for the Hackensack Meadowlands District, was adopted as R.1971 d.136, effective August 11, 1971. See: 3 N.J.R. 140(a), 3 N.J.R. 185(b).

Chapter 7, Sanitary Landfill Regulations for the Hackensack Meadowlands District, was repealed by R.2004 d.76, effective February 17, 2004. See: 35 N.J.R. 4458(a), 36 N.J.R. 1033(a).

Chapter 7, District Transportation Plan Rules, was adopted as new rules by R.2009 d.11, effective January 5, 2009. See: Source and Effective Date.

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**SUBCHAPTER 1. TITLE****19:7-1.1 Title**

This chapter shall be known and may be referred to as the District Transportation Plan Rules for the Hackensack Meadowlands District (District).

**SUBCHAPTER 2. PURPOSE****19:7-2.1 Purpose**

This chapter establishes the general provisions for the assessment and collection of development fees pursuant to N.J.S.A. 13:17-95.

**SUBCHAPTER 3. DEFINITIONS****19:7-3.1 Definitions**

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

“Cash-out parking” means a program for providing payment to employees who agree to surrender the use of an on-site parking space.

“District Transportation Plan” or “Meadowlands District Transportation Plan” or “Plan” means the Plan adopted pursuant to N.J.S.A. 13:17-95.

“Elements” or “Plan elements” means projects and/or implementation of programs within the Plan, or phased portions thereof.

“Existing development” means the land uses located on a site prior to the implementation of any proposed development.

“Infill development” means development that is surrounded by non-vacant sites on a minimum of three sides.

“Internal capture rate” means the percentage reduction of trips applicable to the trip generation estimates for individual land uses within a multiuse site.

“Land use category” means the land use classification and description provided in the Institute of Transportation Engineers (ITE) Trip Generation Manual, 8th 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.

“NJMC” means the New Jersey Meadowlands Commission.

“Non-vacant lot” means land that is developed and contains permanent buildings.

“Original structure” means the structure which exists on a site prior to the changes proposed in an application for development.

“Peak hour of adjacent street traffic” means the hour during which the combination of the trips generated by a site and the volume of the traffic passing the site on adjacent streets is the highest.

“Peak hour of generator” means the hour during which the highest volume of traffic enters and exits the site.

“Preferential parking” means a program for providing specific parking spaces for carpools, vanpools, and/or carsharing vehicles.

“Primary land use” means the land use category included in the ITE Trip Generation Manual.

“Project costs” means expenses incurred in the planning, design, engineering, and construction of any transportation project, and shall include debt service.

“Secondary land use” means an additional land use specified within the description of the primary land use included in the ITE Trip Generation Manual.

“Transit oriented development” means development that is located within defined walking distances of a train station or bus stop.

“Transportation Planning District” or “District” means the Hackensack Meadowlands District as defined in N.J.S.A. 13:17-13.

“Unbundle parking” means a program where the cost of a parking space is separated from the rent or purchase price of residential unit.

“Vacant lot” means land that has not been previously developed and does not contain any permanent buildings.

“Vehicle mile of travel” or “VMT” means a unit to measure miles traveled by an individual vehicle.

#### SUBCHAPTER 4. MEADOWLANDS DISTRICT TRANSPORTATION PLAN

##### 19:7-4.1 Meadowlands District Transportation Plan

(a) The Meadowlands District Transportation Plan shall be incorporated herein by reference, as amended and supplemented, copies of which can be obtained from the New Jersey

Meadowlands Commission, One DeKorte Park Plaza, Lyndhurst, NJ 07071.

(b) The Plan shall be updated and readopted by the NJMC within five years of the date of the previous Plan adoption.

(c) The Plan shall also be updated, amended, and/or supplemented and subsequently readopted as follows:

1. If the development projections, periodically calculated by the NJMC, differ from the Plan development projections beyond the following values:

i. The addition or subtraction in total Plan development projections exceeding 3,000 net trips; or

ii. The addition or subtraction of an individual development exceeding 1,500 net trips.

(d) The Plan may be updated and readopted at any other time that the NJMC deems it to be necessary.

#### SUBCHAPTER 5. TRANSPORTATION DEVELOPMENT FEE ASSESSMENT

##### 19:7-5.1 Transportation development fee formula

(a) The Transportation Development Fee Formula, listed in Figure 5-1 below, shall be used for computing the transportation development fee for each land use within a proposed development.

