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NEW JERSEY REGISTER

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ISSUE DATE: **AUGUST** 18, 2008

**RULE PROPOSALS**

**OTHER AGENCIES**

NEW JERSEY MEADOWLANDS COMMISSION

*40 N.J.R. 4696(a)*

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**Administration; District Zoning Regulations; Subdivision Regulations**

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

**Proposed Repeals: N.J.A.C. 19:3-6 and 19:4-10.5, 10.6, 10.7, 11.7 and 12**

**Proposed New Rule: N.J.A.C. 19:4-3.8**

**Proposed Repeals and New Rules: N.J.A.C. 19:4-4.12 and 10.9**

Authorized By: New Jersey Meadowlands Commission, Robert R. Ceberio, Secretary.

Authority: N.J.S.A. 13:17-1 et seq., specifically 13:17-6(i).

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

Proposal Number: PRN 2008-285.

A **public hearing** on this matter will be held on Tuesday, September 23, 2008 at 10:00 A.M. at the following location:

New Jersey Meadowlands Commission

One DeKorte Park Plaza

Lyndhurst, New Jersey 07071

Submit written comments by the close of business on October 17, 2008 to:

Sara J. Sundell, P.E., P.P.

Director of Land Use Management

New Jersey Meadowlands Commission

One DeKorte Park Plaza

Lyndhurst, New Jersey 07071

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 NJMC website,

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

New Jersey **Meadowlands** Commission  
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 Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, the New Jersey **Meadowlands** Commission (NJMC) proposes to readopt N.J.A.C. 19:3, Administration; 19:4, District Zoning Regulations; and 19:5, Subdivision, which will expire on August 18, 2009. These existing rules were promulgated as a result of a comprehensive rule adoption on February 17, 2004, intended to implement the NJMC's first new Master Plan in 30 years. Since that time, the NJMC staff has continuously reviewed these rules to ensure their implementation is effective. The NJMC has determined that the rules remain necessary, reasonable, adequate, efficient, understandable and responsive for the purpose for which they were originally promulgated, with amendments, repeals and new rules proposed to clarify existing rules, update procedures, and address various inefficiencies and inconsistencies that became apparent as the rules have been implemented.

The following is a detailed summary of the rules proposed for readoption with amendments, new rules, and repeals:

### **Chapter 3. Administration**

Chapter 3 contains rules particular to the administrative procedures of the NJMC. This chapter is divided into the following seven subchapters:

1. Rulemaking;
2. Flood Insurance;
3. Disability Discrimination Procedure;
4. Professional Services Contracts;
5. Redevelopment Areas;
6. Affordable Housing; and
7. Debarment and Suspension from Contracting

The NJMC has reviewed the current rules within Chapter 3 and has determined that the rules remain necessary, reasonable, adequate, efficient, understandable and responsive for the purpose for which they were originally promulgated, with a proposed repeal of N.J.A.C. 19:3-6 regarding affordable housing administration responsibilities of the NJMC, described in detail within the summary for Subchapter 6 below. No other amendments are proposed to Chapter 3 upon readoption.

The current rules remain necessary as they provide the basis for the NJMC's administrative procedures. In the absence of such rules, the NJMC would be unable to conduct rulemaking activities, establish redevelopment areas, provide for the District's participation in the National Flood Insurance program, provide procedures for complaints regarding violation of Americans with Disabilities Act (ADA) accessibility laws, or provide procedures for professional services contracts and debarment and suspension from contracting.

### **Subchapter 1. Rulemaking**

N.J.A.C. 19:3-1: This subchapter contains the rulemaking procedures of the NJMC and sets forth the procedures regarding petitions to amend the rules and Official Zoning Map of the NJMC. This subchapter was originally promulgated pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-4(f). The Act authorizes interested persons to petition a State agency to promulgate, amend or repeal a rule, and directs State agencies to set forth the procedure for submission and consideration of such petition. N.J.A.C. 1:30-4.1(b) requires each agency to prescribe, by rule, the form of a petition and the procedures for its submission. No amendments are proposed upon reoption.

### **Subchapter 2. Flood Insurance**

N.J.A.C. 19:3-2: This subchapter describes the NJMC's participation in the National Flood Insurance Program (NFIP) and the procedures for securing coverage therein, in order to guarantee the availability of flood insurance to all property owners within the District. The rules set forth the duty of the NJMC to review all permit applications for new construction or substantial improvements to determine whether the proposed building sites and the associated infrastructure will be reasonably safe from flooding and sets forth the responsibilities of the NJMC to 1) implement and coordinate the Federal Flood Insurance Program; and 2) furnish information to Federal and State officials and the NFIP regarding first floor elevations and lowest opening elevations into basements of new buildings to be constructed in a special flood hazard area. No changes are proposed upon reoption.

### **Subchapter 3. Disability Discrimination Procedure**

N.J.A.C. 19:3-3: The adoption of these rules satisfies compliance with the Americans with Disabilities Act (ADA), 42 U.S.C. §§12101 et seq., and includes an internal grievance procedure for persons with complaints or questions regarding NJMC's compliance with the ADA. No amendments are proposed upon reoption. Pursuant to N.J.S.A. 52:14B-5.1e and Executive Order No. 66 (1978), Subchapter 3 is exempt from expiration as Federally-required rules.

### **Subchapter 4. Professional Services Contracts**

N.J.A.C. 19:3-4: This subchapter outlines the procedures for the procurement of contracts for professional services, including qualification, notification and selection criteria. The rule provides procedures for awarding contracts to architectural, engineering and land surveying firms for services in excess of \$ 25,000, subject to the procurement provisions of N.J.S.A. 52:34-9.1. No amendments are proposed upon reoption.

### **Subchapter 5. Redevelopment Areas**

N.J.A.C. 19:3-5: This subchapter outlines the procedures required to establish redevelopment areas in the District. It provides the criteria for establishing redevelopment areas, the requirements for public notification, the procedures to be followed when adopting a plan, and the required contents of a redevelopment plan, as authorized by N.J.S.A. 13:17-20 and 2. The rules also provide procedures for amending redevelopment areas. The NJMC rules are based, in part, on the provisions of the Local Redevelopment and Housing Law (LRHL), N.J.S.A. 40A:12A-1 et seq. No amendments are proposed upon reoption.

### **Subchapter 6. Affordable Housing**

N.J.A.C. 19:3-6: This subchapter contains rules particular to the administrative procedures of the NJMC with respect to affordable housing. The rules were created to promote the production of affordable housing units in the District's constituent municipalities. The rules, which became effective on February 5, 2007, were originally promulgated to ensure that municipalities are able to satisfy their affordable housing obligations in a manner consistent with the New Jersey Council on Affordable Housing (COAH)'s third round rules. In a decision dated January 25, 2007 (*In the Matter of the Adoption of N.J.A.C. 5:94 and 5:95 by the New Jersey Council on Affordable Housing*, 390 N.J. Super. 1 (App. Div. 2007), certif. den. 192 N.J. 71 (2007)), the Appellate Division of the New Jersey Superior Court affirmed in part, reversed in part, and remanded portions of COAH's third round rules back to COAH for rulemaking. The remanded portions included elements upon which the NJMC's new affordable housing rules were based. In a separate decision, issued May 21, 2007, the Appellate Division affirmed that the NJMC is authorized to affirmatively plan for affordable housing in the **Meadowlands** District. *IMO Adoption of N.J.A.C. 19:3*, 393 N.J. Super. 173 (App. Div. 2007). COAH subsequently adopted amended rules which became effective on June 2, 2008, and proposed revisions to the amended rules on June 16, 2008. On July 17, 2008, Assembly Bill No. 500/Senate Bill No. 1783 was signed into law, which revises various parts of the statutory law governing affordable housing. The aforementioned regulatory and statutory changes have significantly altered the State of New Jersey's affordable housing policies and requirements; consequently, the existing NJMC rules governing affordable housing within this subchapter are no longer reasonable, adequate and responsive for the purpose for which they were originally promulgated. Therefore, this subchapter is proposed to be repealed. NJMC staff is developing new affordable housing rules that are consistent with these changes, which will be proposed within a separate notice of proposal.

#### **Subchapter 7. Debarment and Suspension from Contracting**

N.J.A.C. 19:3-7: This subchapter provides conditions, procedures, period and scope of suspension and debarment of contractors. The rules apply to existing practices and procedures of the NJMC that concern prequalification for State contracting. No amendments are proposed upon readoption.

#### **Chapter 4. District Zoning Regulations**

Chapter 4 sets forth the rules particular to the development of land in the District. This chapter is divided into the following 12 subchapters:

1. Intent and Purpose of District Zoning Regulations;
2. Intent, Word Usage, and Definitions;
3. Application of Regulations;
4. Administration;
5. Districts, Uses and Standards;
6. Supplemental Requirements;
7. Performance Standards;
8. Site Plan Requirements;
9. Floodplain Management;
10. Project Impact Assessment;
11. Fee Schedule; and

## 12. Affordable Housing.

The NJMC has reviewed the current rules within Chapter 4 and determined that the rules remain necessary, reasonable, adequate, efficient, understandable and responsive for the purpose for which they were originally promulgated, with amendments, repeals and new rules proposed to clarify existing rules and update procedures. The rules remain necessary as they provide the basis for the NJMC's ability to regulate land use and development of the Hackensack Meadowlands District.

### **Subchapter 1. Intent and Purpose of District Zoning Regulations**

This subchapter provides the purposes of the Commission's zoning regulations. The purposes of the District's zoning regulations remain valid. They include provisions to provide for the orderly and comprehensive development of the District; consider the ecology of the District in order to protect the delicate environmental balance therein; promote the conservation of open space and valuable natural resources; prevent sprawl and degradation of the environment through improper use of land; preserve an ecological balance between natural and open areas and development; promote the establishment of appropriate population densities; provide sufficient space in appropriate locations for a variety of uses; provide that such uses are suitably sited; and promote development in accordance with good planning principles that relates the type, design and layout of such development to both the particular site and surrounding environs. These purposes provide the foundation for the District Zoning Regulations, and remain necessary, reasonable, adequate, efficient, understandable and responsive for the purpose for which they were originally promulgated. No amendments are proposed upon readoption.

### **Subchapter 2. Intent, Word Usage and Definitions**

This subchapter defines the terms used throughout the District Zoning Regulations, and, therefore, is a necessary component of the rules. N.J.A.C. 19:4-2.1 contains provisions for intent and word usage, including frequently used abbreviations and acronyms for relevant terms used in the construction of these regulations. N.J.A.C. 19:4-2.2 defines the terms used throughout the District Zoning Regulations, including detailed definitions of land use and engineering terms. The subchapter is proposed to be amended upon readoption as follows:

N.J.A.C. 19:4-2.1(a)11 is proposed to be amended by adding the words "and its staff" to clarify the definition of the words "New Jersey Meadowlands Commission" and "NJMC" to mean a public body corporate and politic, constituting a political subdivision of the State of New Jersey, as defined in N.J.S.A. 13:17-1 et seq., and its staff. This amendment is proposed to clarify the intent of the regulations to distinguish between actions of the NJMC and the Board of Commissioners, defined at N.J.A.C. 19:4-2.1(a)12. The Board of Commissioners is required to act when specifically referenced within a particular rule, whereas references to decisions made by the NJMC is intended to refer to decisions by NJMC staff.

N.J.A.C. 19:4-2.1(a)13 is proposed to be amended to provide the correct statutory citations for the definition of the word "District."

N.J.A.C. 19:4-2.1(a)16 is proposed to be amended to clarify that the Secretary of the NJMC shall be the Executive Director of the NJMC, as established by N.J.S.A. 13:17-5.

N.J.A.C. 19:4-2.1(b)1, Table 2-1, entitled "Frequently Used Abbreviations and Acronyms," is proposed to be amended to provide that the term "ASTM" means American Society for Testing and Materials. Also known as ASTM International, this organization provides technical standards for materials, products, systems, and services. ASTM International offices are located at 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428-2959.

N.J.A.C. 19:4-2.2, Definitions, is proposed to be amended as follows:

The term "health center" is proposed to be amended to "health care center" to more appropriately describe the use.

