

OTHER AGENCIES

(a)

NEW JERSEY SPORTS AND EXPOSITION AUTHORITY

District Zoning Regulations Floodplain Management

Proposed New Rules: N.J.A.C. 19:4-9.9A, 9.27, and 9.28

Proposed Amendments: N.J.A.C. 19:4-5.2, 9.1 through 9.6, 9.8, 9.9, 9.10, 9.11, 9.13, 9.14, 9.18, 9.19, 9.20, 9.22, 9.23, 9.25, and 9.26

Authorized By: New Jersey Sports and Exposition Authority,
Vincent Prieto, President and CEO.

Authority: N.J.S.A. 5:10A-1 et seq., specifically 5:10A-7(b), and
N.J.A.C. 19:3-1.5.

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

Proposal Number: PRN 2019-052.

A **public hearing** on this matter will be held on Tuesday, June 11,
2019, at 10:00 A.M. at the following location:

New Jersey Sports and Exposition Authority
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

Submit written comments by July 5, 2019, to:

Sara J. Sundell, P.E., P.P.
Director of Land Use Management
New Jersey Sports and Exposition Authority
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071
Email: ssundell@njsea.com

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 notice of proposal from the NJSEA website, www.njsea.com. This notice of proposal may also be inspected during normal office hours at the NJSEA, One DeKorte Park Plaza, Lyndhurst, New Jersey 07071.

The agency proposal follows:

Summary

On March 21, 2019, the New Jersey Sports and Exposition Authority (NJSEA) Board of Commissioners authorized staff to prepare and file a notice of proposal with the Office of Administrative Law for publication in the New Jersey Register and to hold a public hearing to obtain public input on the proposed amendments regarding the floodplain management rules.

The flood hazard areas of the NJSEA are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard, which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Structures that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

The NJSEA is a participating community in the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) and, as such, is required to ensure that its floodplain management rules meet or exceed the minimum requirements of the NFIP. See 44 CFR Section 60. As a result of the adoption and enforcement of NJSEA's floodplain management rules, Hackensack Meadowlands District (District) property owners have the ability to apply for, and obtain, Federally-backed flood insurance through the NFIP. After significant study, FEMA has prepared revised Flood Insurance Rate Maps (FIRM)

and a revised Flood Insurance Study (FIS) report for Bergen County, New Jersey, which includes the area that encompasses the District. As a participating community in the NFIP, the NJSEA is required to amend and add to its floodplain management rules at N.J.A.C. 19:4-9 to reference the new effective FIRM and FIS report, which according to FEMA's Letter of Final Determination (LFD), dated February 28, 2019, will become effective on August 28, 2019. The NJSEA rules currently refer to the September 30, 2005, FIRM and FIS, and therefore, must be updated to meet NFIP requirements. The FIRM panel numbers have also been revised by FEMA and are required to be updated in the NJSEA rules. According to the FEMA LFD, communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP.

The New Jersey Department of Environmental Protection (NJDEP) is designated as the State agency responsible for coordinating Federal, State, and local aspects of floodplain management activities as required under the provisions of the NFIP. The goals of the NFIP and the NJDEP include the reduction of threats to life and property through improved flood hazard information, enforcement of flood damage reduction regulations, and promotion of flood damage reduction activities including, and also exceeding, minimum NFIP standards. In order to facilitate conformance with NFIP standards, the NJDEP provides participating communities with a model flood damage prevention ordinance and map adoption language, and reviews local ordinance and regulation amendments. As a participating community in the NFIP, the NJSEA is proposing updates to its rules to conform to NFIP requirements and NJDEP guidance documents.

In this rulemaking, the NJSEA is also clarifying specific language in both the general provisions at N.J.A.C. 19:4-5.2 and the floodplain management rules at N.J.A.C. 19:4-9 in order to eliminate a potential or perceived conflict. The rules at N.J.A.C. 19:4-5.2(a)3 state that the minimum floor elevation for structures within the designated 100-year flood zones shall be established one foot above the applicable 100-year base flood elevations determined by the FEMA FIRMS. This paragraph is proposed for amendment to align with the revisions to Subchapter 9, which will provide clarity and consistency to the reader. In this regard, while the NJSEA has always required new construction and substantial improvements to meet the minimum floor elevation noted in Subchapter 5, the existing language at N.J.A.C. 19:4-9.20(b) provides for an option to either meet the required elevation listed at N.J.A.C. 19:4-5.2(a)3 or floodproof new construction or substantial improvement of non-residential construction. As N.J.A.C. 19:4-5.2(a)3, requiring the base flood elevation plus one foot is the more restrictive of the two, this has been the elevation required for such construction. By eliminating the floodproofing option in Subchapter 9 and providing a reference to the floodplain management rules in Subchapter 5, the rules become consistent. And while the FEMA standards allow for floodproofing in place of the base flood elevation plus one, the NJSEA has always exceeded this standard as a matter of policy, by enforcing the stricter of the two rules, and out of an abundance of caution for its constituents.

A summary of the proposed amended rules follows

N.J.A.C. 19:4-5.2, General provisions. This section sets forth certain basic requirements for all development proposed in the District. Paragraph (a)3 is proposed for amendment to reference the rules in Subchapter 9 regarding the required minimum lowest floor elevation for structures within the 100-year flood zones. By referencing Subchapter 9, the rules can be consistently enforced.

N.J.A.C. 19:4-9.1, Title. This section sets forth the title of Subchapter 9. This section is proposed to be amended to include specific findings of fact that are utilized in the New Jersey Department of Environmental Protection's model Flood Damage Prevention Ordinance (NJDEP's model ordinance), which provides language consistent with NFIP requirements.