Figure 5-1

##### Transportation Development Fee Formula

$$\text{Fee} = (\text{ITE Trip Generation Rate}) \times (\text{VMT Factor}) \times (\text{VMT Rate})$$

where:

ITE = Institute of Transportation Engineers

VMT = Vehicle Miles of Travel

(b) The terms above shall have the following meanings:

1. “Trip Generation Rate” means the determination of the number of trips produced by and attracted to each land use.

2. “VMT Factor” means the average number of vehicle miles traveled for each trip type, categorized by land use.

3. “VMT Rate” means the dollar amount to be assessed for every vehicle mile traveled as calculated in accordance with (c) below.

(c) The Trip Generation Rate shall be determined by calculations based upon the Institute of Transportation Engineers (ITE) Trip Generation manual, 8th Edition, and ITE Trip Generation Handbook, June 2004, both incorporated herein by reference, as amended and supplemented, copies of which can be obtained from the Institute of Transportation Engi-

neers, 525 School Street, S.W., Suite 410, Washington, DC 20024;

1. The land use category selection for the determination of each Trip Generation Rate, as determined by the NJMC, shall be based upon the descriptions within the ITE Trip Generation Manual as they correspond to the existing and proposed land uses.

i. Secondary land uses shall be included within the primary land use category under the following conditions:

(1) The secondary land use is included within the ITE Trip Generation Manual description of the primary land use;

(2) The total of all secondary land uses shall not exceed 20 percent of the primary land use;

(3) Secondary uses are utilized in the calculation of fees for all existing and proposed land uses; and

(4) The fee calculation using secondary land use categories is less than the fee calculation performed using only primary land use categories.

ii. Secondary land uses in excess of 20 percent of the primary land use shall be considered separately as additional primary land use(s).

2. The terms utilized in the ITE Trip Generation Manual for determining the Trip Generation Rate shall have the following meanings:

i. "Independent variable" means a physical, measurable, and predictable unit quantifying the land use, including, but not limited to, gross floor area, dwelling unit, hotel room, and acreage.

ii. "Time period" refers to the peak time period of vehicular travel for the transportation system or development, including, but not limited to, peak hour, peak hour of adjacent street traffic, and peak hour of generator.

iii. "Regression equation" means the specific mathematical relationship between trips and the related independent variable.

iv. "Average rate" means the number of trips per unit of the independent variable. The rate assumes a linear relationship between trips and the independent variable.

3. The selection of an independent variable for the Trip Generation Rate shall be as follows:

i. All industrial, retail, office, and medical uses shall utilize gross floor area as the independent variable.

ii. All residential uses shall utilize dwelling unit as the independent variable.

iii. All hotel/lodging land uses shall utilize the number of rooms as the independent variable.

iv. All port and terminal, recreational, institutional, and service uses shall utilize the independent variable that is the cause for the variation in the number of trips generated by a land use, as determined by the NJMC.

v. When information for the independent variable specified above is not available from the ITE Trip Generation Manual, the independent variable shall be selected based upon the methods of the ITE Trip Generation Handbook, as determined by the NJMC.

4. The selection of the time period for the Trip Generation Rate shall utilize the information available for the morning and evening peak hour of adjacent street traffic.

i. When peak hour of adjacent street traffic information is unavailable, the time period selected shall utilize the information available for A.M. and P.M. peak hour of generator.

ii. If neither peak hour of adjacent street traffic nor peak hour of generator is available, a similar ITE land use category may be used or adjusted if an appropriate procedure for the adjustment is approved by the NJMC. If a similar ITE land use category cannot be used or adjusted, a trip generation study following the procedures of the ITE Trip Generation Handbook (subject to the approval of the NJMC) 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.

5. The Trip Generation Rate shall be calculated following the procedure detailed in the ITE Trip Generation Handbook subject to the determination of the NJMC.

6. The procedure for rounding trip generation calculations shall be as follows:

i. Any trip generation calculations resulting in less than one total trip shall be rounded down to zero; and

ii. Any trip generation calculations resulting in a fraction greater than one total trip shall be rounded up to the nearest trip.

(d) The VMT Factor is listed in the table entitled, "Average Trip Length Factors," located in the Meadowlands District Transportation Plan.