The word "kennel" is proposed to be added to define a facility operated for the purpose of boarding and/or breeding customary household pets, in response to various inquiries from the public inquiring about such use. N.J.A.C. 19:4-3.13 states that any use not specifically permitted is specifically prohibited; therefore, kennels are proposed to be permitted in the Light Industrial A and Light Industrial B zones, as proposed elsewhere in this notice of proposal.

The term "lot coverage" is proposed to be amended to clarify that awnings and canopies must be included in lot coverage calculations.

Definitions for three types of restaurants are provided to clarify the existing parking requirements for restaurants at N.J.A.C. 19:4-8.4(a)56 within Table 8-1. The term "restaurant, carry-out" is proposed to mean an establishment where food and/or beverages are prepared within the principal structure on a lot and predominantly taken out and consumed elsewhere. The term "restaurant, fast food" is proposed to mean a sit-down or carry-out restaurant where food and/or beverages are purchased prior to consumption and consumed either within the establishment or taken out and consumed elsewhere; where food is typically served in disposable packaging; where trash receptacles are available in public areas; where no waiter service is available; and which may contain a drive-through facility, where permitted. The term "restaurant, sit-down" is proposed to mean an establishment where food is prepared, served and consumed primarily within the principal structure on a lot.

The term "veterinary facility" is proposed to be added to define an establishment where domestic animals are admitted for examination and treatment by one or more veterinarians, and which may include accessory boarding on a temporary basis, in response to various inquiries from the public inquiring about such use. N.J.A.C. 19:4-3.13 states that any use not specifically permitted is specifically prohibited; therefore, a veterinary facility is proposed to be permitted in the Neighborhood Commercial zone, as proposed elsewhere in this notice of proposal.

### **Subchapter 3. Application of Regulations**

This subchapter provides for the areas to which the zoning regulations apply, in terms of boundaries, rights-of-way, yards, easements, and bulk regulations. The subchapter also sets forth exemptions from the District Zoning Regulations, including maintenance and repair work within railroad and roadway rights-of-way (ROWs), certain municipal projects, and includes provisions for municipal review regarding one, two, and three family residences in the District. The rules also provide that the Official Zoning Map of the NJMC is a part of the District Zoning Regulations and lists the zones that comprise the Hackensack **Meadowlands** District. The subchapter provides for temporary uses and structures, procedures for establishing a zoning lot of record, and easement requirements. The subchapter is proposed to be amended as follows:

N.J.A.C. 19:4-3.2 Exemptions: A new paragraph (a)6 is proposed to be added to provide an exemption for site improvements that are constructed to compensate for loss of function of a property when takings by a public entity occur during construction of a public project. For example, a private property may lose a row of parking spaces as a result of a road widening. This exemption would allow the impacted parking spaces to be relocated elsewhere on the property, although they may not comply with every site improvement standard of N.J.A.C. 19:4-8. However, the NJMC would retain review rights to the proposed relocation of improvements to ensure that such site improvements will consist only of the improvements required to restore functional use of the property. Any improvements in excess of the minimum requirements would require a zoning certificate.

N.J.A.C. 19:4-3.8, Affordable housing, is a proposed new rule, originally adopted by the NJMC on February 17, 2004, in recognition of the need for affordable housing in and around the **Meadowlands** area. This rule was subsequently repealed when the NJMC promulgated comprehensive affordable housing rules on February 5, 2007, which are proposed to be repealed in this notice of proposal. The original rule is amended to remove the statement that the NJMC merely encourages affordable housing development, in acknowledgement that affordable housing is a constitutional obligation. The rule is proposed to provide for an interim affordable housing rule due to the repeal of the NJMC's affordable housing rules in this notice of proposal and COAH's recent adoption of revised third round rules,

effective June 2, 2008. This action is consistent with the May 21, 2007 decision of the Appellate Division regarding the NJMC's obligation to provide affordable housing, in which the Appellate Division stated the following regarding use of the original rule, referred to as the interim rule: "[We] are satisfied that the Commission's interim response to the court-ordered reworking of COAH's third round rules is reasonable because until the third round rules are resolved, the obligations of the Commission's constituent municipalities are unknown. In other words, although we are convinced that the Commission has a constitutional responsibility to plan and zone for affordable housing to a far greater extent than is allowed by the interim rule, we are also satisfied that its planning and zoning should be based on the obligations of its constituent municipalities under the Mount Laurel doctrine and the FHA as administered by COAH. . . Since deference is particularly appropriate when an agency is construing and implementing a new statute, *In re Adoption of N.J.A.C. 7:26B, 128 N.J. 442, 452, 608 A.2d 288 (1992)*, it is certainly called for when an agency is asked to coordinate its actions with rules that have been rejected by a court and are in the process of being redone, as is the situation with COAH's third round rules." *IMO Adoption of N.J.A.C. 19:3, 393 N.J. Super. 173, 182 (App. Div. 2007)*. The rule is intended to offer the municipalities within the District additional options to meet their affordable housing allocations, including the option of requesting the rezoning of properties that may be suitable for affordable housing in the District. NJMC staff is developing new affordable housing rules, which will be proposed within a subsequent notice of proposal, that shall be consistent with COAH's newly adopted third round rules, proposed amendments to the COAH third round rules, and Assembly Bill No. 500/Senate Bill No. 1783, signed into law on July 17, 2008.

**N.J.A.C. 19:4-3.19 Yard designation:** This section is proposed to be amended regarding required setbacks from public rights-of-way. NJMC rules define a front lot line as the lot boundary line separating a lot from a public right-of-way. Front yard setback requirements, therefore, apply to lot boundary lines abutting a right-of-way. However, in the implementation of this rule, NJMC staff has determined there are certain situations where it would not be appropriate to apply front yard setback requirements. Therefore, subsection (d) is proposed to be added to provide for situations where a lot line abuts a railroad right-of-way, the lot line shall not be considered a front lot line. Side or rear yard setback requirements would apply. Subsection (e) is proposed to be added, stating that where a lot line abuts a right-of-way, where the improved edge of the right-of-way is grade separated from a front lot line or front yard, and from which there can be no reasonable access from the right-of-way due to such grade separation, the Chief Engineer may determine that such lot line or yard shall not be considered a front lot line or front yard. For example, this rule would provide that front yard setback requirements would not apply to a property line which adjoins a roadway situated above a cliff, where the grade of the cliff is so steep that the property would not be visible from such right-of-way and access could never be provided to or from that right-of-way. Side or rear yard setback requirements would apply.

**N.J.A.C. 19:4-3.22 Zoning lot of record:** This section is proposed to be amended to delete a portion of paragraph (a)2 that states "Any nonconformity resulting from the elimination of the zoning lot of record shall be classified as an existing legal nonconformity." This provision does not provide a procedure or permissible situations where a zoning lot of record may be eliminated, but would allow a zoning lot of record to be created that may result in the creation of nonconformities that would otherwise have required variances to be obtained. The ability to create and subsequently eliminate a zoning lot of record should not be utilized to circumvent the variance process. Therefore, subsections (b) and (c) are proposed to be added to address this situation. Subsection (b) is proposed to provide that a zoning lot of record agreement shall not be considered concurrently with an application for subdivision, in order to prevent nonconforming lots from being created without obtaining a variance. Subsection (c) is proposed to provide that a zoning lot of record may only be eliminated upon approval by the Chief Engineer pursuant to resubdivision of property that creates a conforming lot or lots, or as otherwise approved by the Chief Engineer in accordance with sound planning practice. A zoning lot of record shall not be eliminated in cases where nonconformities were created or intensified after the execution of the zoning lot of record, since any perceived hardship would be self-created.

#### **Subchapter 4. Administration**

This subchapter provides the application procedure for the development of land or occupancy of structures in the District, and remains a vital and necessary component of the District Zoning Regulations. This section includes

procedures and technical requirements for applications for zoning certificates, occupancy certification, special exception, and variance applications; public notice and hearing requirements; and appeals. The following amendments are proposed upon reoption:

**N.J.A.C. 19:4-4.4 Application for zoning certificate; technical requirements:** Subsection (a) is proposed to be amended to provide additional requirements for a survey, to aid in development review by ascertaining the existing conditions of a property in greater detail than the regulations currently provide. Additional requirements include the location and configuration of structures; waterways, wetlands, drainage ditches, and drainage structures or systems; easements; utilities; and, vehicular use areas. The proposed amendment also provides a datum standard, requiring that horizontal datum shall conform to North American Datum of 1983 (NAD83) and vertical datum shall conform to North American Vertical Datum of 1988 (NAVD88), in Stateplane feet. The datum, both incorporated by reference, is provided by the National Geodetic Survey of the National Ocean Service. Information regarding the datum may be obtained from NGS Information Services, NOAA, N/NGS12, National Geodetic Society, SSMC-3, #9202, 1315 East-West Highway, Silver Spring, MD 20910-3282. Sub-subparagraph (d)1i(1) is proposed to be amended to delete the reference to the NGVD datum, which references the National Geodetic Vertical Datum (NGVD) of 1929, since the proposed amendment specifies the required datum. A conversion factor is available to convert the NGVD datum to NAVD88 datum. Sub-sub-subparagraph (d)6iii(3)(N), regarding recommendations for monitoring of the fill/stockpile operation within the required geotechnical investigation report, is proposed to be amended to delete that "settlement plates, inclinometers, etc." shall be included in the report, and is amended to state that quality assurance procedures, in addition to quality control, shall be provided. Settlement plates and inclinometers are selected items that may be utilized to assure quality control during a fill/stockpile operation. This amendment would allow an applicant to recommend specific quality assurance and control measures that would permit, but would not require, use of settlement plates or inclinometers as a component of the recommended monitoring. The amendment would provide increased flexibility in the rule's implementation, as use of items other than, or in addition to, settlement plates or inclinometers may be appropriate, based on the details of a particular fill/stockpile operation.

**N.J.A.C. 19:4-4.5 Review and approval of application for zoning certificate:** Subsection (e) is proposed to be amended to provide that the Chief Engineer shall sign and issue a zoning certificate. The Chief Engineer's approval shall constitute the approval of the NJMC without further action required by the Board of Commissioners. This amendment is proposed to clarify the rule and is consistent with existing procedures for issuing zoning certificates. Existing subsection (g) is proposed to be recodified as subsection (h). New subsection (g) is proposed to provide that multiple applications for zoning certificate approval for a specific property depicting alternate development scenarios shall not be considered by the NJMC, and that a zoning certificate application for development significantly different from a prior valid zoning certificate application or approval shall be superseded by the new application. Exceptions are proposed for minor applications, such as signs, fences, guard sheds, and sheds. For example, an applicant would be prevented from applying for a zoning certificate for a new warehouse building and a new restaurant at the same location at the same time. Such dual applications negatively impact the NJMC's ability to appropriately review and accurately assess and plan for the probable impacts of a development.

**N.J.A.C. 19:4-4.6 Period of validity:** This section is proposed to be amended to clarify that the five extensions of annual zoning certificates are based upon the date of issuance of the original zoning certificate. This amendment would clarify that extensions are not based on the date of any revised zoning certificates.

**N.J.A.C. 19:4-4.7 Certificate of completion:** Subsection (b) is proposed to be amended to provide detailed survey requirements for an as-built survey, including bearings and distances of all property lines; block and lot designations; acreage of the site to the nearest tenth of an acre; adjacent property lines within 200 feet of the subject property; all areas claimed by the State of New Jersey as riparian, now or formerly, including any grants or releases; the location of any structures, including building footprint, dimensions, height, setbacks, and lowest floor elevation; the location of any waterways, wetlands, drainage ditches, and drainage structures or systems; the location of all utilities; the location of any easements; the site topography, including spot elevations; and the location and layout of vehicular use areas. The amendment also provides that a digital copy of the survey shall be provided in AutoCAD-compatible format when

prepared digitally. The amendment is proposed to clarify the required contents of an as-built survey, and is based upon the survey and plan requirements in N.J.A.C. 19:4-4.4.

