

As amended, R.1981 d.130, eff. May 7, 1981.

See: 12 N.J.R. 631(b), 13 N.J.R. 259(a).

Old test concerning "temporary exemption" deleted, and N.J.A.C. 5:26-11.10 concerning "waiver" recodified as N.J.A.C. 5:26-11.9.

5:26-11.10 Severability

If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect and to this end the provisions of this chapter are severable.

As amended, R.1981 d.130, eff. May 7, 1981.

See: 12 N.J.R. 631(b), 13 N.J.R. 259(a).

N.J.A.C. 5:26-11.11 concerning "severability" recodified as N.J.A.C. 5:26-11.10.

5:26-11.11 (Reserved)

APPENDIX

PLANNED REAL ESTATE DEVELOPMENT FULL DISCLOSURE REGULATIONS

ENGINEERING SURVEY OUTLINE:

(NOTE: The engineering survey shall be in narrative form and include, but not be limited to description and condition of all applicable items in the outline below, in the order listed. The outline is intended as an aid to the inspecting architect or engineer and not as a questionnaire.)

Address

Block Number, Lot Number

Zoning

Year Built

Copy of last inspection report under the Hotel and Multiple Dwelling Law (N.J.S.A. 55:13A-1 et seq.)

Violations outstanding—building, housing, air pollution, fire, other authorities

Alterations—date, number and brief description

Class of Construction (fireproof, non-fireproof, etc.)

Site:

Location

Size—dimensions, acreage

Streets—project owned or public

Paving—material

Curbing—material

Sidewalks—material

Drainage

Catch basins—type sewers

Street lighting

Drives—paving, curbing, drainage

Off street parking areas—paving, curbing, drainage

Utilities: give company or municipality furnishing service

Water supply

Sanitary sewers

Gas

Electric

Telephone

Sub-soil conditions including water conditions

Number of buildings and use

Structural System:

Steel or concrete frame

Other—describe

Type of foundations

Exterior of Building:

Walls (describe wall materials on all sides at all levels)

Insulation—"R" number

Window (types and materials) in all parts of building

Sills

Grilles

Stormsash

Screens

Hardware

Single or double glazing

Caulking

Parapets and copings—materials

Chimneys and caps: number and materials for each

Boilers

Incinerators

Fireplaces

Other

Balconies and Terraces:

Deck finish

Balustrade (type and material)

Copings

Railings

Soffit

Doors to balcony—type and material

Tenant entrances:

Marquees

Canopy

Exterior doors

Vestibule doors

Exterior stairs

Railings

Amended by R.1996 d.94, effective February 20, 1996.
See: 27 N.J.R. 4478(a), 28 N.J.R. 1226(a).

5:26-11.3 Rights to a hearing

Any developer or applicant for registration aggrieved by a notice or order of the Agency issued under the Act or these rules shall be entitled to a hearing before the Office of Administrative Law in accordance with 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, provided that a written request for such hearing is filed within 10 business days of receipt of the notice or order complained of.

As amended, R.1984 d.434, eff. October 1, 1984.
See: 16 N.J.R. 2032(a), 16 N.J.R. 2522(a).
Substantially amended.
Amended by R.1996 d.94, effective February 20, 1996.
See: 27 N.J.R. 4478(a), 28 N.J.R. 1226(a).

5:26-11.4 Application for hearing

All hearing requests shall be filed with the Hearing Coordinator, Department of Community Affairs, CN 802, Trenton, New Jersey 08625.

Amended by R.1996 d.94, effective February 20, 1996.
See: 27 N.J.R. 4478(a), 28 N.J.R. 1226(a).

5:26-11.5 Penalties

(a) The Commissioner, through the Agency, may levy and collect the penalties set forth in the Act after affording the person allegedly in violation an opportunity for a hearing, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., on the alleged violations, and after a final determination that said person is guilty of the violation.

(b) When a penalty so levied has not been satisfied within 30 days, the penalty may be sued for and recovered by and in the name of the Commissioner in a summary manner pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq.).

(c) The Agency may, in the interest of justice, compromise any civil penalty if in its determination the gravity of the offense or offenses does not warrant the assessment of the full fine.

Amended by R.1990 d.452, effective September 4, 1990.
See: 22 N.J.R. 1702(a), 22 N.J.R. 2682(b).
References to the APA and the UAPR added at (a).
Amended by R.1996 d.94, effective February 20, 1996.
See: 27 N.J.R. 4478(a), 28 N.J.R. 1226(a).

Case Notes

Developer was guilty of two separate violations of the Planned Real Estate Development Full Disclosure Act; separate penalties. N.J.S.A. 45:22A-21 et seq., 45:22A-37, 45:22A-38. Department of Community Affairs, Div. of Housing & Development v. Atrium Palace Syndicate, 92 N.J.A.R.2d (CAF) 9.

5:26-11.6 Consent orders

The Agency may, in its discretion, enter into any consent order, stipulation or settlement in any matter.

5:26-11.7 Applicability

(a) These rules shall be applicable as follows:

1. To any portion of a planned real estate development which did not have on November 22, 1978:

- i. Its building permit or permits; or
- ii. Final municipal approval of its site plan or subdivision plat.

2. To any portion of a planned real estate development, regardless of the issuance of building permits or final municipal approval of its site plan or subdivision plat, that is assessed or taxed as an agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964", P.L. 1964, c.48 (N.J.S.A. 54:4-23.1 et seq.);

3. To any portion of a retirement community, regardless of the issuance of building permits or approval of site plans or subdivision plats and regardless of whether it has been issued a notice of filing pursuant to the Retirement Community Full Disclosure Act, P.L. 1969, c.215 (N.J.S.A. 45:22A-1 et seq.) or has been registered pursuant thereto.

4. To any portion of a conversion, regardless of the issuance of building permits or approval of site plans or subdivision plats, that offers its first unit for sale after the effective date of the Act;

5. To any conversion in which a unit has been offered on or before the effective date of the Act that has 25 or more units remaining unsold;

6. To any developer, its successors and assigns specifically including, but not limited to, purchasers of the developer or the planned real estate development or retirement community and any person, institution or agency that may acquire title.

As amended, R.1979 d.439, eff. November 1, 1979.
See: 11 N.J.R. 497(a), 11 N.J.R. 610(b).
Amended by R.1989 d.317, effective June 19, 1989.
See: 21 N.J.R. 958(a), 21 N.J.R. 1669(a).
Provisions added to include units registered under N.J.S.A. 45:22A-1 et seq. (P.L.1969, c.215).

5:26-11.8 Construction

These regulations shall be construed liberally to effectuate the purposes of the Act and of these regulations.

As amended, R.1979 d.439, eff. November 1, 1979.
See: 11 N.J.R. 497(a), 11 N.J.R. 610(b).

5:26-11.9 Waiver

The Agency may grant exemptions to this chapter or any part thereof when, in its opinion, the enforcement thereof is unduly burdensome or impractical.