1. Unless a specific sub-category value is provided, the general land use category factor shall be utilized.

(e) The VMT Rate is listed in the table entitled, "Calculation of Fee per Vehicle Mile," located in the Meadowlands District Transportation Plan.

1. The Vehicle Mile of Travel (VMT) Rate shall be increased annually on the first day of February based upon the Consumer Price Index for the Northeast Urban Series, as released in January of the same year, or reset by the NJMC's adoption of an updated version of the Plan.

#### 19:7-5.2 Transportation Development Fee Formula reductions

(a) Reductions to the transportation development fee may be applied to a proposed development in accordance with this section.

(b) The terms utilized in the ITE Trip Generation Handbook shall have the following meanings:

1. "Existing trips" means trips that are generated by existing land uses on a site.
2. "Pass-by trips" means trips that are made as intermediate stops on the way from an origin to a primary trip destination without a route diversion.
3. "Diverted trips" means trips that are made as intermediate stops on the way from an origin to a primary trip destination that are made with a route diversion.
4. "Non-primary trips" means the total of all pass-by and diverted trips.
5. "Internal capture rate" means the percentage reduction applicable to the trip generation rates for individual land uses to account for the internal trips within a multi-use site that do not impact the surrounding transportation network.

(c) The fee associated with trips generated by any existing development on the subject site shall be subtracted from the transportation development fee calculated for the proposed development, as follows:

1. The fee for the existing development shall be calculated in accordance with N.J.A.C. 19:7-5.1.
2. The level of existing development on the site shall be determined by the following:
  - i. The development that generated the maximum vehicle miles traveled at any time during the previous 10 years; or
  - ii. The transportation development fee paid for a proposed development resulting in the maximum vehicle miles traveled at any time during the previous 10 years.

(d) All pass-by, diverted, and internal trips and associated vehicle miles traveled generated by a proposed development shall be reduced from the resulting transportation development fee as follows:

1. The percentage of all trip reductions shall be calculated in accordance with the ITE Trip Generation Handbook, as determined by the NJMC.

i. Land uses shall qualify for pass-by and diverted trip reductions if the data is available in the ITE Trip Generation Handbook.

(1) The non-primary trip percentage shall be the sum of the diverted and pass-by trip percentages.

(2) As listed in the ITE Trip Generation Manual, land use 814, Specialty Retail Center, shall utilize the non-primary trip percentage data available for land use 820, Shopping Center, until data becomes available in an amended or supplemental version of the ITE Trip Generation Handbook.

(3) As listed in the ITE Trip Generation Manual, land use 813, Free-Standing Discount Superstore, shall utilize the non-primary trip percentage data available for land use 815, Free-Standing Discount Store, until data becomes available in an amended or supplemental version of the ITE Trip Generation Handbook.

ii. Internal trips shall be calculated utilizing the forms within the ITE Trip Generation Handbook entitled, "Multi-use Development Trip Generation and Internal Capture Summary."

2. Trip reductions shall be calculated as a percentage.

3. The percentage of internal and non-primary trips shall be reduced from the peak hour trips in accordance with the following:

- i. The percentage of A.M. internal and non-primary trips shall be reduced from the A.M. peak hour trips, as determined by the NJMC.
- ii. The percentage of P.M. internal and non-primary trips shall be reduced from the P.M. peak hour trips, as determined by the NJMC.

#### 19:7-5.3 Transportation development fee credits

(a) An applicant shall be entitled to a credit towards the transportation development fee for the value of construction or land contributions as detailed below and in accordance with a required Credit Memorandum of Agreement (CMOA) between the property owner, applicant, the NJMC, and other governmental agencies as necessary.

1. The final credit shall be equal to the value of construction or land contributed by the applicant, but shall not exceed the values stated within the CMOA. Changes to any values or dates stated within the CMOA shall be addressed by an amended CMOA prior to any monetary exchanges.

i. The CMOA shall specify the timing and values of monetary exchanges of any Hackensack Meadowlands Transportation Planning District (MTPD) or third party funding of expenditures related to the construction.

ii. When the CMOA includes a parking strategy, the applicant shall record the CMOA in the county registrar's office.

(1) Proof of county filing shall be submitted to the NJMC prior to zoning certificate approval.

(2) County filing shall only be released upon completion of all remaining payments.

iii. The value of a credit for applicant-constructed improvements resulting from the above actions shall be considered as follows:

(1) The CMOA shall be finalized prior to zoning certificate approval.