**N.J.A.C. 19:4-4.8 Occupancy certification:** This rule is proposed to be amended to clarify situations when new occupancy certification is required by the NJMC. Subsection (b) is proposed to require that, although the NJMC must be notified of any change of property owner upon transfer of ownership, new occupancy certification is not required, unless a change in occupancy or occupant name change is proposed. In such cases, new occupancy certification shall be required.

**N.J.A.C. 19:4-4.12 Interpretations:** This section is proposed to be repealed. This rule, effective February 17, 2004, intended to provide the opportunity for an interested party to submit a written request for an interpretation of the Official Zoning Map and the regulations. The implementation of this rule has proved ineffective and contrary to its original intent to promote an efficient development process. The NJMC staff shall continue to provide interpretations in an informal and nonbinding manner, and proposes a new section for zoning compliance letters, immediately below, to provide information for a specific property regarding existing and former conditions, rather than generalized interpretations.

**N.J.A.C. 19:4-4.12 Zoning compliance letters:** The section is proposed to be added to provide zoning compliance letters for the zoning status of a particular property. The letter may include information, such as the identification of the zone in which the property is located; the identification of the current approved use and/or occupancy of the property in question; whether such use is permitted in the zone or is a preexisting nonconformity; and/or the identification of any known current violations. Such letters are often requested by lenders for the sale, refinance, or purchase of property. A fee for a zoning compliance letter is proposed in N.J.A.C. 19:4-11.2 herein.

**N.J.A.C. 19:4-4.13 Special exception uses:** This section is proposed to be amended to provide a review and approval procedure for special exception uses similar to the current variance review and approval procedures amended on July 5, 2005, in response to a July 15, 2004 decision by the Superior Court of New Jersey Appellate Division in *In re Amico/Tunnel Carwash*, 371 N.J. Super 199 (App. Div. 2004) docket number A-4656-02T5, which decided that "although the [New Jersey Meadowlands Commission] NJMC may assign its staff responsibility to assemble information relevant to a variance application and to conduct any hearing that may be appropriate and make recommendations based on the record at such a hearing, the final decision whether to grant or deny a variance application must be made by the members of the NJMC themselves." *Id. at 215*. The amendments are proposed to standardize the review procedure for both types of uses, which require a public hearing and a written decision, in order to streamline the review process. This amendment would particularly remedy the inefficiencies that result from situations where one application requires both special exception and variance approvals.

The proposed amendment requires the NJMC Board of Commissioners to decide special exception uses upon a joint recommendation of the Executive Director and Director of Land Use Management. The Executive Director's former decision will now be a recommendation of decision. The criteria under which a special exception may be granted are not proposed to be changed upon reoption. Specifically, existing subsections (f) through (n) are proposed to be deleted. New subsection (f) provides that the NJMC staff must forward a copy of the record of the matter to the Board of Commissioners for review upon the close of the public record and within one week after the receipt of transcripts. The proposed subsection ensures that the Board of Commissioners will receive the application, exhibits, and transcripts in a timely manner for review.

Proposed subsection (g) sets forth that a comprehensive report containing findings, conclusions, and/or recommendations regarding the special exception must be prepared by the NJMC staff and signed by both the Executive Director and the Director of Land Use Management within eight weeks of the close of the public hearing. This change shortens the staff review time, since the former regulation required only that the report be issued to the Executive Director within eight weeks. The rule is thus revised to slightly offset the increased time added to the review process by the proposed amendment, and to identify the Executive Director's signature as a recommendation of decision.

Proposed subsection (h) sets forth that a copy of the report shall be forwarded to the applicant for review. The applicant is provided the opportunity to appeal the recommendation to the Office of Administrative Law, in accordance with the existing appeal procedure set forth in N.J.A.C. 19:4-4.19. Under the former procedure, the contents of the report were not public until after a decision on the special exception was made. The new procedure will allow for a more open process.

Proposed subsection (i) sets forth that, after the appeal period, the report must be forwarded to the Board of Commissioners for review and that the matter be placed on the agenda of the next available meeting of the Board of Commissioners in accordance with statutory notice requirements.

Proposed subsection (j) sets forth that the date of the meeting of the Board of Commissioners at which the special exception application will be decided shall be forwarded to the applicant by certified mail. The proposed subsection ensures the applicant is notified of the date of decision of the proposed special exception.

Proposed subsection (k) sets forth that the Board of Commissioners shall decide the special exception by a concurring vote of a majority of its members. Proposed paragraphs (k)1 and 2 are substantially similar to existing subsection (g), which sets forth that the decision on the special exception may impose certain conditions, and that failure to comply with the conditions constitutes a violation. The ability to place conditions on an approval, and impose violations on failure to comply with any conditions, remains consistent with current rules and procedures.

Proposed subsection (l) requires that the decision of the Board of Commissioners be memorialized by a formal written resolution to be adopted at the meeting at which the variance is decided. The subsection is proposed to establish a written record of the matter.

Proposed subsection (m) requires that a copy of the decision be transmitted to the applicant and also requires the Board of Commissioners to advise the applicant that the decision of the Board of Commissioners may be appealed, in accordance with the NJMC's appeals rules, to the Superior Court of New Jersey Appellate Division.

Proposed subsection (n) is proposed to prohibit any attempt to influence a decision of the Board of Commissioners or the NJMC staff in order to preserve the ethics of the proceedings.

Proposed subsection (o) is a revision of existing subsection (m) to extend the validity of special exception approvals to five years. Currently, special exception approvals are valid for one year. However, proposed subsection (p), a revision of existing subsection (n), is proposed to eliminate extensions of special exception approvals, which were permitted annually for a maximum of five years. Therefore, the provisions remain substantially similar. The proposed new subsections seek to avoid the added cost and administrative burden of requiring a vote of the Board of Commissioners to renew special exception approvals on an annual basis.

**N.J.A.C. 19:4-4.17 Public hearings:** Subsection (j) is proposed to be amended to state that, in cases where the Chief Engineer has waived a public hearing, the Chief Engineer may require a public hearing if there is sufficient public interest in the application during the comment period. This ensures the public has adequate opportunity to comment.

**N.J.A.C. 19:4-4.19 Appeals:** This section is proposed to be amended to add special exception uses to the applicable appeal procedures for variances in response to amendments proposed to N.J.A.C. 19:4-4.13 that align the special exception review and approval procedures to variance review and approval procedures.

## **Subchapter 5. Districts, Uses And Standards**

This subchapter outlines the different zones that comprise the Hackensack **Meadowlands** District and provides the use and bulk requirements for the development and occupancy of land therein. The zones and their respective purposes are detailed below:

| Zone                            | Purpose  |
|---------------------------------|--|
| ----                            | -----  |
| Environmental Conservation (EC) | Designed to preserve and enhance ecological values and encourage scientific and educational study in regard to District ecology.   |
| Park and Recreation (PA)        | Designed to provide for the management and appropriate use of public open space and recreation facilities.   |
| Waterfront Recreation (WR)      | Designed to accommodate marinas and other water-oriented commercial and recreation facilities that encourage public access to the Hackensack River.  |
| Low Density Residential (LDR)   | Designed to provide for the development and preservation of low-density residential uses, and provide for the development of other uses compatible with the character of the neighborhood. |
| Planned Residential (PR)        | Designed to accommodate high-density residential development that provides a mix of housing types and small-scale commercial uses for the needs and convenience of residents.              |
| Neighborhood Commercial (NC)    | Designed to accommodate commercial uses proximate to residential areas at an appropriate scale.  |
| Commercial Park (CP)            | Designed to accommodate commercial mixed-use developments in compact centers.  |
| Regional Commercial (RC)        | Designed to accommodate a range of large-scale commercial development proximate to major roadways, and the commercial core of the District.  |
| Highway Commercial (HC)         | Designed to accommodate commercial uses oriented to highways.  |

|                            |   |
|----------------------------|---|
| Aviation Facilities (AF)   | Designed to accommodate airport and aviation uses and those uses customarily associated with or that benefit from proximity to such facilities.   |
| Light Industrial A (LI-A)  | Designed to accommodate on large lots a range of industrial, distribution, commercial and business uses that generate a minimum of detrimental environmental effects.   |
| Light Industrial B (LI-B)  | Designed to accommodate a wide range of industrial, distribution, and commercial uses that generate a minimum of detrimental environmental effects.   |
| Intermodal A (IA)          | Designed to accommodate transportation facilities that are located proximate to rail lines in the District and whose operations are related to port and rail import activities.   |
| Intermodal B (IB)          | Designed to accommodate high-intensity transportation facilities that are located proximate to rail lines and whose operations are related to port and rail import activities, and also to accommodate uses related to the construction industry. |
| Heavy Industrial (HI)      | Designed to accommodate intensive industrial, utility and commercial uses for which there are few provisions in other industrial zones.   |
| Public Utilities (PU)      | Designed to accommodate heavy public utility and intermodal uses.   |
| Sports and Exposition (SE) | Designed to accommodate major spectator sport and exposition uses and related uses built under the jurisdiction of the New Jersey Sports and Exposition Authority (NJSEA).  |

|                               |   |
|-------------------------------|---|
| Transportation Center<br>(TC) | Designed to accommodate a major commuter transfer center and associated uses.   |
| Redevelopment Areas<br>(RA)   | Designed to ameliorate conditions of deterioration, deficiencies and obsolescence that limit development and pose a threat to the health, safety, morals, and welfare of the community. |

These zones provide for a variety of environmental, residential, commercial, industrial and public uses, and are represented on the Official Zoning Map by varying colors corresponding to the intensities of the use. No changes are proposed to the zoning of any specific property within this notice of proposal. These zones remain necessary, reasonable, adequate, efficient, understandable and responsive for the above-stated purposes for which they were originally promulgated, with the following amendments proposed to this subchapter upon readoption:

**N.J.A.C. 19:4-5.2 General provisions:** Paragraph (a)8, which provides that the bulk, layout, and design requirements in N.J.A.C. 19:4-12.8 through 12.11 shall apply in cases where development includes housing to meet municipal growth share obligations in N.J.A.C. 19:4-12, is proposed to be deleted, pursuant to the proposed repeal of N.J.A.C. 19:4-12 within this notice of proposal.

**N.J.A.C. 19:4-5.15 Parks and Recreation zone; special exception uses:** This section sets forth the special exception uses in the Parks and Recreation zone. Paragraph (a)3 permits, as a special exception use, "[the] construction, maintenance and use of any structures and improvements, including retail, essential for and used solely in conjunction with the operation and maintenance of any permitted use." This paragraph is proposed to be deleted in order to preserve parkland within the District.

**N.J.A.C. 19:4-5.27 Low Density Residential zone; special exception uses:** Paragraph (a)2 is proposed to be amended to change the words "health centers" to "health care centers," pursuant to the proposed amendment of this definition in N.J.A.C. 19:4-2.2.

**N.J.A.C. 19:4-5.33 Planned Residential zone; permitted uses:** Paragraph (a)5 is proposed to be amended to change the words "health centers" to "health care centers," pursuant to the proposed amendment of this definition in N.J.A.C. 19:4-2.2.

**N.J.A.C. 19:4-5.39 Neighborhood Commercial zone; permitted uses:** Paragraph (a)9 is proposed to be amended to change the words "health centers" to "health care centers," pursuant to the proposed amendment of this definition in N.J.A.C. 19:4-2.2. Paragraph (a)15 is proposed to be amended to change "Residential dwellings, accessory to a permitted use," to "Residential dwellings included within a mixed-use structure." This amendment is proposed to clarify the intent of the regulation, as the existing regulation may be interpreted to mean that the occupant of the permitted use would be required to reside in the accessory dwelling. The true intent is to provide for mixed use development, where residences would be located above the ground level or first floor of a structure. A proposed amendment to the zone's use limitations in N.J.A.C. 19:4-5.41 further clarifies this intent. Paragraph (a)19 is proposed to be added to include veterinary facilities, proposed as a new definition in N.J.A.C. 19:4-2.2, as a permitted use in the Neighborhood Commercial zone, as NJMC staff has determined the subject zone is an appropriate location to accommodate this use.