N.J.A.C. 19:4-9.2, Purposes. This section sets forth the purposes of Subchapter 9. This section is proposed for technical amendment to revise references to the laws associated with the NJSEA, rather than the New Jersey Meadowlands Commission (NJMC), to reflect the Hackensack Meadowlands Agencies Consolidation Act, P.L. 2015, c. 19 and for clarity. The term "erosion" is proposed to be added to this section to

clarify that flooding damage also involves the erosion of soil. The term “velocities” is proposed to be added to describe the additional damaging effects of flooding. These terms are utilized in the NJDEP’s model ordinance and are included to provide uniformity.

N.J.A.C. 19:4-9.3, Words and phrases defined. This section sets forth definitions of words and phrases. Several new definitions are added and others are revised, particularly to provide consistency with the definitions in the NJDEP’s model ordinance. The definitions for “AO zone” and “AH zone,” which describe areas that are subject to inundation by one percent annual-chance shallow flooding, are proposed for addition to the subchapter. While the FIRM maps for the District do not include either the AO or AH zone, the NJDEP’s model ordinance requires the inclusion of these definitions. The definition of “area of shallow flooding” is proposed for amendment to reference the digital version of the Flood Insurance Rate Map and includes the term “annual” to clarify that the flooding rates are based on yearly percentages. The definition of “area of special flood hazard” is proposed for amendment to include the zone designations utilized on the FIRM maps. The definition of “base flood” is proposed for amendment to eliminate reference to the 100-year flood, which is a misleading term that could suggest that such an event happens once every 100 years.

The definition of “base flood elevation” is proposed for amendment to reference the elevations shown on a FEMA FIS and FIRM maps and describes the water surface elevation relative to a flood with a one percent or greater chance of being equaled or exceeded in any given year. Reference to the datum of the base flood elevation is proposed for deletion. “Best available flood hazard data” and “best available flood hazard data elevation” are proposed new terms that reference any new flood risk guidance or flood elevations that are made available by FEMA. The definition of “community” is a proposed new term to describe the entity with authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

The definition of “Digital Flood Insurance Rate Map (DFIRM)” is a proposed new term required by the NJDEP’s model ordinance and describes the official map that delineates areas of special flood hazards and risk premium zones. The definition for “elevated building” is proposed for amendment to eliminate reference to buildings in coastal high hazard areas and to add references to the base flood elevation plus freeboard. The definition for “existing manufactured home park or subdivision” is proposed as a new term required by the NJDEP’s model ordinance and describes the timing of construction relative to the effective date of the adopted floodplain management regulation. The definition for “expansion to an existing mobile home park or mobile home subdivision” is proposed for deletion from the rules as this is not an approved definition under the NJDEP’s model ordinance. The definition for “Flood Insurance Study (FIS)” is proposed for amendment to include the acronym FIS.

The definitions for “floodplain management regulations,” “floodproofing,” “floodway,” “freeboard,” and “lowest floor” are proposed as new definitions that are required by the NJDEP’s model ordinance. “Floodplain management regulations” is a term that describes the NJSEA’s rules regarding flood damage prevention and reduction. “Floodproofing” is a term that describes the construction of elements that will reduce or eliminate flood damage to real property. “Floodway” is a definition that provides specifics regarding the channel of a river or watercourse. “Freeboard” is an added term that describes the required additional elevation that a structure must be raised in order to reduce the potential of the structure flooding in a future event. “Lowest floor” is a term that clarifies that the lowest enclosed area, including basements, is deemed the lowest floor, but other unfinished or flood resistant enclosures used for parking, access, or storage are not considered a building’s lowest floor.

The definition for “highest adjacent grade” is revised to clarify that the grades next to both existing and proposed walls of a structure are taken into consideration in its determination. In circumstances when an existing structure is being modified, the existing wall will be utilized in the determination of highest adjacent grade.

The definition for “manufactured home” is proposed for amendment to clarify that such a structure may or may not be located on a permanent foundation and to add reference to recreational vehicles (rather than park trailers, travel trailers, and other similar vehicles). The definition is further

proposed for amendment to delete that the structure is used as a dwelling in compliance with the New Jersey Uniform Construction Code, as these are not included in the NJDEP’s model ordinance. The definition for “new construction” is proposed for amendment to reference the effective date of a floodplain regulation, instead of a specific date.

The definition for “new mobile home park or mobile home subdivision” is proposed for amendment to delete the term “mobile” and replacing it with a more current term “manufactured.” The definition is further proposed for amendment to reference the timing of construction of the park or subdivision with respect to the effective date of the adopted floodplain management regulations.

The definition for “start of construction” is proposed for amendment to include rehabilitations and additions to the list of regulated projects and distinguishes that street and sidewalk construction is not regulated under this definition. “Substantial damage” is a proposed new definition required by the NJDEP’s model ordinance and lists the percentage by which a damaged structure is considered under this term. The definition for “substantial improvement” is proposed for amendment to reference “substantial damage” instead of “substantial destruction,” but also to exempt projects that are proposed to correct existing violations. “Variance” is a proposed new term required by the NJDEP’s model ordinance and describes the granting of relief from the requirements of the subchapter. “Violation” is a proposed new term required by the NJDEP’s model ordinance specifying what constitutes a violation of the subchapter.

N.J.A.C. 19:4-9.4, Lands to which this subchapter applies. This section sets forth the area of applicability of this subchapter. The NFIP community number is proposed to be added for clarity.

N.J.A.C. 19:4-9.5, Basis for establishing the areas of special flood hazard. This section sets forth the identification of areas of special flood hazard, which are identified by FEMA in a scientific and engineering report entitled, “Flood Insurance Study, Bergen County, New Jersey, All Jurisdictions,” effective on, and dated, August 28, 2019, with accompanying FIRM, Number 340570, which is incorporated by reference, as amended and supplemented, and available at the Offices of the NJSEA. This study and the accompanying maps delineate areas within floodplains and provide the base flood elevations. This section is amended by including the revised official title of the report, by revising the effective date of the FIRM mapping and Flood Insurance Study and by updating the panel numbers for the FIRM mapping. References to the New Jersey Meadowlands Commission are revised to the NJSEA. The effective date of the floodplain management regulations is specifically stated as August 28, 2019, to provide clarity.