(2) The value of the credit for construction of Plan elements in the CMOA shall be based upon an NJMC approved estimate of the design, construction, inspection, and related expenses submitted by the applicant.

(3) Original receipts are required to be submitted to the NJMC for verification of expenditures made by the applicant. Receipts will be accepted for the following areas and are subject to the approval of the NJMC:

(A) Preliminary, final and/or as-built engineering services in conjunction with the project detailed in the MOA and subject to the inspection and approval of the NJMC.

(B) Construction services in conjunction with the project detailed in the CMOA and subject to the inspection and approval of the NJMC.

(4) If the sum of all original receipts does not exceed the value of the credit, the remainder of the credit is required to be paid to the NJMC by the applicant within 30 days of the written request from the NJMC.

(5) The value of all credited elements not completed within 90 days of the date agreed to in the CMOA shall be paid to the NJMC by the applicant within 30 days of the request from the NJMC.

2. The design and construction of improvements shall be subject to the following:

i. The improvements shall be coordinated with the NJMC and the agency(ies) having jurisdiction.

ii. The improvements shall conform to the standards of the agency(ies) having jurisdiction, and are subject to the approval of the NJMC.

(b) Applicant contributions of property, easements, and/or construction of Plan elements in association with an application, shall result in a credit to the transportation development fee as follows:

1. All credits shall be implemented prior to the issuance of any final Certificate of Completion and/or Occupancy Certification for the application. A final Certificate of Completion and/or Occupancy Certification shall not be issued without payment of the value of any outstanding credit for construction and/or property transfers.

2. Credits for construction of Plan elements shall be subject to the following:

i. The Plan elements shall be projects and/or implementation of programs within the Plan, or phased portions thereof.

ii. Any mitigation measures set forth in the traffic impact analysis (TIA), prepared in accordance with N.J.A.C. 19:4-7.10, which are fully funded by the applicant, MTPD Fund, and/or any other dedicated fund(s), shall be required to be constructed prior to the issuance of any final Certificate of Completion and/or Occupancy Certification for the application.

iii. The voluntary construction of any plan elements that are not mitigation measures set forth in the TIA shall be subject to the approval of the NJMC.

iv. No credits shall be granted for any on-site improvements, with the exception of credits for transit related improvements referenced in (b)4 below.

3. Credits for contributions of property shall be subject to the following:

i. An appraisal shall establish the value of all ownership interest in property and easement contributions.

(1) The applicant shall be responsible for the cost of all appraisals.

(2) The appraisal shall be prepared by an independent New Jersey-licensed appraiser and shall be subject to the approval of the NJMC.

4. Credits for construction of transit related improvements shall be subject to the following:

i. The improvements shall be consistent with transportation efficient land uses that reduce automobile dependency, improve bicycle and pedestrian safety, and/or encourage alternatives to peak hour automobile travel.

(1) The improvements shall result in a reduction in automobile trips.

(2) The improvements shall be subject to the approval of the NJMC.

ii. The value of the credit shall be a percentage of the fee prior to reductions for construction and right-of-way contributions.

iii. The percentage of credit granted by the NJMC shall be based upon the value of the project and the

estimate of reduction in automobile trips and vehicle miles of travel.

(c) An applicant shall be entitled to transportation efficiency credits towards the transportation development fee for the strategies listed in the table entitled, "Transportation Efficiency Credit Program Schedule," located in the Meadowlands District Transportation Plan in association with an application as follows:

1. All required plans and documents shall be finalized prior to zoning certificate approval.

2. Any strategy shall be implemented prior to the issuance of any final Certificate of Completion and/or Occupancy Certification for the application.

i. All strategies shall remain in effect for a minimum of 20 years.

ii. All parking strategies require an annual report to be submitted to the NJMC detailing the previous year's statistical use of the strategy.

(1) Annual reports are due to the NJMC by the first working day in February each year.

(2) Failure to submit the annual report within 30 days of receipt of a notice of late annual report shall constitute a default in the strategy.

iii. If the strategy is defaulted or does not remain in effect for a minimum of 20 years, the prorated value of the credit shall be paid to the NJMC by the applicant and/or property owner within 30 days of the written request by the NJMC. Any balances remaining unpaid after 30 days shall result in a lien being placed on the property.