**N.J.A.C. 19:4-5.41 Neighborhood Commercial zone; use limitations:** New paragraph (a)5 is proposed to add a use limitation that no residential dwelling units within a mixed-use structure shall be permitted to be located at the

ground or first floor level of a structure, in accordance with the proposed amendment to the permitted use in N.J.A.C. 19:4-5.39(a)15.

**N.J.A.C. 19:4-5.46 Commercial Park zone; permitted uses:** Paragraph (a)6 is proposed to be amended to change the words "health centers" to "health care centers," pursuant to the proposed amendment of this definition in N.J.A.C. 19:4-2.2.

**N.J.A.C. 19:4-5.52 Regional Commercial zone; permitted uses:** Paragraph (a)8 is proposed to be amended to change the words "health centers" to "health care centers," pursuant to the proposed amendment of this definition in N.J.A.C. 19:4-2.2.

**N.J.A.C. 19:4-5.73 Light Industrial A zone; permitted uses:** This section is proposed to be amended to add kennels as a permitted use in the Light Industrial A zone at paragraph (a)12. Kennels are proposed as a new definition in N.J.A.C. 19:4-2.2. NJMC staff has determined the subject zone is an appropriate location to accommodate this use. The amendment proposes to recodify existing paragraphs (a)12 through 23 as (a)13 through 24 as a result of this insertion.

**N.J.A.C. 19:4-5.74 Light Industrial A zone; special exception uses:** Paragraph (a)8 is proposed to be amended to change the words "health centers" to "health care centers," pursuant to the proposed amendment of this definition in N.J.A.C. 19:4-2.2.

**N.J.A.C. 19:4-5.80 Light Industrial B zone; permitted uses:** This section is proposed to be amended to add kennels as a permitted use in the Light Industrial B zone at paragraph (a)16. Kennels are proposed as a new definition in N.J.A.C. 19:4-2.2. NJMC staff has determined the subject zone is an appropriate location to accommodate this use. The amendment proposes to recodify existing paragraphs (a)16 through 26 as (a)17 through 27 as a result of this insertion.

**N.J.A.C. 19:4-5.81 Light Industrial B zone; special exception uses:** Paragraph (a)5 is proposed to be amended to change the words "health centers" to "health care centers," pursuant to the proposed amendment of this definition in N.J.A.C. 19:4-2.2.

**N.J.A.C. 19:4-5.124 Schedule of lot size requirements and bulk regulations:** Table 4-1 is proposed to be amended to correct incorrect entries and to update the table pursuant to amendments to certain zones. The entry for minimum open space in the Highway Commercial (HC) zone is incorrectly shown as 5 percent; the amendment proposes to correct the minimum open space requirement in the Highway Commercial (HC) zone to 15 percent, pursuant to existing N.J.A.C. 19:4-5.63(a)2. Note 5 is proposed for amendment to correct the existing entry for maximum building height in the Neighborhood Commercial zone of 40 feet to 35 feet pursuant to N.J.A.C. 19:4-5.43(a)4. Note 6 is proposed to be amended to delete the erroneous entry of "rear side" yard to clarify that the minimum side yard shall be 10 feet. Requirements for the Transportation Center zone are proposed to be amended to reflect adopted changes to the Transportation Center zone in N.J.A.C. 19:4-5.121. Specific changes include amending the maximum lot coverage to 70 percent; providing a new Note 16 stating that the minimum setback from front lot line for commercial off-street parking uses is 20 feet; recodifying existing Note 16 as Note 17 and stating that the maximum floor area in the zone is 4.7 million gross square feet for projects proceeding in accordance with approvals issued by the NJMC prior to February 17, 2004, and a maximum FAR of 4.0 for commercial off-street parking uses, where one square foot of every two square feet of floor area shall apply to the FAR calculation.

## **Subchapter 6. Supplemental Requirements**

This subchapter provides for requirements supplemental to the administration and use standards of the regulations. It includes provisions for nonconforming lots, uses and structures; historic preservation and cultural resources; retail sale and outdoor events; property maintenance requirements; and providing incentives for "green" building practices in accordance with U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) guidelines to promote sustainable development. The following amendments are proposed upon readoption:

**N.J.A.C. 19:4-6.3 Retail sale events:** New subparagraph (c)5iii is proposed to be added to provide that sales held exclusively for the benefit of nonprofit organizations shall not be counted toward the total number of sale days permitted, in response to inquiries from property owners who held charitable events on site and did not receive any fees or revenue for holding the events. The NJMC proposes the amendment to avoid penalizing property owners who conduct such events and to encourage charitable activities in the District.

**N.J.A.C. 19:4-6.4 Outdoor events:** This section is proposed to be amended to delete paragraph (a)5 that requires the outdoor event to meet all applicable setbacks of the zone in which the property is located, and paragraph (a)7, which requires parking at the rate of one space for each 200 square feet of event area. These provisions were new regulations adopted on February 17, 2004, and proved burdensome upon implementation to applicants who, for example, wished to hold a company picnic on-site. Provisions to protect public safety and order continue in the rules, which require local police and fire officials to review and approve the events. As a result of the amendment, existing paragraph (a)6 is proposed to be recodified as paragraph (a)5, and existing paragraphs (a)8 through 10 are proposed to be recodified as paragraphs (a)6 through 8.

**N.J.A.C. 19:4-6.5 Property maintenance:** Paragraph (b)2 is proposed to be amended to add that preventative and corrective maintenance shall be required to maintain the function of stormwater management measures. The paragraph already provides that all drainage facilities, including ditches, basins, downspouts, gutters, inlets and pumps, shall be maintained in satisfactory operating condition and free of debris and siltation. The proposed amendment clarifies that both preventative and corrective maintenance is required. Subparagraph (b)4i is proposed to set forth that all dumpsters shall have covers, in response to numerous instances within the District where debris strewn from uncovered dumpsters has caused obstructions within drainage ditches or interfered with on-site circulation, causing public health and safety concerns.

## **Subchapter 7. Performance Standards**

This subchapter provides performance standards required to be met by development, including the standards for noise, vibrations, glare, airborne emissions, hazardous and radioactive materials, wastewater, and traffic. The following amendments are proposed upon readoption:

**N.J.A.C. 19:4-7.3 Performance standards; noise:** Subsection (c) is proposed to be amended to delete the words American National Standards Institute and provide only its acronym, ANSI, since it is previously referenced in subsection (a) of this rule.

**N.J.A.C. 19:4-7.6 Performance standards; hazardous materials, liquids and chemicals:** Subsection (b) is proposed to be amended to provide the correct citation for the New Jersey Right-to-Know Law, N.J.S.A. 34:5A-1 et seq. The previous citation, N.J.S.A. 47:1A-1, referenced the Open Public Records Act.

**N.J.A.C. 19:4-7.9 Performance standards; wastewater:** This section sets forth performance standards for wastewater, with amendments proposed to expand holding capacity and provide more specific installation standards. Subparagraph (b)1ii is proposed to be amended to provide that a wastewater facility shall be constructed using one or more tanks with a maximum capacity of 6,000 gallons per tank, which is larger than the current maximum size permitted, since 6,000 gallons would accommodate the maximum size of a tanker truck utilized to pump the facility. The amendment also expands holding capacity to 14 days, from five days currently permitted, to reflect the larger tank size permitted. Specific tank requirements are added to provide environmental standards for tanks, including provisions that tanks must have a vent and visible/audible high level alarm, and shall be aerated and properly anchored to prevent uplift. Tank installations must also be approved by the NJDEP, when required. The proposed amendment would also require that, within 90 days of availability of a public sanitary sewer, the temporary wastewater facility shall be decommissioned and removed, and inflows shall be redirected to the public sanitary sewer.

**N.J.A.C. 19:4-7.10 Performance standards; traffic:** This section is proposed to be amended by expanding the

existing criteria related to the process and contents required to be included in a traffic impact analysis (TIA). The proposed amendments first depict the trip generation threshold triggering a TIA to be the number of trips generated during any peak hour of adjacent street traffic, exclusive of any trip reduction credits. The amendments also make it clear that the locations and peak hours to be analyzed in the TIA shall be determined by the NJMC. A detailed description of the traffic volume documentations to be included in the TIA is provided in the amendments. The proposed amendments clarify the standards, methods and software packages that the capacity analysis shall use. The amended rule would require use of the Synchro 7 software package, prepared by Trafficware Ltd, P.O. Box 499, Sugar Land, TX 77487, which is incorporated by reference, as amended and supplemented. This software is utilized to analyze multiple signalized intersections along a corridor. A detailed description of the capacity analysis documentations to be included in the TIA is added to the section depicting capacity analysis. The regulations relating to the trip generation, distribution, modal split and assignment are expanded to include details of the standards and procedures that the TIA shall follow, and the required documentation to be included in the TIA. The ITE Trip Generation Handbook, Second Edition, incorporated by reference, as amended and supplemented, a copy of which can be obtained from the Institute of Transportation Engineers, 525 School Street, S.W., Suite 410, Washington, DC 20024 would be required to be utilized to calculate trip generation using the trip generation rates and/or formulas provided therein. This amendment would clarify that the Trip Generation Handbook is the appropriate resource to utilize in calculating trip generation, to avoid confusion with reference to the manual, Institute of Transportation Engineers (ITE) Trip Generation, 7th Edition in N.J.A.C. 19:4-7.10(a)2. The amendments expand the guidelines that the TIA shall follow in analyzing the existing, future no-build, and future build conditions. In determining the background growth rate for the future no-build conditions, the Annual Background Growth Rate Table, published by the New Jersey Department of Transportation (NJDOT), April 2007, incorporated by reference, as amended and supplemented, shall be used, instead of a flat two percent annual growth rate as required by the existing regulations. The NJDOT table provides rates based on road type and location; therefore, the proposed amendment would apply rates more appropriate to a specific situation than the current flat rate applied equally to all road types. The Annual Background Growth Rate Table may be obtained from the NJDOT, 1035 Parkway Avenue, PO Box 600, Trenton, NJ 08625-0600, or its website, <http://www.state.nj.us/transportation/>.

The regulations relating to the future build analysis are revised and expanded so that the written format of the procedures is parallel to that of the future no-build conditions. A detailed description of the documentations to be included in the TIA is added to each section relating to the existing, future no-build and future build conditions. Minor typographic discrepancies are also corrected in the proposed amendment.

### **Subchapter 8. Site Plan Requirements**

This subchapter outlines the site design requirements for development in the District. The rules include provisions for the design and arrangement of parking and loading areas, line-of-sight triangles, drainage, buffers, open space, landscaping, lighting, signage, site service improvements (such as mechanical equipment and refuse and recycling areas), and the placement of fill. This subchapter remains necessary, reasonable, adequate, efficient, understandable and responsive for the purpose for which it was originally promulgated, with amendments proposed upon readoption to clarify rules, update procedures and references, and address various inefficiencies and inconsistencies that became apparent since 2004 as the rules have been implemented.

**N.J.A.C. 19:4-8.2 Parking:** Paragraph (c)5 is proposed to be amended to clarify that, although asphalt or concrete are the generally accepted pavement types, use of pavement materials other than asphalt or concrete shall be subject to approval by the Chief Engineer. This amendment adds flexibility to the implementation of the rule and provides for review of technological advances in pavement materials. Sub-subparagraph (f)1i(1) is proposed to be amended to update the reference to Urban Land Institute's (ULI) Shared Parking Manual to the Second Edition, 2005, which is incorporated by reference, as amended and supplemented, and which may be obtained from the Urban Land Institute, 1025 Thomas Jefferson Street, N.W., Suite 500 West, Washington, DC 20007.

