

OTHER AGENCIES

NEW JERSEY SPORTS AND EXPOSITION AUTHORITY

Administration, District Zoning Regulations, Subdivision Regulations

Proposed Readoptions with Amendment: N.J.A.C. 19:3, 19:4, and 19:5

Authorized By: New Jersey Sports and Exposition Authority,
Ralph J. Marra, Jr., Senior Vice President
Legal & Regulatory Affairs.

Authority: N.J.S.A. 5:10A-1 et seq., specifically 5:10A-7.b.

Calendar Reference: See Summary below for explanation of exception to calendar
requirement.

Proposal Number: PRN 2016-005.

Submit written comments by the close of business on March 4, 2016, to:

Sara J. Sundell, P.E., P.P.
Director of Land Use Management
New Jersey Sports and Exposition Authority
PO Box 640
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071
E-mail: sara.sundell@njmeadowlands.gov

It is requested (but not required) that anyone submitting written comments also include a disc containing a digital version, preferably in Microsoft Word. Interested persons may obtain a copy of this proposal from the NJSEA website, www.njsea.com. The proposal

may also be inspected during normal office hours at the NJSEA, One DeKorte Park Plaza, Lyndhurst, New Jersey 07071. The Official Zoning Map may be reviewed at the following locations:

New Jersey Sports and Exposition Authority

One DeKorte Park Plaza

Lyndhurst, New Jersey 07071

Office of Administrative Law

Quakerbridge Plaza, Building 9

Quakerbridge Road

Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to the provisions of Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, the New Jersey Sports and Exposition Authority (NJSEA) proposes to readopt, pursuant to N.J.S.A. 52:14B-5.1.c, the following rules: N.J.A.C. 19:3-1, Rulemaking; 19:3-2, Flood Insurance; 19:3-5, Redevelopment Areas; 19:3-7, Debarment and Suspension from Contracting; 19:4, District Zoning Regulations; and 19:5, Subdivision Regulations, which shall expire on June 20, 2016, pursuant to N.J.S.A. 52:14B-5.1.c(2). N.J.A.C. 19:3-3, Disability Discrimination Procedure, required under 42

U.S.C. §§ 12101 et seq., is exempt from expiration pursuant to N.J.S.A. 52:14B-5.1.e. N.J.A.C. 19:3-4, Professional Services Contracts, will be allowed to expire.

The following provides a summary of each of the chapters proposed to be readopted:

N.J.A.C. 19:3 consists of the NJSEA's "Administration" section. The following summarizes this chapter:

Subchapter 1, Rulemaking (N.J.A.C. 19:3-1.1 through 1.5): This subchapter provides the procedures for rulemaking and rezoning of lands within the Hackensack Meadowlands District (HMD).

Subchapter 2, Flood Insurance (N.J.A.C. 19:3-2.1 through 2.3): This subchapter provides for flood control measures and the NJSEA's participation in the National Flood Insurance Program to benefit public safety and properties within the HMD.

Subchapter 5, Redevelopment Areas (N.J.A.C. 19:3-5.1 through 5.16): This subchapter provides the procedures for the identification of areas in need of redevelopment, the adoption and amendment of redevelopment plans, the consideration of redevelopment petitions, and other mechanisms effectuating the revitalization of such areas.

Subchapter 6 is reserved.

Subchapter 7, Debarment and Suspension from Contracting (N.J.A.C. 19:3-7.1 through 7.12): This subchapter provides the procedures and requirements for the debarment and suspension of contracts with the NJSEA.

N.J.A.C. 19:4 consists of the NJSEA's "District Zoning Regulations." The following summarizes this chapter:

Subchapter 1, Intent and Purpose of District Zoning Regulations (N.J.A.C. 19:4-1.1 through 1.4): This subchapter provides the intent of the District Zoning Regulations and enumerates the purposes of the regulations.

Subchapter 2, Intent, Word Usage and Definitions (N.J.A.C. 19:4-2.1 and 2.2): This subchapter provides the intent and word usage of terms found in the rules, and provides definitions and a list of frequent abbreviations and acronyms in the regulations.