3. All credits are subject to NJMC approval and availability of funds in the Transportation Efficiency Credit Program established in the Plan.

4. The applicant shall prepare and submit a report containing the documentation and plans necessary to determine whether the application meets the criteria listed below for each available strategy, subject to the approval of the NJMC.

i. Transit oriented development:

(1) The land use categories eligible for this credit are residential, lodging, retail, and office.

(2) A transit oriented development credit shall not be granted in conjunction with an infill or high-density residential development.

(3) The development shall be located within a NJMC designated transit oriented development; or shall be located within the following average walking distances of a train station or bus stop within one of the corresponding average frequencies within a peak four-hour period:

(A) Train station:

(I) One-quarter mile and 30-minute frequency;

(II) One-half mile and 20-minute frequency; or,

(III) One mile and 10-minute frequency.

(B) Bus stop:

(I) One-quarter mile and 10-minute frequency serving a minimum of four routes; or

(II) One-half mile and five-minute frequency serving a minimum of five routes.

(C) Facility under construction meeting the above criteria.

ii. Infill development:

(1) The development shall be located on vacant lot(s) bound by non-vacant lots along a minimum of three property boundaries and a minimum of 60 percent of the property boundary; or shall be located on vacant lot(s) bound by non-vacant lots along a minimum of 70 percent of the property boundary.

(2) An infill development credit shall not be granted in conjunction with a transit oriented development credit.

iii. High-density residential development:

(1) The development shall consist of a minimum of 15 units per acre.

(2) A high-density residential development credit shall not be granted in conjunction with a transit oriented development credit.

iv. Unbundled parking:

(1) The land use categories eligible for this credit are residential uses with a minimum of 25 parking spaces.

(2) The price of the unbundled parking spaces shall be limited as follows:

(A) A minimum of \$5,000 per space for resale units.

(B) A minimum of \$50.00 per space per month for rental units.

v. Cash-out parking:

(1) The land use categories eligible for this credit are industrial, office, and institutional uses with a minimum of 25 parking spaces.

(2) The price of the cash-out parking program shall be a minimum payment of \$50.00 per parking space per month to the employee.

vi. Preferential parking:

(1) The percentage value of the preferential parking credit shall be equal to the percentage of spaces dedicated to preferential parking, but shall not exceed five percent. The percentage of spaces shall be rounded down to the nearest whole percent.

(2) Industrial, office, and institutional:

(A) The land use categories eligible for this credit are industrial, office, and institutional uses with a minimum of 25 parking spaces.

(B) Carpool, vanpool, and/or carsharing parking spaces shall be eligible for preferential parking credit.

(I) A minimum of 20 spaces or 80 percent of the preferential parking spaces, whichever is less, shall be reserved for high-occupancy vehicles consisting of three or more occupants.

(II) A minimum of five spaces or 20 percent of the preferential parking spaces, whichever is less, shall be reserved for carsharing vehicles.

(C) Preferential parking spaces shall be the closest non-Americans with Disabilities Act (ADA) required spaces to the building entrance.

(3) Residential, retail, and lodging:

(A) The land use categories eligible for this credit are residential, retail, and lodging uses with a minimum of 25 parking spaces.

(B) Parking spaces for low-emitting and fuel-efficient vehicles and/or carsharing shall be eligible for preferential parking credit.

(I) A minimum of 15 spaces or 60 percent of the preferential parking spaces, whichever is less, shall be reserved for low-emitting and fuel-efficient vehicles that are classified as Zero Emission Vehicles (ZEV) by the California Air Resources Board, P.O. Box 2815 Sacramento, CA 95812 or have achieved a minimum green score of 40 in the American Council for an Energy Efficient Economy (ACEEE) Green Book: The Environmental Guide to Cars & Trucks, incorporated herein by reference, as amended and supplemented, copies of which can be obtained from the American Council for an Energy Efficient Economy, 1001 Connecticut Avenue, NW Suite 801 Washington, DC 20036.

(II) A minimum of 10 spaces or 40 percent of the preferential parking spaces, whichever is less, shall be reserved for carsharing vehicles.

(C) Preferential parking spaces shall be the closest non-ADA required spaces to the building entrance.