**N.J.A.C. 19:4-8.4 Parking and loading requirements:** Table 8-1 is proposed to be amended to provide new

parking and loading requirements for kennels and veterinary facilities, which are new definitions, and updated requirements for existing uses. In Table item 30, the words "health center" are proposed to be changed to "health care center" to reflect the amended definition for the use in N.J.A.C. 19:4-2.2. The parking requirement for Table item 39, Intermodal facility, is proposed to be amended to provide one space per 25,000 square feet of lot area used for intermodal operations and the cumulative parking requirement per additional use, as the existing requirement of one space per 1,000 square feet was vague and may be construed to apply only to structures on a site. The proposed amendment clarifies that parking is required for both the lot area being utilized for intermodal purposes, such as container storage, and for any other uses that may be provided on the site or within an enclosed structure, pursuant to the existing parking requirements in Table 8-1. A new Table item 40 is proposed to be added to require that kennels shall provide one parking space per employee, one space per facility vehicle, one space per 10 animals, and one loading space with a minimum dimension of 12 feet by 30 feet. Existing Table items 40 through 48 are proposed to be recodified as 41 through 49. A new Table item 50 is proposed to be added to require that outdoor storage uses shall provide one parking space per employee and one space per facility vehicle, whereas no parking was previously required for an outdoor storage use. Existing Table items 49 through 74 are proposed to be recodified as 51 through 76. A new Table item 77 is proposed to be added to require that a veterinary facility shall provide two parking spaces per examination or treatment room, one parking space per employee (including doctors and staff), and one loading space with a minimum dimension of 12 feet by 30 feet. Existing Table items 75 and 76 are proposed to be recodified as 78 and 79.

**N.J.A.C. 19:4-8.5 Line-of-sight triangle:** Subsection (a) is proposed to be amended to update the existing reference to the American Association of State Highway and Transportation Officials (AASHTO) manual, "A Policy on Geometric Design of Highways and Streets," to the Fifth Edition, 2004.

**N.J.A.C. 19:4-8.6 Drainage:** Subparagraph (b)3i is proposed to be amended to clarify that the Rational Method was developed solely for predicting peak flows and is thus suitable for storm sewer sizing. The Rational Method, as well as the Modified Rational Method, can not be properly applied to the accurate development of hydrographs, which depict varying flows over time. The NRCS's TR-55, however, has been accepted as standard engineering practice for the development of said hydrographs and remains in this section.

Table 8-2 Coefficients of Runoff Values is proposed to be amended to conform to the coefficient of runoff values referenced in the NJDOT Roadway Drainage Design Manual, dated August 2006, as amended and supplemented, which may be obtained from the New Jersey Department of Transportation, P.O. Box 600, Trenton, NJ 08625. The amendment is proposed in order to streamline data requirements and provide a consistent design standard reference among State agencies, since an applicant may be required to submit a drainage report that includes a runoff analysis to multiple State agencies. The proposed amendments result in increased runoff coefficient values in some instances, and decreases in others.

An amendment to clarify Manning's equation is proposed in Figure 8-3; carats are added between the base variables, AR and S, and the exponents,  $2/3$  and  $1/2$ , respectively.

Subparagraph (b)4viii is proposed to be amended to allow design professionals to discharge stormwater at grade, provided the design professional demonstrates that the discharge point is stable. Additionally, the amended rule would specify that, where maximum velocities exceed the allowable velocities for soil stability, as determined in the Standards for Soil Erosion and Sediment Control in New Jersey, N.J.A.C. 2:90, scour control shall be provided. The specified reference is a Statewide reference where the allowable velocities are listed. The NJMC regulations currently do not have a specified reference.

Subparagraph (b)4x is proposed to be amended to clarify that roof leaders and their respective receiving systems shall be sized to pass a minimum rainfall intensity per N.J.A.C. 5:23-3.15(b)12ii of the Uniform Construction Code (UCC), or the design storm intensity, whichever is greater. The addition of "or the design storm intensity, whichever is greater" will clarify which design storm event to use for the analysis because the NJMC design storm event is the

25-year storm event which is greater than the five-inch per hour storm event as dictated in the UCC.

Subparagraph (b)4xi is proposed to be added to specify that all concrete pipes shall be minimum ASTM Class III unless loading conditions require stronger pipe. The addition was required to specify the minimum concrete pipe class allowed in the District.

Subparagraph (b)4xii is proposed to be added to specify that the minimum depth of cover over the concrete pipe shall be in accordance with new Table 8-3, which is based on the standards of the American Concrete Pipe Association, 1303 West Walnut Hill Lane, Suite 305, Irving, Texas 75038. The addition of the reference and table will specify the minimum ground cover required for the different concrete pipe class. The amendment is proposed to ensure adequate cover over concrete piping to prevent potential damage to piping.

Subparagraph (b)4xiii is proposed to be amended to specify that the minimum depth of cover for ductile iron, polyvinyl chloride (PVC), and high-density polyethylene (HDPE) pipe shall conform to the manufacturer's standards. The addition will specify the various minimum ground covers for the other allowable pipe materials in the District.

Subparagraph (b)5iv specifies that detention basins shall be maintained to prevent clogging and/or siltation. The requirement that "[a] maintenance plan shall be submitted to the NJMC for review and approval" is proposed for deletion, as an operation and maintenance plan is already required per N.J.A.C. 19:4-8.6(a)6.

Subparagraph (b)6ii is proposed to be amended to specify that similar structural stormwater management measures may not be used in series to achieve the required 80-percent TSS removal unless approved by the Chief Engineer. The deletion of "NJMC" and the addition of "Chief Engineer" was needed because coordination may be necessary between the Chief Engineer of the NJMC and officials at other regulatory agencies on such an exception.

**N.J.A.C. 19:4-8.9 Landscaping:** Paragraph (b)4 is proposed to be clarified to provide that the size at time of planting on the plant schedule shall include plant height and caliper, where applicable. Within paragraph (c)1, the reference to the American Standard for Nursery Stock, which provides the standard for plantings within the District, is proposed to be updated to ANSI Z60.1-2004 published May 12, 2004.

**N.J.A.C. 19:4-8.12 Sidewalks:** Subsection (c) is proposed to be amended to provide that sidewalks shall conform to the minimum design criteria required by the NJ UCC Barrier Free Subcode, N.J.A.C. 5:23-7. The Barrier Free Subcode establishes appropriate slopes for accessible sidewalks, and may require greater sidewalk widths in certain situations.

**N.J.A.C. 19:4-8.13 Lighting:** Table 8-3, Site Illumination Requirements for Uncovered Areas, is proposed to be recodified as Table 8-4 due to the addition of a new Table 8-3 in N.J.A.C. 19:4-8.6 regarding drainage, and amended to provide the minimum footcandle levels, as opposed to the minimum average footcandle levels, since an average to minimum uniformity ratio of 4:1 is required in this rule. Table 8-4, Site Illumination Requirements for Covered Areas, is proposed to be deleted and replaced with the provision that evenly distributed, minimum illumination levels shall be maintained at all times in accordance with the industry standards provided in Figure 22-22 of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook, 9th edition, incorporated by reference, as amended and supplemented, which can be obtained from IESNA, 120 Wall Street, Floor 17, New York, NY 10005-4001. The proposed amendment increases illumination levels in certain areas, including entrance areas, and decreases them in others, including stairwells and ramps. The proposed amendment updates the regulation in accordance with industry standards for lighting that determine adequate illumination levels for public safety.

Subsection (g)4 is proposed to be amended to state that any illuminated sign located on a lot adjacent to or across a ROW from any permitted residential use shall not be illuminated between the hours of 10:00 P.M. and 6:00 A.M. The rule currently provides that such signs may not be illuminated until 7:00 A.M. However, commuting patterns in the Meadowlands District and the working hours of the area's industrial employment base occur during earlier morning hours. The earlier 6:00 A.M. illumination time allowance provides for adequate identification of uses and would

increase public safety during this time period, without resulting in nuisance to area residents.

**N.J.A.C. 19:4-8.14 Signs:** Subparagraph (e)1ii is proposed to be amended to clarify that exempt grand opening signs must be erected within one month of occupancy certification, in order to provide a clear time period of validity for the exemption. Paragraph (e)3 is proposed to be amended to clarify that video display, electronic, LED or digital signs are comparable to a "moving" or "flashing" sign, and restructures the existing regulation to provide for improved readability. A new subparagraph (h)7ix is proposed to be added to clearly state that electronic, LED, digital, and/or video display billboards are prohibited. It is the determination of the NJMC that such signs would constitute a detriment to public safety and negatively impact aesthetics in the District. Note 3 of Table 8-5, Allowable Signage by Zone, is proposed to be revised to add that the maximum height of a wall sign shall be the wall height of the structure, as provided in existing paragraph (h)5, since the existing note references only ground, pole, or roof signs.

New Note 6 is proposed within Table 8-5 stating that the method of calculation for the maximum number of signs shall not apply to multi-tenanted and multi-structure developments, which are governed by subsection (i). Table 8-5 provides the maximum number of signs per front yard, whereas there is no limitation on the quantity of signs within multi-tenanted and multi-structure developments. Maximum individual and aggregate sign area requirements and location requirements continue to apply to multi-tenanted and multi-structure developments. The amendment is proposed to clarify that the provision in Table 8-5 governing the maximum number of signs does not apply to multi-tenanted and multi-structure developments.

**N.J.A.C. 19:4-8.15 Site service improvements:** Subsection (f) is proposed to be amended to clarify the intent of existing rules governing accessory refuse and recycling areas. The proposed amendments include requirements that all refuse and recycling areas shall be used for the collection and storage of waste generated on-site only, and that refuse and recycling areas shall be located and designed to avoid adverse impacts to adjacent waterways and/or drainage facilities. A minimum setback of 25 feet shall be provided, where feasible, which is consistent with the minimum buffer utilized by NJDEP in previously disturbed urban areas to protect water quality. The provision limiting the area of refuse and recycling areas to 600 square feet has been deleted, as the existing rules provide that the dimensions of recycling or refuse areas are sufficient to accommodate containers of adequate size and number consistent with anticipated usage and current methods of collection. Additionally, the subsection is proposed to be amended to provide that recycling or refuse areas may not be located in a front yard, except where either front yard loading is a pre-existing nonconformity or other yards are not adequate. In the existing rules, both characteristics must be present. This amendment would provide more flexibility in locating refuse and recycling areas.

## **Subchapter 9. Floodplain Management**

This subchapter incorporates the standards for development within a floodplain, based on the rules of the Federal Emergency Management Agency. The rules provide the basis for establishing the areas of special flood hazard, identified by the Federal Insurance Administration in a scientific and engineering report entitled, "Flood Insurance Study, Hackensack **Meadowlands** District, New Jersey, Bergen and Hudson Counties," dated September 30, 2005, with accompanying Flood Insurance Rate Maps (FIRM), delineating areas within floodplains and base flood elevations, where determined. The rules set forth the duties and responsibilities of the Chief Engineer, procedures and criteria for the granting of variances from the floodplain regulations, requirements for written records of decision, and appeals procedures. This rules set forth flood-proofing requirements for residential and non-residential construction, for both buildings and building sites, including provisions for subdivision improvements, anchoring, construction materials and methods, utilities, and enclosure openings. The rules also provide for penalties and enforcement provisions. The following amendment is proposed upon adoption:

**N.J.A.C. 19:4-9.3 Words and phrases defined:** The definition for "base flood elevation" is proposed to be amended to provide that the required datum to be utilized in the survey shall be in relation to the North American Vertical Datum of 1988 (NAVD88). This amendment is proposed to delete the reference to the National Geodetic Vertical Datum (NGVD) of 1929 to be consistent with the proposed required datum (NAVD88) for NJMC survey

requirements in N.J.A.C. 19:4-4.4. The datum is provided by the National Geodetic Survey of the National Ocean Service. Information regarding the datum may be obtained from NGS Information Services, NOAA, N/NGS12, National Geodetic Society, SSMC-3, #9202, 1315 East-West Highway, Silver Spring, MD 20910-3282. A conversion factor is available to convert the NGVD datum to NAVD88 datum.

### **Subchapter 10. Project Impact Assessment**

This subchapter consists of rules that require a project impact assessment (PIA) based on certain threshold levels of development. If these development levels are exceeded, an impact assessment is required to analyze the effect of proposed development on areas including the environment, land use, fiscal, and traffic. The following amendments are proposed upon readoption to improve readability, clarify the intent of the rules, and streamline standards to reflect existing NJMC regulations specific to performance standards, instead of providing duplicate or erroneous information.

