

CHAPTER 38**NEW RESIDENTIAL CONSTRUCTION OFF-SITE CONDITIONS DISCLOSURE****Authority**

N.J.S.A. 52:27D-3(e) and 46:3C-4 and 5.

Source and Effective Date

R.2003 d.367, effective September 15, 2003.
See: 34 N.J.R. 4018(a), 35 N.J.R. 4281(b).

Chapter Expiration Date

Chapter 38, New Residential Construction Off-Site Conditions Disclosure, expires on September 15, 2008.

Chapter Historical Note

Chapter 38, Intergovernmental Review of Federal Programs and Direct Development Activities, was recodified to N.J.A.C. 5:50 by R.1991 d.211, effective March 22, 1991.

Chapter 38, New Residential Construction Off-Site Conditions Disclosure, was adopted as R.1997 d.478, effective November 17, 1997. See: 29 N.J.R. 1438(a), 29 N.J.R. 4841(a). Chapter 38, Residential Construction Off-Site Conditions Disclosure, expired on May 16, 2003.

Chapter 38, New Residential Construction Off-Site Conditions Disclosure, was adopted as new rules by R.2003 d.367, effective September 15, 2003. See: Source and Effective Date.

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APPENDIX A**APPENDIX B****SUBCHAPTER 1. GENERAL PROVISIONS****5:38-1.1 Purposes**

(a) The purposes of this chapter are as follows:

1. To prescribe the form and manner of submission of off-site conditions lists from their owners;

2. To specify for municipal clerks the form and manner of receiving off-site condition lists and maps, and making them available to the public; and

3. To ensure that off-site conditions information is presented in a readily available and easily understood way so that prospective purchasers of new residential construction will be able to locate off-site conditions in relation to the location of properties in which they are interested.

5:38-1.2 Correspondence and inquiries

(a) All correspondence and inquiries concerning this chapter should be addressed to:

Off-Site Conditions Disclosure
Division of Local Government Services
N.J. Department of Community Affairs
PO Box 803
Trenton, New Jersey 08625-0803
(609) 984-6628
Fax Number: (609) 633-6243

5:38-1.3 Definitions

(a) As used in this chapter, the following words and phrases shall have the following meanings, except where the context clearly indicates otherwise:

“Act” means P.L. 1995, c.253 (N.J.S.A. 46:3C-1 et seq.), the “New Residential Construction Off-Site Conditions Disclosure Act.”

“Off-site conditions” means and includes the following:

- i. Overhead electric utility transmission lines conducting 240,000 volts or more;
- ii. Electrical transformer substations;
- iii. Underground gas transmission lines, as defined in 49 C.F.R. 192.3;
- iv. Sewer pump stations capable of pumping 0.5 million gallons per day and sewer trunk lines in excess of 15 inches diameter;
- v. Sanitary landfill facilities, as defined pursuant to N.J.S.A. 13:1E-3;
- vi. Public wastewater treatment facilities; and
- vii. Airport safety zones, as defined pursuant to N.J.S.A. 6:1-82.

“Owner” means and includes any person, individual, firm, corporation, limited liability corporation, partnership, association, trust or other legal entity or combination thereof who owns, leases or maintains an off-site condition.

“Actual reproduction cost” means those expenditures of funds involved in making copies of material to be provided to the public under the law and this chapter. They are superior to and replace any fee authorized pursuant to N.J.S.A. 47:1A-2, the intent being that the cost of copies to the public be only the reimbursement of direct expenditures incurred by the municipal government in making them. Cost of employee time in making copies shall only be considered a cost if the employee is paid for making copies outside of the employee’s normal work time.

(b) While the Act specifically includes other conditions in the definition of “off-site conditions,” the definition in (a) above and this chapter are limited to those that must be reported by owners.

SUBCHAPTER 2. RESPONSIBILITIES OF THE MUNICIPALITY

5:38-2.1 Information required to be made available

(a) The municipal clerk of each municipality shall make available to the public, for inspection only, the following:

1. The publication entitled “Known Contaminated Sites in New Jersey—Municipal Report,” which shall be provided to municipal clerks by the Department of Environmental Protection. This document includes:

i. The latest list of sites on the National Priorities List prepared in accordance with 42 U.S.C. §§ 9601 et seq.; and

ii. The latest list of hazardous discharge sites from the master list prepared pursuant to N.J.S.A. 58:10-23.15 et seq.;

2. The latest list of sanitary landfill facilities provided by the Department of Environmental Protection;

3. “Listing of Off-site Conditions” forms provided by owners submitted pursuant to N.J.A.C. 5:38-3;

4. 24 inch by 36 inch copies or other approved maps provided by owners of off-site conditions pursuant to N.J.A.C. 5:38-3; and

5. Copies of the municipality’s tax map sheets, prepared pursuant to N.J.A.C. 5:38-3.2(d), that show any airport safety zones established by ordinance pursuant to N.J.S.A. 6:1-81 et seq., and N.J.A.C. 16:62.

(b) Maps and lists shall be made available for public inspection in the office of the municipal clerk at no charge.