**19:7-5.4 Time of transportation development fee assessment**

(a) The applicant shall be required to pay a transportation development fee prior to the issuance of a zoning certificate by the NJMC. Zoning certificates shall not be issued without payment of the transportation development fee.

(b) Payment for any fee shall be made as follows:

1. The fee shall be paid either in a lump sum payment or in a series of annual payments with a five-, 10-, or 20-year payment schedule.

i. Annual payment plans are subject to a Payment Memorandum of Agreement (PMOA) between the property owner, applicant, and the NJMC.

(1) The applicant shall record the PMOA in the county registrar's office.

(A) Proof of county filing shall be submitted to the NJMC prior to zoning certificate approval.

(B) County filing shall only be released upon completion of all remaining payments.

ii. Annual payment plans shall include an interest rate equal to the U.S. Prime Rate plus one point or 100 basis points as determined at the close of business on the day prior to initializing the PMOA between the applicant and the NJMC.

iii. The value of the annual payments shall be determined by the Annuity Formula, listed in Figure 5-2 below:

Figure 5-2  
Annuity Formula

$$A = F[i(1+i)^n]/[(1+i)^n - 1]$$

where:

A = Annual Payment

F = Transportation Development Fee

i = Interest Rate

n = Number of Years in Payment Plan

iv. Annual payments are due yearly by the date of the original zoning certificate approval.

(1) Payments not received in full by the date due shall be subject to a late payment charge as follows:

(A) The late payment charge shall be equal to the daily interest on the value of the unpaid payment for the number of days the payment is late.

(B) The interest rate shall be as specified in (b)1ii above.

(2) Failure to make an annual payment within 30 days of receipt of a notice of late payment shall constitute a default and shall obligate the applicant and/or property owner to pay the balance of the transportation development fee in full.

(3) Default in payment shall result in a lien being placed on the property by the NJMC as provided in this chapter.

(4) Payments thereof shall be enforced within the same time and in the same manner and be the same proceedings as the payment of taxes is otherwise enforced under Title 54 of the Revised Statutes.

(c) A transportation development fee shall be paid prior to zoning certificate approval as follows:

1. Any application that requires a revised zoning certificate after November 28, 2007 shall be subject to a Transportation Development Fee with the exception of signs, fences/gates, site improvements, tanks, antennae, transmission towers and associated utility structures, recycling and/or refuse areas, loading doors, compactor and concrete utility pads, fill/stockpile operations, salt storage areas, construction trailers, guard shacks, storage sheds with a floor area of less than 400 square feet, remediation activities, temporary uses, and external mechanical equipment.

2. Any transportation development fee, assessed as per this subchapter, shall be adjusted upon the issuance of a revised zoning certificate.

3. No credit shall be provided for any previously paid fees, except as provided for in N.J.A.C. 19:7-5.6.

#### 19:7-5.5 Exemptions from transportation development fee

(a) Exemptions from the transportation development fee shall be granted for the de minimis, temporary, and statutory conditions of this section.

(b) A de minimis exemption shall be granted to applications that have a beneficial, neutral, or minor adverse impact on the District transportation network. De minimis exemptions shall be granted for an application meeting the following conditions, as determined by the NJMC:

1. The alteration, expansion, or replacement of an existing residential structure meeting all of the following conditions:

i. The total number of units of the original structure is not increased;

ii. The units are included on one application;

iii. The construction does not modify the ITE Trip Generation Manual land use classification; and

iv. The zoning certificate is issued within two years of the demolition or destruction of the original structure.

2. The alteration, expansion, or replacement of an existing non-residential structure meeting all of the following conditions:

i. The alteration, expansion, or replacement does not increase the gross floor area, of the original structure, by more than 500 square feet;

ii. The total number of lodging rooms or selected independent variable is not increased;

iii. The modifications are included on one application;

iv. The construction does not modify the ITE Trip Generation Manual land use classification; and

v. The zoning certificate is issued within five years of the demolition or destruction of the original structure.

3. The construction of only miscellaneous improvements, including placement of fill, signs, tanks, recycling areas, antennas, towers, utilities, walls, and fences.

4. The demolition or removal of a structure.

(c) An exemption shall be granted for applications that are temporary in nature and meet the following conditions, as determined by the NJMC:

1. The development involves no permanent structure; and

2. Any trips associated with the development will permanently cease within 18 months of zoning certificate approval.

i. Failure to permanently cease operation of the application's temporary trips within 18 months of zoning certificate approval shall render the use permanent and shall obligate the property owner and applicant to pay the required transportation development fee.

ii. Failure to pay the transportation development fee within 30 days shall result in a lien being placed on the property by the NJMC as provided in this chapter.