Subchapter 3, Application of Regulations (N.J.A.C. 19:4-3.1 through 3.24): This subchapter provides for the application of the District Zoning Regulations as they pertain to the following: exemptions to the regulations; the designation of zones and the Official Zoning Map; the interpretation of boundaries; the zoning of public ways, waterways, and railroad rights-of-way; coastal zone management; affordable housing; redevelopment areas; land containing sanitary landfill; permitted uses, special exception uses, prohibited uses, and temporary uses and structures; number of structures on a lot; frontage; bulk regulations; yards and yard designations; height of buildings and structures; allocation of required lot area; open space; off-street parking and loading spaces; zoning lots of record; easements; and open space.

Subchapter 4, Administration (N.J.A.C. 19:4-4.1 through 4.23): This subchapter establishes the administrative procedures for the development, redevelopment, and management of properties in the HMD, including provisions for: the administration, technical requirements, review, and approval of zoning certificates and occupancy certifications; certificates of completion; pre-application conferences; zoning compliance

letters; interpretations; special exception uses and variances; public notice and public hearing requirements; failure to act; appeals; fees and escrow deposits; penalties and enforcement; severability; and prohibition against improper influence.

A proposed amendment to N.J.A.C. 19:4-5.115, stemming from the merger of the New Jersey Meadowlands Commission (NJMC) and the NJSEA, is required to correct a cross-reference to the words “NJMC regulations” within the rules governing land exemptions in the Sports and Exposition zone.

Subchapter 5, Districts, Uses and Standards (N.J.A.C. 19:4-5.1 through 5.124): This subchapter establishes the zones for land in the HMD, and includes general provisions, use limitations, provisions for accessory uses, marinas, office trailers, and outdoor seating areas as they apply to zoned lands in the District. The subchapter also provides for the purpose of each zone and enumerates any applicable permitted uses, special exception uses, use limitations, lot size requirements, bulk regulations, and performance standards for each zone of the District, as follows:

1. Environmental Conservation;
2. Parks and Recreation;
3. Waterfront Recreation;
4. Low Density Residential;
5. Planned Residential;
6. Neighborhood Commercial;
7. Commercial Park;
8. Regional Commercial;
9. Highway Commercial;
10. Aviation Facilities;
11. Light Industrial A;
12. Light Industrial B;
13. Intermodal A;

14. Intermodal B;
15. Heavy Industrial;
16. Public Utilities;
17. Sports and Exposition;
18. Transportation Center; and
19. Redevelopment Areas.

This subchapter also provides a schedule of lot size requirements and bulk regulations within Table 4-1.

Subchapter 6, Supplemental Requirements (N.J.A.C. 19:4-6.1 through 6.6): This subchapter provides for rules governing nonconforming lots, uses, and structures; historic preservation and cultural resources; retail sale and outdoor events; property maintenance; and sustainable “green” building practices.

Subchapter 7, Performance Standards (N.J.A.C. 19:4-7.1 through 7.10): This subchapter provides for general requirements, applicability, and enforcement of performance standards related to noise, vibrations, airborne emissions, glare, hazardous and radioactive materials, wastewater, and traffic.

Subchapter 8, Site Plan Requirements (N.J.A.C. 19:4-8.1 through 8.16): This subchapter provides the site plan regulations for development in the District, including requirements for parking, loading, line-of-sight triangles, drainage, buffers, open space, landscaping, fences, walls, sidewalks, lighting, signage, and site service improvements, and fill, excavation, regrading, and surcharge of land.

Subchapter 9, Flood Plain Management (N.J.A.C. 19:4-9.1 through 9.26): This subchapter constitutes the Flood Plain Management Regulations of the HMD. It provides the purpose, applicability, and administration of the regulations; definitions of words used in the regulations; the basis for establishing areas of special flood hazard; fees;

penalties and enforcement; required and other permits; abrogation and other restrictions; and warnings and disclaimer of liability. The subchapter also provides for the duties and responsibilities of the Chief Engineer; standards related to variances from floodplain management regulations, including conditions, requirements for a written decision and records, and appeals. Furthermore, the subchapter provides rules related to buildings, building sites, and subdivisions within special flood hazard areas, including provisions for anchoring, construction materials and methods, utilities, and enclosure openings.