N.J.A.C. 19:4-9.6, Fees; 9.8, Other permits; 9.10, Warning and disclaimer of liability. These sections set forth the requirements for fees associated with certain requests. These sections are proposed for amendment to change references from the NJMC to the NJSEA.

N.J.A.C. 19:4-9.9, Abrogation and greater restrictions. This section sets forth that where this subchapter and other regulations conflict, the more restrictive shall prevail. The term “restrictive” is replaced with “stringent” and “easements, covenants, and deed restrictions” are added as elements that may conflict or overlap.

N.J.A.C. 19:4-9.9A, Interpretation. This is a proposed new section that sets forth the procedure to follow regarding interpretation of this subchapter by referencing the existing rules at N.J.A.C. 19:4-2.1 and 4.12A.

N.J.A.C. 19:4-9.11, Development permit required. This section sets forth the development permits that are required to be obtained from the NJSEA, prior to developing or changing a structure or land that is in a special flood hazard area. The term “required” is proposed for deletion from the heading of this section in order to provide consistency with the section headings in the NJDEP’s model ordinance. The law and statutory designation of the NJMC is revised to state the NJSEA’s law and statute, P.L. 2015, c. 19, and N.J.S.A. 5:10A-1, et seq. The specific NJSEA rules stating requirements for permitting and applications submittals are proposed to be added for clarity. In addition, the extent to which a watercourse is proposed to be altered or relocated is required to be shown on the submitted plans.

N.J.A.C. 19:4-9.13, Duties and responsibilities of the Chief Engineer. This section sets forth the responsibility of the Chief Engineer. This rule is proposed for amendment to include reference to the NJDEP Bureau of

Flood Control and the Land Use Regulation Program as the State's coordinating agency for the NFIP and to include reference to available floodway data. The term communities is replaced with municipalities to distinguish between floodplain communities and the surrounding towns that may have an interest in the alteration of a watercourse. The Chief Engineer's responsibilities are proposed to be expanded to include the determination of whether a floodway is located on or affected by a proposed development. The Chief Engineer is also proposed to be responsible for review of structures for substantial damage due to flood and non-flood causes and the requisite reporting of such damage to the NJDEP, in addition to ensuring that substantial improvements undertaken to repair substantial damage are in conformance with the floodplain management regulations.

N.J.A.C. 19:4-9.14, Variances from floodplain management regulations. This section sets forth the criteria that the NJSEA Board of Commissioners must consider when authorizing a variance from the provisions of this subchapter. References to the Commission are proposed to be replaced with the Board of Commissioners. Subsection (c) is proposed to be added to address the procedure required for appeals of a variance recommendation.

N.J.A.C. 19:4-9.18, Appeals. This section sets forth that the appeal from an adverse decision of the Board of Commissioners may be made in accordance with the rule found at N.J.A.C. 19:4-4.19. N.J.A.C. 19:4-9.18 is proposed for amendment to reference the Board of Commissioners in place of the Commission.

N.J.A.C. 19:4-9.19, Scope. This section sets forth that the requirements of this subchapter apply to all areas of special flood hazards. This rule is proposed for amendment to state that compliance with the New Jersey Uniform Construction Code is required in areas of special flood hazard.

N.J.A.C. 19:4-9.20, Buildings. This section sets forth the elevation and floodproofing requirements for residential construction, non-residential construction, and manufactured homes. This section is proposed for amendment to include specific language that will establish consistency with the NJDEP's model ordinance. Paragraph (a)1 is proposed for amendment to clarify the requirements for the construction or substantial improvement of residential structures located in an A or AE zone and includes elevation requirements for a basement and utilities within a structure. The lowest floor elevation is to be determined by the most restrictive of the three options listed, which are 1) one foot above the base flood elevation published in the approved FIS/FIRM referenced in the Floodplain Management regulations; 2) one foot above the best available flood hazard data elevation; or 3) the elevation requirements published in the American Society of Civil Engineers (ASCE) publication, Flood Resistant Design and Construction. New paragraph (a)2 specifies the elevation requirements for residential structures located in an AO or AH zone. Existing subsection (b) is proposed for deletion and replacement. Proposed new paragraph (b)1 is added to clarify the requirements for the construction or substantial improvement of non-residential structures, including basements and utilities.

New subparagraph (b)1i specifies the elevation requirements for new or substantially improved non-residential structures located in an A or AE zone. The lowest floor elevation is to be determined by the most restrictive of the three options listed, which are 1) one foot above the base flood elevation published in the approved FIS/FIRM referenced in the Floodplain Management regulations; 2) one foot above the best available flood hazard data elevation; and 3) the elevation requirements published in the ASCE publication entitled Flood Resistant Design and Construction, and new subparagraph (b)1ii provides similar information for the AO and AH zones. New subparagraph (b)1iii requires adequate drainage paths around structures on slope for the protection of the structures. New paragraph (b)2 specifies that non-substantial construction in a non-residential structure may be floodproofed to the required standards, in lieu of elevating the structure. Existing paragraphs (b)1, 2, and 3 are recodified as subparagraphs (b)2i, (b)2ii, and (b)2iii, and pertain to floodproofing with minor amendments proposed to clarify elevation requirements, including reference to the best available flood hazard data elevation plus one foot, and to reference licensed professionals.

Subsection (d) is proposed for amendment to include requirements for manufactured homes within an area of special flood hazard, including new subparagraphs (d)1, 2, and 3, which provide consistency with the language

of the NJDEP's model ordinance and to amend newly codified paragraph (d)4 to include a reference to the best available flood hazard data elevation plus one foot. New paragraph (d)5 states the foundation requirements for manufactured homes, as required for conformance with NJDEP's model ordinance.