**N.J.A.C. 19:4-10.4 Content of PIA:** Subsection (a) is proposed to be amended to clarify that the PIA shall assess the impacts of a proposed development. The required components of the PIA are proposed to be amended. Specifically, regulations concerning evaluation of wetlands impacts within paragraph (a)3 are proposed to be amended to provide a copy of any wetlands delineation prepared for a wetlands jurisdictional determination from the United States Army Corps of Engineers (USACE), and a copy of any jurisdictional determination and/or fill permit issued by the USACE. The current regulation requires an alternatives analysis and compensatory program; however, the USACE, not the NJMC, has jurisdiction over these matters. Paragraph (a)4 is proposed to be amended to provide a description of the project's degree of compliance with the requirements of existing N.J.A.C. 19:4-9 regarding floodplain management. Paragraph (a)6 is proposed to be amended to provide a study of the project's degree of compliance with the requirements of existing N.J.A.C. 19:4-8.6 regarding drainage and water quality. A general requirement for hydrologic study and water quality standards is deleted and, instead, the more detailed requirements to be evaluated within N.J.A.C. 19:4-8.6 are referenced, which will result in a more consistent PIA report format among applicants and an improved standard of clarity for the reader. Subparagraph (a)7ii, which requires an assessment of the impacts on wildlife and vegetation and assessment of direct and indirect impacts of the proposed development, is proposed to be deleted, as it is repetitive of information required in subparagraph (a)7i. General requirements for airborne emissions and noise within existing paragraphs (a)9 and 10 are proposed to be deleted and replaced with new paragraph (a)9 providing specific references to the NJMC's performance standards regarding noise, vibrations, airborne emissions, hazardous materials, liquids and chemicals, glare, radioactive materials, and wastewater, as provided in existing N.J.A.C. 19:4-7.

An air quality analysis would be required to use two references: (1) Air Quality Analysis for Intersection, published by the New Jersey Department of Environmental Protection, May 2004, incorporated by reference, as amended and supplemented, a copy of which can be obtained from the New Jersey Department of Environmental Protection, 401 East State Street, P.O. Box 402, Trenton NJ 08625-0402; and (2) the Guideline for Modeling Carbon Monoxide from Roadway Intersections, published by the U.S. Environmental Protection Agency, November 1992, incorporated by reference, as amended and supplemented, a copy of which can be obtained from the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460 or its website, [http://www.epa.gov/scram001/guidance\\_sip.htm](http://www.epa.gov/scram001/guidance_sip.htm). The EPA reference provides the methodology and standards for the air quality analysis, while the NJDEP reference provides the maximum emissions limits. These references were added to provide specific standards to be utilized, whereas the previous rule was general. The proposed amendment would also promote standardization of the scope of information required to be submitted to multiple government agencies.

Existing paragraphs (a)11 through 13 are proposed to be recodified as (a)10 through 12. Proposed new paragraph (a)10 regarding site remediation is a proposed amendment to the content of existing paragraph (a)11. The rule is amended to add a requirement for a description of the former uses on the property, including results of a historical records search, and to provide a summary of environmental and/or contamination issues, as opposed to the existing requirement for an assessment of such issues. The rule is also amended to delete the requirement for an assessment of the feasibility of the site for the proposed use and a remediation process discussion, and adds a requirement to provide a

summary of remediation strategies approved or under consideration, an anticipated remediation timeline, a summary of the remedial project's status with the NJDEP, and contact information for the NJDEP case manager(s). The amendment is proposed to allow for a summary of environmental issues and remedial strategies, since an assessment of such issues and strategies is within the jurisdiction of the NJDEP.

Proposed new paragraph (a)12 regarding public services is a proposed amendment to the content of existing paragraph (a)13. The amendment would require documentation from the agency or company responsible for utility service detailing the ability to serve the proposed development, as opposed to the existing rule which requires only a determination that sufficient capacity exists to accommodate the proposed development. Factors other than capacity may need to be evaluated by a service provider in order to determine the ability to accommodate a proposed development.

New paragraph (a)13 is proposed to include an analysis of affordable housing within the PIA, including a description of the affordable housing obligation generated by the proposed development and a statement of how the project shall satisfy the affordable housing obligation created. This information is relative to the fiscal impact component of the PIA. Paragraph (a)14 regarding fiscal impact analysis is proposed to be amended to clarify and update the required contents of such analysis. An estimate of the costs, as well as the demands, for services would be provided under the proposed amendment. The amendment also codifies an existing procedure regarding analysis of a project's impacts on the Intermunicipal Tax Sharing program, established pursuant to N.J.S.A. 13:17-60 through 76 to distribute the benefits and costs of economic development and land use decisions made by the NJMC among the 14 constituent **Meadowlands** District municipalities. The amendment would require the developer to provide the assessed value of the proposed development and the projected number of school-age children to the NJMC staff for application to the Intermunicipal Tax Sharing Formula. The results will be provided to the applicant by the NJMC for inclusion in the PIA report. The proposed amendment would also require a summary statement of the project's net fiscal impact. New paragraph (a)15 is proposed to be added to require an applicant to submit a plan addressing how the developer proposes to mitigate any project impacts. New subsection (b) is proposed to require that any development proposed in phases shall assess the impacts for each individual phase and the project as a whole. Thereby, the NJMC can assess the impacts of an individual phase if the project does not achieve build-out of all phases, and can require certain improvements be installed at certain project phases. New subsection (c) is proposed to set forth that a zoning certificate shall not be issued prior to the PIA being accepted and deemed complete by the NJMC, in order to codify existing procedure and more clearly establish the PIA as a component of the zoning certificate review process.

N.J.A.C. 19:4-10.5, Adverse environmental impacts, which cannot be avoided; N.J.A.C. 19:4-10.6, Techniques to minimize or eliminate adverse environmental effects of the project; and, N.J.A.C. 19:4-10.7, Alternatives to the proposed project, are proposed to be repealed, as a mitigation plan would be required pursuant to proposed N.J.A.C. 19:4-10.4(a)15.

**N.J.A.C. 19:4-10.9 Documentation:** This section is proposed to be amended to require that a list of all written resources used, as well as any individual agencies consulted with, regarding the information in this report, shall be provided, in order to streamline the regulation. The proposed amendment generalizes the information to be provided.

**N.J.A.C. 19:4-10.10 Developer's agreement:** Subsection (a) is proposed to be amended to require the NJMC to provide revised copies of any PIA report to the municipality in which the project is located. Subsection (b) is proposed to be amended to provide that the existing 30-day time period within which a municipality may review and provide comment(s) on the PIA report may be extended upon written consent of the property owner and/or the applicant. The amendment increases flexibility in the existing rule by allowing either the owner or the applicant to extend the requested time period. Subsection (c) is proposed to be amended to provide for an extension of the 60-day time period within which a developer must enter into a developer's agreement with the NJMC. New subsection (e) is proposed to require that monetary contributions by the developer in lieu of construction of the required improvements shall be utilized by the recipient of the funds to mitigate the project's impacts in accordance with the approved mitigation plan pursuant to proposed N.J.A.C. 19:4-10.4(a)15. These amendments provide additional transparency to the development process.

### **Subchapter 11. Fee Schedule**

This subchapter provides the fee schedule for review of applications for development in the District. The following amendments are proposed upon reoption:

**N.J.A.C. 19:4-11.1 General provisions:** This section is proposed to be amended to specify that application fees may be waived in accordance with this procedure. This amendment is proposed to distinguish application fees from any other types of fees that may apply to a project, such as impact fees.

**N.J.A.C. 19:4-11.2 Zoning:** Paragraph (a)2 is proposed to be amended to clarify that any single sign in excess of 300 square feet, not cumulative sign area, is subject to the higher application fee of \$ 500.00 plus \$ 2.00 per square foot of sign area. Paragraph (a)14 is proposed to be amended to clarify that a fee of \$ 500.00 is charged for review of any change in use requiring a zoning certificate, even those that do not propose any construction or interior alterations. The existing fee of \$ 45.00 per hour applicable to paragraph (a)16 for review of revisions to plans submitted for approval after the issuance of a zoning certificate is proposed to be increased to \$ 50.00 per hour to be consistent with other fees within the zoning fee schedule. The proposed increase would apply only to zoning reviews, not construction plan reviews. A new fee at paragraph (a)17 is proposed to require a fee of \$ 100.00 for the review of a temporary zoning certificate, relative to applications for temporary structures and uses pursuant to N.J.A.C. 19:4-3.14, for which there is currently no provision. A new fee at paragraph (a)18 is proposed to require a fee of \$ 50.00 for the review and preparation of each zoning compliance letter prepared pursuant to a new rule at N.J.A.C. 19:4-4.12, to recompense for the staff time needed to investigate the history of files on a property and prepare a letter. No fee would be required for persons wishing to review the property records at NJMC offices and make such determinations themselves.

Subsection (b) is proposed to be amended to provide for a fee of \$ 50.00 per hour for the review of a petition to amend an existing redevelopment plan adopted by the Commission, a minor increase in the existing \$ 45.00 per hour review fee. The amendment would also require an initial fee deposit of \$ 3,000, from which the associated fees and expenses would be deducted. Any additional fees and expenses would be billed to the applicant. Such additional fees or expenses must be paid by the applicant prior to resolution of the petition, and any remaining balance of the fee would be refunded upon resolution of the petition. As a use variance is not an available procedure within the NJMC's redevelopment rules at N.J.A.C. 19:3-5, a plan amendment would be required for applicants seeking to amend a redevelopment plan to include their proposed use. The initial \$ 3,000 fee is identical to the fee for a use variance application, and would account for approximately 60 hours of review of a petition. Expenses incurred by the NJMC associated with the petition, such as copy fees for duplication of a proposed plan amendment and public hearing expenses, would also be permitted to be charged. Additionally, N.J.A.C. 19:4-11.7 is proposed to be repealed, pursuant to the proposed repeal of N.J.A.C. 19:3-6 and 19:4-12 within this notice of proposal, as it references payments in lieu of construction of affordable housing.

### **Subchapter 12. Affordable Housing**

This subchapter was created to establish affordable housing requirements associated with new development in the District. It sets forth provisions regarding the number of affordable units that an application must satisfy and the requirements for the obligation to be satisfied. These rules, which became effective on February 5, 2007, were originally promulgated to ensure that municipalities are able to satisfy their affordable housing obligations in a manner consistent with the New Jersey Council on Affordable Housing (COAH)'s third round rules. In a decision dated January 25, 2007 (*In the Matter of the Adoption of N.J.A.C. 5:94 and 5:95 by the New Jersey Council on Affordable Housing*, 390 N.J.Super. 1 (App. Div 2007 certif. den. 192 N.J. 71 (2007))), the Appellate Division of the New Jersey Superior Court affirmed in part, reversed in part, and remanded portions of COAH's third round rules back to COAH for rulemaking. The remanded portions included elements upon which the NJMC's new affordable housing rules were based. In a separate decision, issued May 21, 2007, the Appellate Division affirmed that the NJMC is authorized to affirmatively plan for affordable housing in the **Meadowlands** District. *IMO Adoption of N.J.A.C. 19:3, 393 N.J.Super. 173 (App.*

*Div. 2007*). COAH subsequently adopted amended rules which became effective on June 2, 2008, and proposed revisions to the amended rules on June 16, 2008. On July 17, 2008, P.L. Assembly Bill No. 500/Senate Bill No. 1783 was signed into law, which revises various parts of the statutory law governing affordable housing. The aforementioned regulatory and statutory changes have significantly altered the State of New Jersey's affordable housing policies and requirements; consequently, the existing NJMC rules governing affordable housing within this subchapter are no longer reasonable, adequate and responsive for the purpose for which they were originally promulgated. Therefore, this subchapter is proposed to be repealed. NJMC staff is developing new affordable housing rules that are consistent with these changes, which will be proposed within a separate notice of proposal.