Subchapter 10, Project Impact Assessment (N.J.A.C. 19:4-10.1 through 10.10): This subchapter provides for the ability of the NJSEA to assess the probable effects of certain proposed projects, including assessments of the project's impact with respect to land, water, air, solid wastes, aquatic and terrestrial wildlife, social and economic conditions, and aesthetics. The subchapter establishes the applicability of the regulations to certain threshold projects and the form and required content of a project impact assessment report (PIA), including documentation of other approvals/licenses; and includes provisions for developer's agreements.

Subchapter 11, Fee Schedule (N.J.A.C. 19:4-11.1 through 11.7): This subchapter provides the fee schedule for applications for a zoning certificate, redevelopment plan amendments, subdivision, occupancy, and construction permits. This subchapter also provides for fees associated with public hearings, as well as fee waivers and exemptions for certain applications.

N.J.A.C. 19:5 consists of the NJSEA's "Subdivision Regulations." The following summarizes this chapter:

Subchapter 1, Chapter Title (N.J.A.C. 19:5-1.1): This subchapter provides the title of this chapter as the Subdivision Regulations of the Hackensack Meadowlands District.

Subchapter 2, Purpose (N.J.A.C. 19:5-2.1): This subchapter specifies that the purpose of the subdivision regulations is to provide procedures, engineering and planning standards, and rules and regulations for applications for the subdivision of land within the District.

Subchapter 3, Definitions (N.J.A.C. 19:5-3.1): This subchapter provides definitions for terms located in the subdivision regulations.

Subchapter 4, Administration (N.J.A.C. 19:5-4.1 through 4.2): This subchapter provides for the administrative responsibilities of the NJSEA and the appeals process.

Subchapter 5, Procedure for Approval of Subdivision Plats (N.J.A.C. 19:5-5.1 through 5.9): This subchapter provides the procedures for the review and approval of a subdivision application, including: the required contents of a subdivision application; the procedures for classification of a subdivision; provisions for technical major subdivisions; procedures for minor subdivisions, major subdivisions, preliminary plats, and final plats; requirements for other approvals; and a provision for NJSEA approval prior to filing of the subdivision with the appropriate county recording officer.

Subchapter 6, Contents of Plats (N.J.A.C. 19:5-6.1 through 6.4): This subchapter provides the required content for sketch plats, minor subdivision plats, preliminary plats, and final plats.

Subchapter 7, Design Standards (N.J.A.C. 19:5-7.1 through 7.12): This subchapter provides design standards for the design and configuration of improvements

within a proposed subdivision, including the layout and design of streets, blocks, lots, easements, drainage, water supply, sewerage disposal systems, and fill. The subchapter also provides for coordination of the subdivision process with constituent municipalities.

Subchapter 8, Installation of Required Improvements (N.J.A.C. 19:5-8.1 through 8.9): This subchapter provides the regulations and procedures related to the installation of required improvements, including final improvement plans, exceptions for existing improvements, installation guarantees, and the construction, inspection, and certification of improvements. This subchapter also provides for the vacation of undeveloped subdivisions.

Subchapter 9, Waivers (N.J.A.C. 19:5-9.1): This subchapter provides the procedure for the review and approval of a waiver from a subdivision regulation.

Subchapter 10, Fees, Penalties and Enforcement (N.J.A.C. 19:5-10.1 and 10.2): This subchapter provides for fees and escrow deposits in accordance with N.J.A.C. 19:4-4.20 and penalties and enforcement in accordance with N.J.A.C. 19:4-4.21.

Subchapter 11, Severability (N.J.A.C. 19:5-11.1): This subchapter provides that if any portion of this chapter is invalidated by judicial decision, such decision shall not affect the remaining subchapter, section, or subsection of this chapter.

The NJSEA has reviewed these rules and has determined that the rules should be readopted, with amendment. The rules remain necessary, reasonable, and proper for the purpose for which they were originally promulgated. The NJSEA believes that the current text is sufficient at this time to carry out the responsibilities of the agency.

The NJSEA provided a 60-day comment period on this notice of proposal; therefore, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The negative conditions that existed when the NJSEA and its rules were first established, including illegal dumping, unregulated and illegal fill of wetlands, and construction of structures without regard for flood elevations, have largely been eliminated. This has been accomplished by the existence and enforcement of the zoning regulations, which are being readopted to adequately regulate land development. The basic purpose of zoning is to provide for the public health and safety, which can only have a positive social impact.