N.J.A.C. 19:4-9.22, Subdivision improvements. This section sets forth that base flood duration data shall be provided for subdivisions and that subdivision proposals shall be consistent with the need to minimize flood hazards and damage. The term "improvements" is replaced with "proposals" in the heading of this section, to clarify that the requirements of the section should be utilized in the planning stage of a subdivision and to be consistent with NJDEP's model ordinance. This rule is proposed for amendment to regulate "other proposed new development" along with subdivisions and to delete the phrase "including roads, culverts, bridge, and tide gates" from the regulated developments as required for conformance with NJDEP's model ordinance.

N.J.A.C. 19:4-9.23, Anchoring. This section sets forth requirements for anchoring structures to resist certain movement. This section is proposed for amendment to clarify that any manufactured homes proposed to be installed or substantially improved are required to be anchored.

N.J.A.C. 19:4-9.25, Utilities. This section sets forth that utilities shall be designed and located to resist damage due to flooding. This section is proposed for amendment to clarify that the utilities of new construction and substantial improvements are required to meet the requirements of the subchapter.

N.J.A.C. 19:4-9.26, Enclosure openings. This section sets forth that enclosed areas that are subject to flooding shall allow for the entry and exit of floodwaters. Paragraph (a)1 is proposed for amendment to require two openings in at least two exterior walls of each enclosed area. Other changes to this section reflect revisions for syntax and grammar.

N.J.A.C. 19:4-9.27, Floodways. This is a proposed new section that sets forth the rules required for development within floodways, specifically prohibiting encroachments into the floodway unless a technical evaluation demonstrates no increase in flooding during the base flood and prohibiting the increase of the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point by a proposed development.

N.J.A.C. 19:4-9.28, Severability. This is a proposed new section that sets forth that if any part of this subchapter is invalidated by judicial decision or other reason, such decision or reason shall not affect the remaining rules, or portions thereof. This section is required for conformance with NJDEP's model ordinance.

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

Social Impact

The proposed amendments and new rules to the NJSEA's floodplain management rules are not expected to have a negative social impact. The proposed amendments and new rules will enable the continued participation of the NJSEA in FEMA's National Flood Insurance Program (NFIP), which qualifies property owners within the District to obtain flood insurance for structures that have been built within Special Flood Hazard Areas. A positive social impact of the proposed amendments and new rules is that renters, homeowners, and business owners located in an NFIP-participating community can purchase a flood insurance policy from the NFIP and are, thereby, protected from losses due to floodwaters. If the NJSEA did not participate in the NFIP, these owners would not be able to obtain flood insurance for their properties and, as a result, would have to assume the financial losses due to flooding. In addition, mortgage lenders often require flood insurance for properties within the floodplain and a large portion of the District is located in the floodplain.

The NFIP aims to reduce the impact of flooding on private and public structures. It does so by providing affordable insurance to property owners, renters, and businesses and by encouraging communities to adopt and enforce floodplain management rules. These efforts help mitigate the effects of flooding on new and improved structures. Overall, the program reduces the socio-economic impact of disasters by promoting the purchase and retention of general risk insurance, but also of flood insurance, specifically. The proposed amendments and new rules promote these

positive impacts of the NFIP for homeowners, renters, and business owners.

Economic Impact

Maintaining compliance with the NFIP regulations is necessary for the property owners in the Hackensack Meadowlands District to continue to take advantage of the benefits of the Federal program. There will not be a detrimental economic impact on the public. A negative economic impact on the property owners in the District will occur if the NJSEA is not in compliance with the FEMA requirements to amend the dates of the FIRM and FIS report to be consistent with the most recent documents. Owners of property located in the Special Flood Hazard Area will not be able to purchase flood insurance through the NFIP, putting them at risk for significant expenditures in the event of damage from a large flooding event. The proposed amendments and new rules will ensure the NJSEA's compliance with the FEMA requirements regarding floodplain management.

The NJSEA is not aware of any funding sources that may be impacted by the proposed revisions to the floodplain management rules. There are no foreseen economic impacts on implementing agencies. The NJSEA is the designated Floodplain Administrator for the Hackensack Meadowlands District and there are no administrative, enforcement, or oversight costs to this agency as a result of the proposed amendments and new rules.

Federal Standards Statement

N.J.S.A. 52:14B-4 requires State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. The District 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 District under the guidance of the New Jersey Department of Environmental Protection (NJDEP). The NJSEA District Zoning Regulations serve as a regulatory tool for meeting the goals and rules established by the New Jersey Coastal Management Program.

The proposed amendments and new rules have been formulated in order to implement, comply with, and participate in the National Flood Insurance Program, which is a program established under Federal law. In addition, the rules are proposed to correspond to the language of the NJDEP's model ordinance, which corresponds to the requirements of the NFIP regulations at 44 CFR Section 60.3(c). With one exception, the proposed amendments and new rules do not contain any requirements or standards in excess of those imposed under Federal law.