### **Chapter 5. Subdivision Regulations**

Chapter 5 contains rules particular to the subdivision of land in the District. This chapter is divided into the following 11 subchapters:

1. Heading;
2. Purpose;
3. Definitions;
4. Administration;
5. Procedure for Approval of Subdivision Plats;
6. Contents of Plats;
7. Design Standards;
8. Installation of Required Improvements;
9. Waivers;
10. Fees, Penalties, and Enforcement; and
11. Severability.

The NJMC subdivision regulations were effectuated to provide procedures for the subdivision of land within the **Meadowlands** District and to promote consistency with New Jersey Map Filing Law. The subdivision regulations provide procedures for minor, technical major, and major subdivisions. They provide for definitions relative to subdivision, application requirements, required plat contents, design standards and installation requirements for improvements, and procedures for requests for waivers from technical submittal requirements. The NJMC has determined that the subdivision rules remain necessary, reasonable, adequate, efficient, understandable and responsive for the purpose for which they were originally promulgated, with amendments proposed to clarify and update existing rules.

The following amendments are proposed upon reoption:

**N.J.A.C. 19:5-5.1, Application for subdivision:** Subsection (b), which provides the required datum to be utilized in plat preparation, is proposed to be added. The required horizontal datum is North American Datum of 1983 (NAD83), and the required vertical datum is North American Vertical Datum of 1988 (NAVD88), both incorporated by reference, and both of which are to be provided in Stateplane feet.

**N.J.A.C. 19:5-5.4, Minor subdivision procedure:** Paragraph (a)1 is proposed to be amended to add a requirement

that, when plats are prepared digitally, a digital copy of the plat shall be provided in AutoCAD-compatible format, in addition to the existing requirement for one original mylar and 10 copies of the minor subdivision plat.

**N.J.A.C. 19:5-5.7, Final plats for major subdivision:** Paragraph (b)3 is proposed to be amended to add a requirement that, when plats are prepared digitally, a digital copy of the plat shall be provided in AutoCAD-compatible format, in addition to the existing requirement for one original mylar and 10 copies of the minor subdivision plat.

**N.J.A.C. 19:5-6.3 Preliminary plat contents:** Paragraph (c)15 is proposed to be amended to delete the requirement that contours shall be based on United States Coastal and Geodetic Survey datum, as proposed N.J.A.C. 19:5-5.1(b) provides the required datum.

**N.J.A.C. 19:5-7.8 Drainage:** Paragraph (c)5 is proposed to be amended to clarify that the spacing between inlets shall not exceed 400 feet or a design inlet flow of six cubic feet per second; whichever condition shall be more stringent. Access manholes shall be spaced at a maximum of 400 feet intervals through ROW's and at pipe junctions where there are no catch basins. However, a recommended spacing length shall be 300 feet which allows easier access to the pipes for inspection and maintenance. The spacing length of 500 feet was changed to 400 feet to conform to the NJDOT Roadway Drainage Design Manual, dated August 2006. The recommended spacing length of 300 feet was added to allow easier access to the pipes for inspection and maintenance.

As the Commission provided a 60-day comment period on this notice of proposal, 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 NJMC 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 and amended 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 NJMC to conduct rulemaking activities, establish redevelopment areas, provide for the District's participation in the National Flood Insurance program, provide procedures for complaints regarding violation of Americans with Disabilities Act (ADA) accessibility laws, and provide procedures for professional services contracts and debarment and suspension from contracting.

The readoption of Chapters 4 and 5 will have a positive social impact by revalidating the basis for the NJMC's ability to regulate land use, subdivision, and development within the Hackensack **Meadowlands** District. 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 NJMC's bulk and site improvement standards to ensure adequate setbacks, open space, landscaping, drainage, parking, loading, and lighting are provided. The NJMC 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 readoption will also enable the continued participation of the NJMC in FEMA's National Flood Insurance Program (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 NJMC 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 (that is, 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 magnitude of the specific project involved.

The NJMC fee schedule, found in N.J.A.C. 19:4-11, is proposed to be readopted with amendments. Amendments to the fee schedule nominally increase the hourly review fee from \$ 45.00 to \$ 50.00 for review of revisions to approved zoning certificates, and for review of petitions to amend adopted redevelopment plans. The amendment also requires an initial fee of \$ 3,000 for review of petitions for redevelopment plan amendments. As a use variance is not an available procedure within the NJMC's redevelopment regulations at N.J.A.C. 19:3-5, a plan amendment would be required for applicants seeking to amend a redevelopment plan to include their proposed use. The initial fee is identical to the fee for a use variance application. Therefore, applicants wishing to amend an adopted redevelopment plan will realize an economic impact earlier in the process, while the overall economic impact would not significantly change as a result of the proposed amendment.

New fees are proposed upon readoption to address situations that were not previously codified in the regulations. For example, an application to review a temporary zoning certificate for a structure housing remediation equipment would be charged a review fee of \$ 100.00. In the absence of codifying a fee for temporary uses and/or structures, a fee of \$ 500.00 would be the minimum required for a new structure. Additionally, a new review fee of \$ 50.00 is proposed for the NJMC to issue a zoning compliance letter. However, no fee would be required for persons wishing to review the property records at NJMC offices. No amendments to subdivision fees are proposed. Therefore, there will be no significant adverse economic impact resulting from the amended fee schedule.

The NJMC is not aware of any funding sources that may be impacted by the readoption. There are no excessive economic impacts on implementing agencies. The NJMC is the agency with zoning jurisdiction; the administrative, enforcement, and oversight costs to the Commission as a result of the readopted zoning 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 amendments, repeals and new rules 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 Hackensack **Meadowlands** 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 NJMC 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 amendments, repeals and new rules relate do not contain any requirements or standards in excess of those imposed under Federal law.

## **Jobs Impact**

The NJMC does not anticipate the rules proposed for readoption with amendments, repeals and new rules would 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 to the NJMC. An indirect 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 readoption with amendments, new rules and repeals 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 Analysis**

The rules of the NJMC 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 District include such groups as property owners, tenants, applicants and developers.

The rules of the NJMC govern all development within the District and, therefore, have a direct impact on small businesses. There are approximately 4,200 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 NJMC; however, the NJMC processes approximately 800 development applications per year. In doing so, it is clear that a large percentage of applicants in the District can be considered a small business.

To comply with the requirements of the NJMC, 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 these proposed rules. To comply with the NJMC'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. The proposed amendments to the fee schedule will not result in a significant negative impact to small business.

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 NJMC 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; 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 NJMC does not administer its regulations differently based on the size of a business because the mandates of the agency outlined in its enabling statute ( N.J.S.A. 13:17-1 et seq.) require that they be uniformly imposed upon all property owners in the District. N.J.S.A. 13:17-1 et seq. provides no differentiation in compliance requirements specifically based on business size. The NJMC has determined that the proposed readopted and amended rules are reasonable and necessary.

Accordingly, the rules proposed for readoption with amendments, repeals and new rules 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.

### **Smart Growth Impact**

Although the provisions of the New Jersey State Development and Redevelopment Plan do not apply to the NJMC, pursuant to N.J.S.A. 52:18A-206, the rules proposed for readoption with amendments, repeals and new rules will have a positive impact on the achievement of smart growth in the District.

The rules proposed for readoption with amendments, repeals and new rules incorporates smart growth principles, as the rules provide for the establishment of zones with a range of housing, commercial, and industrial uses. The protection and preservation of open space and environmentally-sensitive land, including wetlands and waterways, is promoted in conservation and parkland zones, while providing recreational opportunities. Development is directed to suitable upland areas, particularly through the revalidation of redevelopment planning regulations that help facilitate and redirect new development into brownfield areas.

Development procedures are designed to promote decisions that are timely, reasonably predictable, and fair. The NJMC's "green building" regulations provide incentives for building practices in accordance with LEED guidelines, including renewable energy sources, thereby promoting sustainable development in the District. The rules proposed for readoption with amendments, repeals and new rules, therefore, seek to create a supportive environment for development based on smart growth principles.

### **Housing Affordability Impact**

The rules proposed for readoption with amendments, repeals, and new rules are not expected to impact the average costs associated with housing in the Hackensack Meadowlands District. The following analysis provides the basis for this determination.

According to Census 2000 data published by the US, Census Bureau, the District contains a total of 4,649 housing units. The US Census Bureau does not separate its published data regarding housing types within the District's 14 constituent municipalities according to their in-District and out-of-District areas. The data reveals, however, that the District's municipalities, including their portions that lie outside the District's boundaries, have a variety of housing types.

The dominant residential structure types within Meadowlands municipalities are single-family (both detached and condominium) and two-family structures, which constitute 41.2 percent and 18.9 percent of the total housing inventory respectively. The data includes the City of Jersey City's housing stock, which consists primarily of multifamily dwellings located outside the District. If the data for Jersey City were excluded, the proportion of single-family residences would equal 46.1 percent of the total housing inventory.

As of the year 2000, the U.S. Census Bureau reports that a total of 37.0 percent of the housing units located within Meadowlands municipalities are owner-occupied, compared to 66.5 percent Statewide. A total of 58.8 percent of Meadowlands housing units are renter-occupied. The remaining units are vacant. The number of multi-family rental units in Jersey City explains, at least in part, the lower homeownership rate for households residing in Meadowlands municipalities.

Housing reserved for occupancy by very low, low, moderate, and middle income households within Meadowlands municipalities is administered by a number of government and non-profit entities. Data regarding the number of such units, including those located within the District, is not currently available.

The readoption of N.J.A.C. 19:3, Administration; 19:4, District Zoning Regulations; and 19:5, Subdivision, 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 amendments, repeals and new rules 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 amendments, repeals and new rules are not expected to impact the average cost of housing in the District.

As stated in the Summary above, the repeal of the existing NJMC rules governing affordable housing in N.J.A.C. 19:3-6 and 19:4-12 is necessary, because these rules are no longer reasonable, adequate and responsive for the purpose for which they were originally promulgated. Proposed new rule N.J.A.C. 19:4-3.8 Affordable housing, is intended to offer the municipalities within the District additional options to meet their affordable housing obligations until NJMC staff develops new affordable housing rules that are consistent with COAH's revised third round rules, proposed amendments to the revised third round rules, and Assembly Bill No. 500/Senate Bill No. 1783, signed into law on July 17, 2008. The NJMC staff is currently developing comprehensive affordable housing rules in response to these recent regulatory and statutory changes, which will be proposed within a subsequent notice of proposal. Therefore, the rules proposed for readoption with amendments, repeals, and new rules are not expected to impact the average cost of housing in the District.

### **Smart Growth Development Impact**

According to Census 2000 data published by the U.S. Census Bureau, the District contains a total of 4,649 housing units. The U.S. Census Bureau does not separate its published data regarding housing types within the District's 14 constituent municipalities according to the in-District and out-of-District areas. The data reveals, however, that the District's municipalities, including their portions that lie outside the District's boundaries, have a variety of housing types.

The dominant structure types within Meadowlands municipalities are single-family (both detached and condominium) and two-family structures, which constitute 41.2 percent and 18.9 percent of the total housing inventory respectively. The data includes the City of Jersey City's housing stock, which consists primarily of multi-family dwellings located outside the District. If the data for Jersey City were excluded, the proportion of single-family residences would equal 46.1 percent of the total housing inventory.

As of the year 2000, the U.S. Census Bureau reports that a total of 37.0 percent of the housing units located within Meadowlands municipalities are owner-occupied, compared to 66.5 percent Statewide. A total of 58.8 percent of Meadowlands housing units are renter-occupied. The remaining units are vacant. The number of multi-family rental units in Jersey City explains, at least in part, the lower homeownership rate for households residing in Meadowlands municipalities.

Housing reserved for occupancy by very low, low, moderate, and middle income households within Meadowlands municipalities is administered by a number of government and non-profit entities. Data regarding the number of such

units, including those located within the District, is not available.