(d) A statutory exemption shall be granted in accordance with N.J.S.A. 13:17-101(a). Statutory exemptions shall be granted for an application meeting any of the following conditions, as determined by the NJMC:

1. Any development for which a zoning certificate has been issued prior to the NJMC adoption the Meadowlands District Transportation Plan on November 28, 2007;

2. Any development that has an approved development agreement with the NJMC, including the mitigation of transportation impact;

3. Any development for which construction of a material portion of the development has commenced after the date on which a development agreement was executed; or

4. Any low and moderate income housing units that are constructed pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. or under court order or settlement of a builder's remedy lawsuit.

**19:7-5.6 Transportation development fee refunds and property transfers**

(a) Refunds from the transportation development fees collected, plus earned interest, shall be granted as follows:

1. Within 10 years of the date of collection, any transportation development fee not committed to a transportation project or used for allowable administrative costs shall be refunded with accrued interest to the applicant and/or property owner.

(b) Any applicant and/or property owner who transfers the rights of a development or zoning certificate which is subject to a transportation development fee shall enter into a Rights Memorandum of Agreement (RMOA) with all parties involved in the transfer of rights, in accordance with this section and as follows:

1. The RMOA shall indicate which parties are entitled to receive any refund;
2. The RMOA shall be filed with the county;
3. Proof of filing with the county shall be submitted to the NJMC; and
4. If the applicant and/or property owner fails to enter into an RMOA, the refund shall be made to the property owner at the time of refund.

**19:7-5.7 Transportation development fee appeals**

(a) An applicant who is assessed a transportation development fee is granted the following rights to reconsideration and appeal:

1. An applicant may request in writing a reconsideration of the transportation development fee assessment and a hearing by the NJMC Executive Director or designee within 90 days of the receipt of notification of the amount of the fee for the following conditions:

- i. The NJMC did not abide by the provisions of N.J.S.A. 13:17-95 et seq.;

ii. The NJMC did not abide by the provisions of NJMC Resolution 07-104; or

iii. The NJMC did not abide by the provisions of this chapter.

2. An applicant may appeal in writing to the NJMC any decision made in connection with the reconsideration of the transportation development fee as follows:

i. The appeal shall be made within 15 days of the reconsideration decision or the applicant shall waive all rights to any further appeal.

ii. The NJMC Board of Commissioners shall review the record of the hearing and render its decision, which shall constitute final administrative agency action subject to review by the Appellate Division of the Superior Court.

SUBCHAPTER 6. TRANSPORTATION PLANNING DISTRICT FUND

**19:7-6.1 Transportation Planning District Fund**

(a) Transportation development fees shall be deposited into the Meadowlands Transportation Planning District Fund (Fund), an interest bearing account.

1. The Fund shall be under the control of the NJMC Chief Fiscal Officer.

2. Payments to and expenditures from the Fund shall follow a first-in/first-out methodology for transportation development fees and expenditures.

(b) The Fund shall be appropriated as follows:

1. The Fund shall be used to defray the costs of plan elements and allowable administrative costs incurred by the NJMC and Meadowlands Transportation Planning Board for administration, management, development, update, amendment, and supplement of the Meadowlands District Transportation Plan and the Meadowlands Transportation Planning District.

2. Fund expenditures shall be subject to appropriation by the NJMC Board of Commissioners and certification by the NJMC Chief Fiscal Officer.

SUBCHAPTER 7. ENFORCEMENT

**19:7-7.1 Penalties and enforcement**

(a) Failure to comply with the requirements of this chapter, including any zoning certificate approval, payment of required fees, and/or construction of required improvement(s),

shall result in enforcement action by the NJMC pursuant to N.J.A.C. 19:4-4.21.

(b) Any lien created pursuant to this chapter shall be enforceable on the subject property in the same manner that taxes are made a lien against land pursuant to Title 54 of the Revised Statutes.

#### **19:7-7.2 Severability**

(a) The provisions of this chapter shall be separable, in accordance with the following:

1. If any section, subsection, paragraph, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this chapter.

2. If the application of any provision of this chapter 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.