The proposed amendments and new rules regarding the construction of new or substantially improved non-residential structures located within an A or AE zone on the District's DFIRM, require the lowest floor of such structures to be elevated 1) at or above the base flood elevation plus one foot; 2) at or above the best available flood hazard data elevation plus one foot; or 3) as required by ASCE/SEI 24-14, Flood Resistant Design and Construction, Table 2-1, whichever is more restrictive. FEMA/NFIP regulations allow for a secondary option for the construction of new or substantially improved non-residential buildings, which is to floodproof the structures to the required lowest floor plus one foot; thus not requiring construction of a lowest floor at the elevation of the standards listed. The existing NJSEA regulation at N.J.A.C. 19:4-5.2(a)3, requires the minimum floor elevation for structures within the designated 100-year flood zones to be one foot above the applicable 100-year base flood elevations determined by the FEMA Flood Insurance Rate Maps (FIRMS). FEMA's option of floodproofing is not contemplated at existing N.J.A.C. 19:4-5.2(a)3. However, there is a conflict, wherein existing N.J.A.C. 19:4-9.20(b) permits floodproofing for new and substantially improved non-residential structures. Due to the significant expanse of floodplain within the District, the NJSEA has always enforced the more restrictive standard at N.J.A.C. 19:4-5.2(a)3, which is more protective of life and property in the District, versus permitting floodproofing of new or substantially improved non-residential construction. N.J.A.C. 19:4-9.20(b) is proposed for amendment to only permit floodproofing for non-substantial non-residential construction and N.J.A.C. 19:4-5.2(a)3 is proposed for amendment to provide consistency with the updates to the floodplain management regulations; however, the basic premise continues

to be the same, in that the lowest floor must be elevated to protect the structure from flooding. The continued enforcement of the rules to this higher standard promotes increased protections from health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

Jobs Impact

The NJSEA does not anticipate that the proposed amendments and new rules will have any direct impact on job creation or retention in the State of New Jersey. No significant changes are proposed that would require the hiring of any additional professionals than would otherwise be required to prepare plans and/or applications for submittal to the NJSEA. The proposed amendments and new rules involve revisions to the NJSEA's floodplain management rules in order to reference new FEMA mapping and reports and to maintain consistency with the New Jersey Department of Environmental Protection's Model Flood Damage Prevention Ordinance. The proposed amendments and new rules will provide updated information regarding the appropriate maps, studies, and design guidance to utilize in the preparation of building plans for new construction. In certain locations in the District, the updated FIRM maps will result in a higher required first floor elevation for new structures, however, this requirement can be accommodated during the building design and will not hamper job creation or retention in the State. Typically, new development and redevelopment in the District will generate opportunities for both temporary construction jobs and permanent employment. The proposed amendments and new rules will not hinder the ability to develop or redevelop land in the District.

Agriculture Industry Impact

The proposed amendments and new rules will not have an impact on agriculture in the State of New Jersey. The Hackensack Meadowlands District is an area comprised primarily of commercial, industrial, and residential areas.

Regulatory Flexibility Statement

The proposed amendments and new rules do not impose additional reporting, recordkeeping, or other compliance requirements on small businesses. The proposed amendments and new rules involve revisions to the NJSEA's floodplain management rules in order to reference new FEMA mapping, reports, and design guidance, and to maintain consistency with the NJDEP's model ordinance. Under the 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 District include such groups as property owners, tenants, applicants, and developers.

The NJSEA does not administer its rules differently based on the size of a business because the mandates of the agency outlined in its enabling statute (N.J.S.A. 5:10A-1 et seq.) require that they be uniformly imposed upon all property owners in the District. Accordingly, the proposed amendments and new rules provide no differentiation in compliance requirements based on business size. In order to provide for uniform and consistent applicability of the rules within the District, no differential treatment is afforded to small businesses. All businesses should be able to comply with the rules regarding floodplain management in the District.

Housing Affordability Impact Analysis

The proposed amendments and new rules are not expected to impact the average costs associated with housing or housing affordability in the Hackensack Meadowlands District. Presently, construction of all new structures and additions, including residential projects, in the Hackensack Meadowlands District is required to be elevated to one-foot above the Base Flood Elevation (BFE), which is determined by the information provided in the FEMA FIRMs. Based on the new FIRM and FIS report, the BFE in certain locations in the District will increase, thus requiring new development to be constructed to one foot above the new BFE. The benefit of obtaining flood insurance outweighs any potential additional cost of constructing a new residential structure at an increased elevation. Should the NJSEA not maintain compliance with the FEMA requirements of the NFIP, the owners of residential property in the District would not

be able to obtain flood insurance through the NFIP and they would have to assume the financial losses due to flooding.

Smart Growth Development Impact Analysis

The proposed amendments and new rules will have an insignificant impact on smart growth development. The District is not located within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, and, therefore, would not evoke a change in housing production in these specified areas. Accordingly, the proposed amendments and new rules will not affect, in any manner, new construction within those areas.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

NJSEA has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 5. DISTRICTS, USES AND STANDARDS

19:4-5.2 General provisions

(a) The following provisions shall apply to all zones:

1.-2. (No change.)

3. Minimum lowest floor elevations for structures within the designated 100-year flood zones shall be established one foot above the applicable 100-year base flood elevations determined by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRMS), or as required in accordance with N.J.A.C. 19:4-9.20.

4.-7. (No change.)

(b) (No change.)

SUBCHAPTER 9. [FLOOD PLAIN] FLOODPLAIN MANAGEMENT

19:4-9.1 Title

(a) This subchapter shall be known, and may be referred to as, the [Flood Plain] **Floodplain** Management Regulations of the Hackensack Meadowlands District.

(b) **The flood hazard areas of the New Jersey Sports and Exposition Authority are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard, which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.**

19:4-9.2 Purposes

This subchapter sets forth procedures and engineering and planning standards in accordance with which the [NJMC] NJSEA shall review and approve or disapprove applications for the development or use of land within the District. [It] **This subchapter** is designed to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed: to protect human life and health; to minimize expenditure of public money for costly flood control projects; to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; to minimize prolonged business interruptions; to minimize damage to new and existing construction; to minimize damage to public and private facilities and utilities, such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in areas of special flood hazard; to help maintain a stable tax base by providing for the [second] **sound** use and development of areas of special flood hazard, so as to minimize future flood blight areas; to ensure that potential buyers are notified that property is in an area of special flood hazard; to ensure

that those who own or occupy the areas of special flood hazard assume responsibility for their actions; and generally to provide for the exercise of the powers regarding the review and regulation of land use and development conferred upon the [NJMC] NJSEA by [Chapter 404 of the Laws of 1968] **P.L. 2015, c. 19**. In order to accomplish its purpose, this subchapter includes methods and provisions for: restricting or prohibiting uses [which] **that** are dangerous to health, safety, and property due to water **or erosion** hazards, or [which] **that** result in damaging increases in **erosion**, flood heights, **or velocities**; requiring that uses vulnerable to floods, including facilities [which] **that** serve such uses, be protected against flood damage at the time of initial construction; controlling the alteration of natural [flood plains] **floodplains**, stream channels, and natural protective barriers [which] **that** help accommodate or channel flood waters; controlling filling, grading, dredging, and other development [which] **that** may increase flood damage; and preventing or regulating the construction of flood barriers [which] **that** will unnaturally divert flood waters or [which] **that** may increase flood hazards in other areas.