The readoption of Chapter 3 will have a positive social impact by providing for the ability of the NJSEA to conduct rulemaking activities, establish redevelopment areas, provide for the District's participation in the National Flood Insurance Program (NFIP), provide procedures for complaints regarding violation of Americans with Disabilities Act (ADA) accessibility laws, and provide procedures for debarment and suspension from contracting.

The readoption of Chapters 4 and 5 will have a positive social impact by revalidating the basis for the NJSEA's ability to regulate land use, subdivision, and development within the HMD. The rules provide procedures and standards to promote development of a variety of uses in suitable locations and to ensure that such development complies with the NJSEA's bulk and site improvement standards to ensure

adequate setbacks, open space, landscaping, drainage, parking, loading, and lighting are provided. The NJSEA also requires the preparation of a project impact assessment for larger projects to determine the effects of a project on society, the economy, and the environment.

The rules proposed for re adoption will also enable the continued participation of the NJSEA in FEMA's NFIP, which enables property owners within the District to obtain flood insurance for structures that have been built within flood hazard areas. One of the social impacts of these rules is that property owners in flood hazard areas are protected from losses due to floodwaters. If the NJSEA did not participate in the NFIP, these owners may not be able to obtain flood insurance for their properties and would have to assume the financial losses due to flooding.

Economic Impact

Mandatory activities associated with development in the Meadowlands that would require an applicant to expend dollars remain substantially the same as currently exist. These may include the costs of filing zoning certificate applications, variances, subdivisions, establishment of escrow accounts, related professional services (such as an engineer, architect, planner, attorney, surveyor, etc.), and the actual cost of construction labor and materials. Actual costs will vary depending on the type of professional hired and the size and scope of the specific project involved.

The NJSEA is not aware of any funding sources that may be impacted by the re adoption. There are no excessive economic impacts on implementing agencies. The NJSEA is the agency with zoning jurisdiction; the administrative, enforcement, and

oversight costs to the NJSEA as a result of the readopted regulations will be similar to current costs.

Federal Standards Statement

N.J.S.A. 52:14B-4 requires State agencies that adopt, readopt, or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. The rules proposed for adoption with amendment have not been formulated in accordance with the authority of, or in order to implement, comply with, or participate in any program established under Federal law.

The HMD is located within the Federally-designated Coastal Zone Management Area for New Jersey (designated in accordance with 15 CFR 923.53(a)(1)). The NJSEA acts as the lead coastal planning and management agency for the Meadowlands District under the guidance of the New Jersey Department of Environmental Protection (NJDEP).

The rules proposed for readoption with amendment do not contain any requirements or standards in excess of those imposed under Federal law.

Jobs Impact

The NJSEA does not anticipate the rules proposed for readoption with amendment would have any direct impact on job creation or retention in the State of New Jersey. No changes are proposed that would require the hiring of any additional professionals than would otherwise be required to prepare plans and/or applications to the NJSEA. An indirect positive impact may materialize from the readoption of the rules, as

one of the purposes of the rules is to provide for the orderly development of the District. Typically, new development and redevelopment in the District will generate jobs.

Agriculture Industry Impact

The rules proposed for re adoption with amendment will not have an impact on agriculture in the State of New Jersey. The HMD is an area comprised primarily of commercial, industrial, and residential areas.

Regulatory Flexibility Analysis

The rules of the NJSEA will impose reporting, recordkeeping, or other compliance requirements on small businesses. Under terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., small businesses are those that employ less than 100 full-time employees. Small businesses in the HMD include such groups as property owners, tenants, applicants, and developers.

The rules of the NJSEA govern all development within the District and, therefore, have a direct impact on small businesses. There are more approximately 4,000 lots within the District. These lots are owned by a wide spectrum of entities, from individuals to large corporations. The number of small businesses within the District is not tracked by the NJSEA; however, the NJSEA processes approximately 600 to 700 development applications per year. In doing so, it is evident that a large percentage of applicants in the District can be considered a small business.

To comply with the requirements of the NJSEA, permits must be acquired prior to constructing new development, subdividing land, or occupying existing space within the

District. Initial compliance costs are directly driven by project size. The costs to seek permits may be proportionally greater for small businesses, since they tend to have more limited resources and thus are more likely to need to hire consultants to assist in meeting the requirements of the rules. To comply with the NJSEA's rules, small businesses may need to utilize the services of certain design professionals including engineers, architects, planners, and land surveyors. The cost of these services is directly related to the size and scope of the individual project and varies on a case-by-case basis.