(c) The municipal clerk shall:

1. Require persons requesting information to present valid identification, such as a driver’s license, passport, or other form of photo identification, as a prerequisite to inspecting the off-site conditions list;

2. Maintain a registry of all persons requesting the offsite information, including the person’s name, address, telephone number, type of information requested, reason for requesting the information, and the date of the request; and

3. Redact information authorized under the Open Public Records Act, N.J.S.A. 47:1A-1.1 et seq., and any other pertinent regulation or Executive Order.

(d) The municipal clerk shall have no responsibility to solicit lists or enforce submission of same from owners of off-site conditions.

(e) The municipality shall make copies of tax maps required available to an owner upon request. The municipality may charge the owner a fee not in excess of the cost of reproduction for each sheet.

Amended by R.2004 d.96, effective March 15, 2004.

See: 35 N.J.R. 4207(a), 36 N.J.R. 1366(a).

In (a), inserted “, for inspection only,” following “the public” in the introductory paragraph; in (b), inserted “in the office of the municipal clerk” following “public inspection”; rewrote (c).

SUBCHAPTER 3. RESPONSIBILITIES OF OWNERS

5:38-3.1 Submission of lists by owners

(a) Owners shall submit the following information on each off-site conditions that is an electric transformer substation, sewer pump station, or a public wastewater facility located within a municipality:

1. The name(s), address(es), and phone number(s) of the person(s) responsible for any such conditions, with name and title of an accessible official to answer questions about the facility;

2. The name of municipality, street address, if assigned, block and lot number(s) or other relevant identifier of the subject condition, and a sequential reference number;

3. The New Jersey Department of Environmental Protection identification number, if assigned; and

4. A brief description of the subject off-site conditions (for example, electric transformer substation, sewage treatment plant, sewage pumping station, etc.).

(b) Forms available from the Department of Community Affairs shall be used for these purposes. Facsimiles that contain the same information may also be used by owners. These forms are incorporated herein by reference as chapter Appendices A and B.

5:38-3.2 Submission of maps in lieu of lists by owners

(a) Owner shall submit maps, in accordance with this section, for each off-site conditions that is an underground gas transmission line, sewer trunk line, or electric utility transmission line.

(b) Maps shall be of one of the following types:

1. Those that meet the Geographic Information System (GIS) standard of the New Jersey Department of Environmental Protection, as described in N.J.A.C. 7:1D Appendix A "Mapping and Digital Data Standards," and where the base maps are supplemented with additional information that show place and road names that permit users to readily locate and identify properties. Owners are encouraged to utilize these maps wherever possible;

2. Color originals or black and white copies of United States Geological Survey (USGS) Quadrangle Topographical Maps (as revised), 1:24,000 scale (one inch = 2,000 feet);

3. Municipal tax map drawings prepared pursuant to N.J.S.A. 54:1-15 et seq.; or

4. Subject to the approval of the Department of Community Affairs, proprietary maps or drawings at a scale, that include geographic place and road names that permit users to readily locate and identify properties.

(c) All maps are to be reproduced on 24 inch by 36 inch sheets, or in accordance with other similar United States Geological Survey standards.

(d) If tax map drawings are utilized:

1. Standard 24 inch by 36 inch sheets shall be utilized, unless the municipality has smaller, appropriately scaled sheets available;

2. The owner shall obtain copies of tax map key sheets and individual sheets of the areas in each municipality where facilities are located; and

3. The owner shall include the required information on both the key map and individual tax maps sheets.

(e) Each map sheet is to include:

1. A dark, solid, dashed or patterned line that clearly indicates the route of the off-site condition. Lines are to be at least one-sixteenth of an inch wide;

2. A key indicating the scale of the map;

3. The type of facility shown by the line or lines;

4. The name(s) of the owner(s) and a phone number and address from where additional information can be obtained;

5. A disclaimer stating that the maps are only to be used for reference purposes and not for specific siting of facilities and that siting information is available from the owner or by calling the New Jersey One-Call Utility Service at (800) 272-1000 or (908) 232-9570; and

6. When USGS maps or maps showing regions larger than a single municipality are utilized, all off-site conditions of the owner that are within the coverage of the map shall be shown, regardless of the municipality in which the map is filed.

Administrative change.
See: 32 N.J.R. 1796(a).

5:38-3.3 Submission of information generally

(a) Lists and maps submitted to municipalities shall be updated annually with new information, if necessary, on off-site conditions that shall be accurate as of August 31 of every year. As necessary, updated lists and maps shall be submitted to the clerk of each municipality not later than September 30 of each year.

(b) Nothing in this chapter shall be deemed to preclude the municipality, at its own expense, from consolidating map information from individual owners onto a single map or maps, as long as individual types of facilities are keyed and displayed differently, and lists of operators, phone numbers, and addresses are included. The municipal engineer shall certify to the accuracy of any such consolidated map.

APPENDIX A

New Jersey Residential Construction Off-Site Conditions Disclosure Act

Listing of Off-Site Conditions

This form is filed with the municipal clerk of the municipality by the owner and is used to list the following off-site conditions required by N.J.S.A. 46:3C-2: overhead electric utility transmission lines conducting 240,000 volts or more; electrical transformer substations; underground gas transmission lines as defined in 49 C.F.R. 192.3; sewer pump stations designed for 0.5 million gallons per day and sewer trunk lines in excess of 15 inches diameter; and public wastewater treatment facilities.