19:4-9.3 Words and phrases defined

Unless specifically defined in N.J.A.C. 19:4-2 or below, words or phrases used in this subchapter shall be interpreted, so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"AO Zone" means an area subject to inundation by one percent annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

"AH Zone" means an area subject to inundation by one percent annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base flood elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone.

"Area of shallow flooding" means a designated AO or AH [Zone] **zone** on the **Digital** Flood Insurance Rate Map (DFIRM) with a one percent **annual** or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist; where the path of flooding is unpredictable; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" means the land in the [flood plain] **floodplain** within a community subject to a one percent or greater [change] **chance** of flooding in any given year, **which is shown on the FIRM as zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.**

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year. [The base flood is also described as the 100-year flood.]

["Base flood elevation" means the height of the base flood in relation to the North American Vertical Datum of 1988 (NAVD88) as determined by the National Geodetic Survey of the National Ocean Service, incorporated herein by reference, as amended and supplemented, for which information is available at NGS Information Services, NOAA, N/NGS12, National Geodetic Society, SSMC-3, #9202, 1315 East-West Highway, Silver Spring, MD 20910-3282.]

"Base flood elevation (BFE)" means the flood elevation shown on a published Flood Insurance Study (FIS), including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-A30, the elevation represents the water surface elevation resulting from a flood that has a one percent or greater chance of being equaled or exceeded in any given year.

"Best available flood hazard data" means the most recent available flood risk guidance FEMA has provided. The best available flood hazard data may be depicted on, but is not limited to, Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

"Best available flood hazard data elevation" means the most recent available flood elevation FEMA has provided. The best available flood hazard data elevation may be depicted on an Advisory Flood Hazard Area Map, Work Maps, or Preliminary FIS and FIRM.

"Community" means any state or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or

Alaska Native village or authorized native organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

...
“Digital Flood Insurance Rate Map (DFIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Elevated building” means a non-basement building that is:

1. In the case of a building in an area of special flood hazard, built to have the top of the [elevated] **lowest** floor, or in the case of a building in a coastal high hazard area, built to have the bottom of the lowest horizontal structural member of the elevated floor, elevated **at or** above the [ground level] **base flood elevation plus freeboard** by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water; and

2. (No change.)

3. In an area of special flood hazard, [“]elevated building[”] also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

[“Expansion to an existing mobile home park or mobile home subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation utilities, either final site grading or pouring of concrete or the construction of streets).]

...
“Flood insurance study” or **“FIS”** means the official report provided in which the FIA has provided flood profiles, as well as the FIRM’s and the water surface elevation [to] of the base flood.

“Floodplain Management Regulations” means the zoning and subdivision regulations, building codes, and other applicable rules and regulations. The term describes State rules that provide standards for the purpose of flood damage prevention and reduction.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water, and sanitary facilities, structures, and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

“Freeboard” means the factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a select size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

“Historic structure” means any structure that is:

1. (No change.)

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3.-4. (No change.)

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access, or storage in an area other than a basement is not considered a building’s lowest floor provided that such enclosure is not built so to render the

structure in violation of other applicable non-elevation design requirements of 44 CFR 60.3.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed [to be used as a dwelling and complies with the standards of the New Jersey Uniform Construction Code, N.J.A.C. 5:23] **for use with or without a permanent foundation when attached to the required utilities.** The term [“]manufactured home[”] does not include [park trailers, travel trailers and other similar] **recreational** vehicles.

...
“New construction” means structures for which the [“]start of construction[”] commenced on or after [February 17, 2004] **the effective date of a floodplain regulation adopted by a community** and includes any subsequent improvements to such structures.

[“New mobile home park or mobile home subdivision” means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after February 17, 2004.]

“New manufactured home park or subdivision” means a manufactured home, park, or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

...
“Start of construction” (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348)[,]) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, **rehabilitation**, **addition**, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of [piles] **pilings**, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearings, grading, and filling, nor does it include the **installation of streets and/or sidewalks; nor does it include** excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not [as] part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building whether or not that alteration affects the external dimensions of the building.

...
“Substantial damage” means damage of any origin sustained by a structure, such that the cost of restoring the structure to its condition before damage would equal or exceed **50 percent** of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or **other** improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial [destruction] **damage**, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to [comply with] **correct** existing **violations** of State or local health, sanitary, or safety code specifications that have been identified by the local code enforcement officer and that are the minimum necessary to assure safe living conditions; or

2. (No change.)

“Variance” means a grant of relief from the requirements of this subchapter, that permits construction in a manner that would otherwise be prohibited by this subchapter.

“Violation” means the failure of a structure or other development to be fully compliant with this subchapter. A new or substantially

improved structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (e)(2), (e)(4), or (e)(5) is presumed to be in violation, until such time as that documentation is provided.

19:4-9.4 Lands to which this subchapter applies

This subchapter shall apply to all areas of special flood hazards within the boundaries of the District (**NFIP community number 340570**).

