

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

Chapter 4, District Zoning Regulations, expires on February 17, 2009.

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Chapter 4, District Zoning Regulations, was repealed and new rules were adopted by R.2004 d.76, effective February 17, 2004.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

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; and

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.

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 word "NJMC" means the New Jersey Meadowlands Commission;

12. The word "Commission" means the seven-member board that constitutes the NJMC, as defined in N.J.S.A. 13:17-1 et seq.;

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 Acronym	Meaning
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, Compensation, 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 Committee
ITE	Institute of Transportation Engineers
N.J.A.C.	New Jersey Administrative Code
N.J.S.A.	New Jersey Statutes Annotated

Abbreviation
or

<u>Acronym</u>	<u>Meaning</u>
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.

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.

(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. No special exception use shall be authorized unless the same complies with the applicable provisions of these regulations.

(b) An application for a special exception use shall be filed with the NJMC, 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 complies with all applicable requirements of these regulations or relief has been granted through a variance;
2. The proposed special exception use at the specified location will contribute to and promote the welfare or convenience of the public;
3. The proposed special exception use will not cause substantial injury to the value of other property in the neighborhood;
4. 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;
5. Adequate utilities, drainage and other necessary facilities have been or will be provided;

6. 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

7. 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 decision 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.

1. Failure to comply with any of the conditions or restrictions placed on a special exception use shall constitute a violation of these regulations.

(h) 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 of the Commission that may be appealed in accordance with N.J.A.C. 19:4-4.19.

(i) 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.

(j) 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.

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 shall be filed with the NJMC, 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 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;
 - iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare;

v. The variance will not have a substantial adverse environmental impact;

vi. The variance represents the minimum deviation from the regulations that will afford relief; and

vii. Granting the variance will not substantially impair the intent and purpose of these regulations; and

2. Concerning use variances:

i. The strict application of these regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner;

ii. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare;

iii. Adequate infrastructure, including storm and sanitary sewers, utilities, access roads, will be provided and shall be so designed to prevent and/or minimize negative impacts upon the existing infrastructure. In addition, the proposed use will not decrease the ability of said infrastructure to perform in a safe and efficient manner;

iv. The variance will not have a substantial adverse environmental impact;

v. The variance will not substantially impair the intent and purpose of these regulations; and

vi. The variance at the specified location will contribute to and promote the intent of the NJMC Master Plan.

(f) In determining whether the evidence supports the conclusions required by (e) above, the Executive Director shall also consider the extent to which the evidence demonstrates that:

1. Concerning bulk variances:

i. The physical surroundings, shape or topographical condition of the subject property would result in a practical difficulty or undue hardship upon the property owner or applicant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced;

ii. The request for a variance is not based exclusively upon desire of the property owner or applicant to make more money from the property;

iii. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood of the subject property; and

iv. The variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion in public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood; and

2. Concerning use variances:

i. Conformance with the regulations would result in a practical difficulty or undue hardship upon the property owner or applicant, as distinguished from a mere inconvenience;

ii. The request for a variance is not based exclusively upon the desire of the property owner or applicant to make more money from the property;

iii. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood of the subject property;

iv. The variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion in public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood;

v. The applicant has demonstrated that the proposed use will further the purposes of the NJMC Master Plan; and

vi. The applicant has demonstrated that the proposed use is compatible with and complementary to the neighborhood.

(g) Within eight weeks of the close of the public hearing, the Chief Engineer shall submit a recommendation of decision to the Executive Director regarding the variance application. The Executive Director shall review the findings, conclusions, and recommendations and shall state his acceptance, rejection or modification of the recommendation.

(h) In the granting of any variance, the decision may impose such conditions, safeguards, limitations and restrictions upon the premises benefited by the variance as may be necessary to: comply with other standards set forth in these regulations; reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood; carry out the general purpose and intent of these regulations; and promote the intent and purpose of the NJMC Master Plan.

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

(j) The approval of a variance 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.

(k) 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.

(l) Variances from floodplain management regulations shall comply with the provisions of N.J.A.C. 19:4-9.14 and 9.15.

19:4-4.15 Commission review of special exception and variance approvals

(a) Immediately after approving, or approving with conditions, an application for a special exception use or variance, the Executive Director shall transmit to the Commission a copy of the decision containing such approval, a copy of the plan, and any other information relevant to the matter.

(b) The Commission may, by a concurring vote of a majority of its numbers, affirm or reverse, wholly or partly, or modify such approval, 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.

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

19:4-4.16 Notice of public hearings

(a) Whenever a public hearing is required pursuant to these regulations, the NJMC shall arrange for public notice, the cost of which shall be borne by the applicant. The notice shall include:

1. The time and location of the public hearing;
2. A statement describing the subject matter of the hearing;
3. The nature of any approval sought, together with any relief sought;
4. Identification of the applicant and owner of the subject property; and

5. A statement that the application and supporting materials will be available for public inspection at the offices of the NJMC at least 10 days prior to the hearing.

(b) At least 10 days in advance of the public hearing, the NJMC shall arrange for publication of the public notice in a newspaper of general circulation available in the municipality in which the property is located, and shall provide for notice either in person, by certified mail, or otherwise, to the following:

1. The Hackensack Meadowlands Municipal Committee (HMMC);

2. For special exception, variance, or subdivision applications, owners of the property within 200 feet of the subject property as shown on the most recent tax records of the municipality in which the subject property is located, and any adjacent municipalities where applicable;

3. For redevelopment projects, owners of property within 500 feet of the subject property, inclusive of the subject property, as shown on the most recent tax records of the municipality in which the subject property is located, and any adjacent municipalities where applicable;

4. For petitions for rezoning:

i. For a rezoning involving up to 20 lots, the owners of the lots in question and owners of property within 200 feet of the subject property as shown on the most recent tax records of the municipality in which the subject property is located, and adjacent municipalities where applicable; and

ii. For a rezoning involving more than 20 lots, the owners of the lots in question and owners of property within 200 feet of the subject property as shown on the most recent tax records of the municipality in which the subject property is located, and any adjacent municipalities where applicable; and, by publishing notification in at least three newspapers of general circulation which service the District;

5. The municipal clerk of every municipality in which property owners must be served notice, pursuant to (b)2 through 4 above; and

6. Any other person, agency, or organization that has filed a request to receive notice of hearings.

(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) 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.

(d) 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.

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

(f) 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.

(g) 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.

(h) 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.

(i) 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.

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 decision of the Commission or its 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. A recommendation shall not be considered a final decision and shall not be subject to appeal.

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

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

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

(e) An appellant aggrieved by the final decision of the Commission pursuant to (d) above may seek further judicial review pursuant to and to the extent permitted by the New Jersey Court Rules.

(f) The NJMC shall maintain complete records of all actions of the Commission 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.

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 imposed, 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.