There are provisions within these rules designed to minimize adverse economic impacts on small businesses. The fee schedule, which may be found under N.J.A.C. 19:4-11.2, and the project impact assessment report, as required under N.J.A.C. 19:4-10, directly and indirectly take into account the size of a proposed development. The fee schedule directly deals with the size of a proposed development by correlating the fee for a zoning certificate to the proposed floor area of new construction. The fee for an occupancy certificate also directly relates to the size of a tenant space. The fee for a subdivision is dependent on the size of the lot(s) to be subdivided. There are no amendments proposed to the fee schedule.

Project impact assessments are required for larger projects. While larger projects will require that project impact assessments be done, there are size thresholds which are not likely to apply to development projects undertaken by small businesses.

By their very nature, zoning regulations are designed to protect public health, safety, and general welfare. Therefore, compliance reporting requirements or timetables cannot be altered to meet the resources available to small businesses. The purpose of these rules is to provide for the orderly and comprehensive development of the District in

accordance with sound planning principles. The design standards set forth the minimal requirements necessary to effectuate the purposes of these regulations.

The rules of the NJSEA do not exempt small businesses from some compliance requirements. As noted previously, the rules do address small businesses in terms of fees and project impact assessments; however, the rules do not exempt small businesses from other compliance requirements simply based on business size. The purposes of the District zoning regulations are enumerated within N.J.A.C. 19:4-1.2. In addition to providing for public health, safety, and welfare, the rules are intended to provide for orderly and comprehensive development; consider the ecology of the District; promote conservation of open space; establish appropriate population densities; provide sufficient space for the construction of a variety of uses; secure safety from fire and flooding; provide adequate light and air; prevent overcrowding of land; and prevent traffic congestion. The NJSEA does not administer its regulations differently based on the size of a business because the mandates of the agency outlined in its statute require that they be uniformly imposed upon all property owners in the District and provides no differentiation in compliance requirements specifically based on business size. The NJSEA has determined that the rules proposed for readoption with amendment are reasonable and necessary.

Accordingly, the rules proposed for readoption with amendment provide no differentiation in compliance requirements based on business size. In order to provide for uniform and consistent applicability of these rules within the District, no differential treatment is afforded to small businesses. All businesses should be able to comply with

the rules utilizing procedures and services customarily typical of the construction industry.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendment are not expected to impact the average costs associated with housing in the HMD. Any proposed residential development in the District would be subject to the affordable housing requirements set forth by law or court order at the time of zoning certificate application, including the payment of fees associated with the Statewide Non-Residential Development Fee Act (P.L. 2008, c. 46, §§ 32-38), signed into law on July 17, 2008. Additionally, the NJSEA's existing rule at N.J.A.C. 19:4-3.8, Affordable housing, offers the municipalities within the District additional options to meet their affordable housing obligations.

According to the United States Census Bureau, there were 5,546 housing units in the Meadowlands District in 2010. The readoption of N.J.A.C. 19:3, Administration, 19:4, District Zoning Regulations, and 19:5, Subdivision Regulations, will continue to provide opportunities for the orderly development of residential uses in the District. Residential uses will continue to be permitted in Low Density Residential, Planned Residential, and Neighborhood Commercial zones. The rules proposed for readoption with amendment maintain the land area requirements as currently provided. Also, opportunities for new housing development will continue to be available through redevelopment areas and the unique opportunities they provide for land regulation. Therefore, the rules proposed for readoption with amendment are not expected to impact the average cost of housing in the District.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendment are not expected to impact housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan (State Plan). The HMD is not located within Planning Areas 1 or 2, or within designated centers, under the State Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:3-1, 2, 5, and 7; 19:4; and 19:5.

Full text of the proposed amendment follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

19:4-5.115 Sports and Exposition zone; land exemptions

Any land acquired by the NJSEA and subject to its jurisdiction under N.J.S.A. 5:10-1 through 26 shall be exempt from [NJMC regulations] **N.J.A.C. 19:3, 19:4, 19:5, 19:6, and 19:7.**