19:4-9.5 Basis for establishing the areas of special flood hazard

The areas of special flood hazard identified by the FIA in a scientific and engineering report entitled, "Flood Insurance Study, [Hackensack Meadowlands District,] **Bergen County**, New Jersey, [Bergen and Hudson Counties] **All jurisdictions**," dated [September 30, 2005] **August 28, 2019**, with accompanying FIRM, Panel numbers [0245G, 0252G, 0253G, 0254G, 0256G, 0257G, 0258G, 0259G, 0261G, 0262G, 0263G, 0264G, 0266G, 0267G, 0268G, 0307G, 0331G, and 0332G] **0245J, 0252J, 0253J, 0254J, 0256J, 0257J, 0258J, 0259J, 0261J, 0262J, 0263J, 0264J, 0266J, 0267J, 0268J, 0307J, 0331J, and 0332J**, is [hereby] incorporated **herein** by reference, as amended and supplemented, and declared to be a part of this chapter. **The effective date of the floodplain management regulations is August 28, 2019.** The Flood Insurance Study and FIRM mapping are on file at the Offices of the New Jersey [Meadowlands Commission] **Sports and Exposition Authority**, One DeKorte Park Plaza, Lyndhurst, New Jersey 07071.

19:4-9.6 Fees

(a) Any requests for flood hazard certification or variances and appeals shall be submitted to the [NJMC] **NJSEA** and accompanied by such fee as set forth in N.J.A.C. 19:4-11.2.

(b) Any requests for copies of the regulations, study, or maps submitted to the [NJMC] **NJSEA** shall be accompanied by a copying fee as specified in N.J.S.A. 46:1A-1 et seq.

19:4-9.8 Other permits

No building permit, zoning certificate, occupancy certification, subdivision plat approval, or implementation plan approval shall be issued by any official or agency of the [NJMC] **NJSEA** on any land, or portion thereof, that is within an area of special flood hazard until there has been compliance with [these regulations] **this subchapter**. Any approvals issued in conflict with this subchapter shall be null and void.

19:4-9.9 Abrogation and greater restrictions

This subchapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this subchapter and other regulations, **easement, covenant, or deed restriction** conflict or overlap, whichever imposes the more [restrictive regulation] **stringent restrictions** shall prevail.

19:4-9.9A Interpretation

Interpretation of this subchapter shall be in accordance with N.J.A.C. 19:4-2.1 and 4.12A.

19:4-9.10 Warning and disclaimer of liability

The degree of flood protection required by this subchapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area[s] of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the [NJMC] **NJSEA**, any officer or employee thereof, or the FIA for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

19:4-9.11 Development permit [required]

No structure or land shall be constructed, [moved, located] **relocated**, extended, converted, or altered, **including placement of manufactured homes**, after February 17, 2004, within any area of a special flood hazard established [in] **at N.J.A.C. 19:4-9.5**, unless a zoning certificate, construction permit, occupancy certification, subdivision approval, sanitary landfill approval, or any other development permit approvals as

required by [Chapter 404 of the Laws of 1968] **P.L. 2015, c. 19** (N.J.S.A. [13:17-1] **5:10A-1** et seq.) shall first have been obtained from the [NJMC] **NJSEA** certifying that the proposed construction, use, or development complies with [these regulations] **this chapter, including, but not limited to, N.J.A.C. 19:4-4.4 and 9.20(b)**. **In addition, the extent to which any watercourse is proposed to be altered or relocated as a result of proposed development shall be depicted on the site plan.**

19:4-9.13 Duties and responsibilities of the Chief Engineer

(a) The Chief Engineer shall administer the provisions of this subchapter in the manner set forth [herein and] in **this section**. In furtherance of such authority, **the Chief Engineer shall undertake such actions as he or she deems appropriate, including**, but not be limited to, **the following**:

1.-2. (No change.)

3. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard.

i. If it is determined that there is no adverse effect, then the permit shall be granted, consistent with the provisions of this section[;].

ii. (No change.)

4. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of N.J.A.C. 19:4-9.27(a)1 are met.

[4.] **5. Maintain for public inspection**, all records pertaining to development permits, including: obtaining and recording the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement; verifying and recording the actual elevation (in relation to mean sea level) and maintaining flood proofing certifications for all new or substantially improved flood proofed structures;

[5.] **6. Notify adjacent [communities] municipalities and the [State Coordinating Agency for the National Flood Insurance] New Jersey Department of Environmental Protection, Bureau of Flood Control and the Land Use Regulation Program** prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the FIA; require that maintenance is provided within the altered or relocated portion of said watercourse, so that the flood carrying capacity is not diminished;

[6.] **7. When base flood elevation data has not been provided in accordance with N.J.A.C. 19:4-9.5, [basis] Basis** for establishing the areas of special flood hazard, the Chief Engineer shall obtain, review, and reasonably utilize any base flood elevation **and floodway** data available from a Federal, State, or other source, in order to administer N.J.A.C. 19:4-9; and

[7.] **8. (No change in text.)**

9. The Chief Engineer, in coordination with the municipal code enforcement official, shall perform substantial damage review as follows:

i. After an event resulting in building damage, assess the damage to structures due to flood and non-flood causes;

ii. Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the property owner and the New Jersey Department of Environmental Protection, Bureau of Flood Control; and

iii. Ensure that the substantial improvements meet the requirements of N.J.A.C. 19:4-9.20.

19:4-9.14 Variances from floodplain management regulations

(a) In cases in which there is exceptional hardship in carrying out the literal provision of this chapter, whether because of conflicting requirements or otherwise, the [Commission] **Board of Commissioners** may authorize a variance from such provision. In passing upon requests for variances, the [Commission] **Board of Commissioners** shall consider all technical evaluations; all relevant factors and standards specified in other sections of this chapter; and the following:

1.-7. (No change.)

8. The relationship of the proposed use to the comprehensive plan and [flood plain] **floodplain** management program of that area;

9.-11. (No change.)

(b) (No change.)

(c) **Any appeal of a variance recommendation shall be in accordance with N.J.A.C. 19:4-4.19.**

19:4-9.18 Appeals

An appeal from an adverse decision of the [Commission] **Board of Commissioners** made pursuant to this subchapter may be made in accordance with the provisions of N.J.A.C. 19:4-4.19.

19:4-9.19 Scope

In all areas of special flood hazards, the standards in this subchapter **and compliance with the applicable requirements of the New Jersey Uniform Construction Code (NJ UCC), N.J.A.C. 5:23**, are required.

19:4-9.20 Buildings

(a) Residential construction:

1. New construction and substantial improvement of any residential structure **located in an A or AE zone on the District's DFIRM** shall have the lowest floor [elevated to a minimum of one foot above the base flood elevation], **including basement, together with the attendant utilities (including all electrical, heating, ventilating, air conditioning, and other service equipment) and sanitary facilities, elevated at or above the base flood elevation (published FIS/FIRM) plus one foot, the best available flood hazard data elevation plus one foot, or as required by the American Society of Civil Engineers (ASCE)/SEI 24-14, Flood Resistant Design and Construction, Table 2-1, incorporated herein by reference, as amended and supplemented, whichever is more restrictive. A copy of ASCE/SEI 24-14 may be obtained from ASCE, 1801 Alexander Bell Drive, Reston, VA 20191 or online at www.asce.org.**

2. New construction and substantial improvement of any residential structure **located in an AO or AH zone on the District's DFIRM shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air conditioning, and other service equipment) and sanitary facilities, elevated one foot above the depth number specified in feet, above the highest adjacent grade (at least three feet if no depth number is specified).**

3. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

(b) Non-residential construction:

1. New construction and substantial improvement of any commercial, industrial, or other non-residential structure **located in an area of special flood hazard** shall [either] have the lowest floor, including basement, [elevated a minimum of one foot above the base flood elevation, and have adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures, or together with the attendant utilities and sanitary facilities shall:] **together with the attendant utilities and sanitary facilities, as well as all electrical, heating, ventilating, air conditioning, and other equipment, as follows:**

i. **When located within an A or AE zone on the District's DFIRM, elevated at or above the base flood elevation (published FIS/FIRM) plus one foot, the best available flood hazard data elevation plus one foot, or as required by ASCE/SEI 24-14, Flood Resistant Design and Construction, Table 2-1, whichever is more restrictive;**

ii. **When located within an AO or AH zone on the District's DFIRM, elevated above the depth number specified in feet plus one foot, above the highest adjacent grade (at least three feet if no depth number is specified); or**

iii. **Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures;**

2. **Non-residential construction deemed to be a non-substantial improvement of any commercial, industrial, or other non-residential structure located in an area of special flood hazard, together with the attendant utilities and sanitary facilities, as well as all electrical, heating, ventilating, air conditioning, and other equipment, may:**

[1.] i. **Be floodproofed, so that below the elevation equal to [one foot above] the base flood elevation (published FIS/FIRM) plus one foot, the best available flood hazard data elevation plus one foot, or as required by ASCE/SEI 24-14, Table 6-1, whichever is more restrictive, the structure is water tight with walls substantially impermeable to the passage of water;**

[2.] ii. (No change in text.)

[3.] iii. **Be certified by a [registered] licensed professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the Chief Engineer.**

(c) (No change.)

(d) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall [be]:

1. **Be consistent with the need to minimize flood damage;**

2. **Be constructed to minimize flood damage;**

3. **Have adequate drainage provided to reduce exposure to flood damage; and**

4. **Be elevated on a permanent foundation, such that the top of the lowest floor is elevated to a minimum of one foot above the base flood elevation[.] (published FIS/FIRM), the best available flood hazard data elevation plus one foot, or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive; and**

5. **The manufactured home chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.**

19:4-9.22 Subdivision [improvements] proposals

(a) All subdivision proposals[, including roads, culverts, bridges, and tide gates,] **and other proposed new development** shall be consistent with the need to minimize flood [hazards and] damage.

(b) All subdivision proposals **and other proposed new development** shall have public utilities and facilities, such as sewer, gas, electric, and water systems located and constructed to minimize flood [hazards and] damage.

(c) All subdivision proposals **and other proposed new development** shall have adequate drainage provided to reduce exposure to flood damage.

(d) Base flood elevation data shall be provided for subdivision proposals [which] **and other proposed new development that** contain at least three lots or three acres (whichever is less).

19:4-9.23 Anchoring

(a) (No change.)

(b) All manufactured homes **to be placed or substantially improved** shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

19:4-9.25 Utilities

(a)-(c) (No change.)

(d) [Electrical] **For all new construction and substantial improvements, the electrical, heating, ventilation, plumbing, and [air-conditioning] air conditioning equipment and other service facilities** shall be designed and/or located, so as to prevent water from entering or accumulating within the components during conditions of flooding.

19:4-9.26 Enclosure openings

(a) [For all] **All new construction and substantial improvements[,] having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or registered architect or must meet or exceed the following minimum criteria:**

1. A minimum of two openings in at least two exterior walls of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

2.-3. (No change.)

19:4-9.27 Floodways

(a) Areas designated as floodways are located within certain areas of special flood hazard. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Encroachments in floodways, including new fill, new construction, substantial improvements, and other development, are prohibited, unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If (a)1 above is satisfied, all new construction and substantial improvements shall comply with this subchapter.

3. In all areas of special flood hazard in which base flood elevation data has been provided and a floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths of a foot at any point.

19:4-9.28 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this subchapter is invalidated by judicial decision, or any reason whatsoever, such decision shall not affect the remaining subchapter, section, subsection, paragraph, sentence, clause, or phrase of this subchapter, which shall remain in full force and effect, and for this purpose, the provisions of this subchapter are hereby declared to be severable.