The rules proposed for readoption with amendments, repeals and new rules are not expected to increase or decrease the availability of affordable housing in the District. Any potential impacts from the repeal of the existing NJMC rules governing affordable housing in N.J.A.C. 19:3-6 and 19:4-12 are expected to be mitigated by proposed new rule N.J.A.C. 19:4-3.8 Affordable housing, which will remain in effect until the NJMC adopts new affordable housing rules. The NJMC staff is currently developing comprehensive affordable housing rules in response to the aforementioned regulatory and statutory changes, which will be proposed within a subsequent notice of proposal. COAH's revised third round rules also extend the delivery period for municipalities to address their third round affordable housing obligations from December 31, 2014 to December 31, 2018.

The District is not located within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. Accordingly, the rules proposed for readoption with amendments, repeals, and new rules will not affect, in any manner, new construction within those areas.

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

**Full text** of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 19:3-6 and 19:4-4.12, 10.5, 10.6, 10.7, 10.9, 11.7 and 12.

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

#### CHAPTER 4 DISTRICT ZONING REGULATIONS

##### 19:4-2.1 Intent and word usage

(a) In the construction of these regulations, the following shall apply, except where the context clearly requires otherwise:

1.-10. (No change.)

11. The words "New Jersey **Meadowlands** Commission" and "NJMC" mean a public body corporate and politic, constituting a political subdivision of the State of New Jersey, as defined in N.J.S.A. 13:17-1 et seq., **and its staff**;

12. (No change.)

13. The word "District" means the Hackensack **Meadowlands** District, as defined in N.J.S.A. 13:17-[13]**3 and 4**;

14.-15. (No change.)

16. The word "Secretary" means the Secretary of the NJMC, **who shall be the Executive Director of the NJMC, pursuant to N.J.S.A. 13:17-5**;

17.-19. (No change.)

(b) Table 2-1 below provides the meaning for abbreviations and acronyms used in this chapter:

Table 2-1

## Frequently Used Abbreviations and Acronyms

| Abbreviation<br>or Acronym | Meaning   |
|----------------------------|---|
| -----                      | -----   |
| ...                        |   |
| ANSI                       | American National Standards Institute             |
| <b>ASTM</b>                | <b>American Society for Testing and Materials</b> |
| BMP                        | Best Management Practices                         |
| ...                        |   |

(c)-(m) (No change.)

#### 19:4-2.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"**Health care center**" means an establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners, for a period not exceeding 24 consecutive hours.

...

"**Kennel**" means a facility operated for the purpose of boarding and/or breeding customary household pets.

...

"**Lot coverage**" means the percentage of the lot area covered by a structure or structures, including structure overhang areas, **awnings, and canopies**, but excluding projecting roof eaves.

...

"**Restaurant, carry-out**" means an establishment where food and/or beverages are prepared within the principal

structure on a lot and predominantly taken out and consumed elsewhere.

**"Restaurant, fast food"** means a sit-down or carry-out restaurant where food and/or beverages are purchased prior to consumption and consumed either within the establishment or taken out and consumed elsewhere; where food is typically served in disposable packaging; where trash receptacles are available in public areas; where no waiter service is available; and which may contain a drive-through facility, where permitted.

**"Restaurant, sit-down"** means an establishment where food is prepared, served and consumed primarily within the principal structure on a lot.

...

**"Veterinary facility"** means an establishment where domestic animals are admitted for examination and treatment by one or more veterinarians, and which may include accessory boarding on a temporary basis.

...

SUBCHAPTER 3. APPLICATION OF REGULATIONS

19:4-3.2 Exemptions

(a) The following, except as otherwise provided, shall be exempt from these regulations:

1.-3. (No change.)

4. Whenever the governing body of a constituent municipality has enacted zoning ordinances and any other codes or standards that are consistent with, or will effectuate the purposes of, the NJMC Master Plan, that municipality may make final land use decisions within the municipality with respect to applications made concerning individual/detached one-, two- or three-family residences in the Low Density Residential zone. These decisions shall include, but not be limited to, variances, certificates of occupancy, plan review, building permits, and site approvals. Whenever a municipality shall make a zoning and/or land use decision pursuant to this subsection, a copy of the decision, the application and any other pertinent information shall be forwarded to the NJMC within 10 working days of the final action. The foregoing does not apply to subdivisions involving the creation of new streets; [and]

5. Municipal projects, located on land owned by a municipality, provided that the following conditions are met:

i.-iii. (No change.)

iv. At the completion of the construction of the project, the municipal zoning officer has certified to the NJMC that the project has been constructed in accordance with approved plans[.]; **and**

**6. Site improvements on property resulting from land acquisition by a public entity for a public project, provided that such site improvements shall consist only of the improvements required to restore functional use of the property, as determined by the NJMC.**

19:4-3.8 [(Reserved)] **Affordable housing**

**Residential development in the District, developed in accordance with Council on Affordable Housing (COAH) guidelines, may be utilized by a constituent municipality toward fulfilling its COAH obligation. The NJMC will accept petitions for rezonings from municipalities seeking to rezone land in the District to meet their COAH**

**obligations. Such petitions shall be processed in accordance with N.J.A.C. 19:3. Applications for variances to allow density increases to meet COAH obligations shall also be considered and processed in accordance with N.J.A.C. 19:4-4.14.**

19:4-3.19 Yard designation

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

**(d) In the case where a lot line abuts a railroad right-of-way, the lot line shall not be considered a front lot line.**

**(e) In the case where a lot line abuts a right-of-way, where the improved edge of the right-of-way is grade separated from a front lot line or front yard, and from which there can be no reasonable access from the right-of-way due to such grade separation, the Chief Engineer may determine that such lot line or yard shall not be considered a front lot line or front yard.**

19:4-3.22 Zoning lot of record

(a) A zoning lot of record may be established in order to utilize two or more lots as a united parcel. Zoning lots of record shall meet the following requirements:

1. (No change.)

2. The individual lots within a zoning lot of record shall be under some form of single ownership at the time of development. This form of ownership and the zoning lot of record agreement shall be approved by the NJMC. A zoning lot of record agreement shall be recorded in the county registrar's office. All future owners or mortgage holders shall be bound by the recorded form of single ownership and the zoning lot of record agreement. [Any nonconformity resulting from the elimination of the zoning lot of record shall be classified as an existing legal nonconformity.]

3.-4. (No change.)

**(b) A zoning lot of record agreement shall not be considered concurrent with an application for subdivision.**

**(c) A zoning lot of record may only be eliminated upon approval by the Chief Engineer pursuant to resubdivision of property that creates a conforming lot or lots, or as otherwise approved by the Chief Engineer in accordance with sound planning practice. A zoning lot of record shall not be eliminated in cases where nonconformities were created or intensified after the execution of the zoning lot of record.**

19:4-4.4 Application for zoning certificate; technical requirements

(a) Zoning certificate applications for new buildings and additions, and in other instances where required by the NJMC staff, shall include a valid survey of the tract, signed and sealed by a New Jersey-licensed professional land surveyor[, including,]. **The survey shall be based on the datum of the National Geodetic Survey of the National Ocean Service, in Stateplane feet. Horizontal datum shall conform to North American Datum of 1983 (NAD83) and vertical datum shall conform to North American Vertical Datum of 1988 (NAVD88), 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. The survey shall include, at minimum:**

1.-3. (No change.)

4. Adjacent property lines and the names of the adjacent property owners within 200 feet of the subject property; [and]

5. All areas claimed by the State of New Jersey as riparian, now or formerly, including any grants or releases[.];

**6. Structures;**

**7. Waterways, wetlands, drainage ditches, and drainage structures or systems;**

**8. Easements;**

**9. Utilities; and**

**10. Vehicular use areas.**

(b)-(c) (No change.)

(d) The application shall include such other additional information as required below, based on the specific type of application, to determine compliance with these regulations, including:

1. Requirements for new buildings and additions:

i. In addition to the requirements of (c) above, the site plan shall include the following:

(1) The building footprint, dimensions, height, setbacks, lowest floor elevation [(NGVD)], and the location of exit doors for all proposed structures;

(2)-(17) (No change.)

ii. (No change.)

2.-5. (No change.)

6. Requirements for the placement of fill:

i.-ii. (No change.)

iii. Other plans and reports to be submitted:

(1)-(2) (No change.)

(3) A detailed geotechnical investigation report prepared, signed and sealed by a New Jersey-licensed Professional Engineer specializing in geotechnical engineering, including the following:

(A)-(M) (No change.)

(N) Recommendations for monitoring of the fill/stockpile operation, including [quality control, settlement plates, inclinometers, etc.] **quality assurance and quality control procedures**; and

(O) (No change.)

7.-10. (No change.)

(e)-(f) (No change.)

19:4-4.5 Review and approval of application for zoning certificate

(a)-(d) (No change.)

(e) If the application is in compliance with (c) above, [the NJMC shall approve the application by issuing a zoning certificate signed by the Chief Engineer.] **the Chief Engineer shall sign and issue a zoning certificate. The Chief Engineer's approval shall constitute the approval of the NJMC without further action required by the Board of Commissioners.** The zoning certificate shall be sent to the applicant with a copy to the municipality in which the development is located.

(f) (No change.)

**(g) Multiple applications for zoning certificate approval for a specific property depicting alternate development scenarios shall not be considered by the NJMC. In cases where a zoning certificate application is made for development significantly different from a prior valid zoning certificate application or approval, as determined by the Chief Engineer, the prior application or approval shall be superseded by the new application. This provision shall not apply to zoning certificate applications for signs, fences/gates, site improvements, tanks, antennae, transmission towers and associated utility structures, recycling and/or refuse areas, loading doors, compactor and concrete utility pads, fill/stockpile operations, salt storage areas, construction trailers, guard sheds, storage sheds with a floor area of less than 400 square feet, remediation activities, temporary uses, and external mechanical equipment.**

[(g)] **(h)** (No change in text.)

19:4-4.6 Period of validity

A zoning certificate shall become null and void one year after the date on which it is issued, unless within such one year period, the site work, construction, moving, remodeling, reconstruction or change in use of a structure, or addition thereto, is commenced. Extensions, not exceeding one year each, may be granted by the Chief Engineer upon written application. No more than five such extensions, **based upon the date of issuance of the original zoning certificate,** shall be granted.

19:4-4.7 Certificate of completion

(a) (No change.)

(b) An as-built survey [completed in accordance with the specifications of N.J.A.C. 19:4-4.4(a)] shall be required for all new buildings, additions, site improvements, fill applications, and in other cases deemed necessary by the NJMC. If the NJMC suspects that a project in progress may not be proceeding in accordance with the approved plans, the NJMC may require an interim as-built survey at any time.

**1. The as-built survey shall include, at minimum:**

**i. The bearings and distances of all property lines;**

**ii. The block and lot designations;**

- iii. **The acreage of the site to the nearest tenth of an acre;**
- iv. **The adjacent property lines within 200 feet of the subject property;**
- v. **All areas claimed by the State of New Jersey as riparian, now or formerly, including any grants or releases;**
- vi. **The location of any structures, including building footprint, dimensions, height, setbacks, and lowest floor elevation;**
- vii. **The location of any waterways, wetlands, drainage ditches, and drainage structures or systems;**
- viii. **The location of all utilities;**
- ix. **The location of any easements;**
- x. **The site topography, including spot elevations; and**
- xi. **The location and layout of vehicular use areas.**

**2. When prepared digitally, a digital copy of the survey shall be provided in AutoCAD-compatible format.**

(c) (No change.)

#### 19:4-4.8 Occupancy certification

(a) No structure or addition thereto constructed, moved, remodeled or reconstructed shall be occupied or used for any purpose; no land vacant shall be used for any purpose; no use of land or structure shall be reoccupied or changed to any other use; and no occupancy, except in the case of residential dwelling units, shall be changed, unless occupancy certification shall first have been obtained from the NJMC certifying that the proposed use or occupancy complies with the applicable provisions of these regulations.

(b) **The NJMC shall be notified of any change of property owner upon transfer of ownership. A change in property ownership shall not require new occupancy certification, unless a change in occupancy or occupant name change is proposed. In such cases, new occupancy certification shall be required.**

#### 19:4-4.12 Zoning compliance letters

(a) **The NJMC shall provide, upon written request and payment of the required fee set forth in N.J.A.C. 19:4-11.2, a zoning compliance letter for a specific property within the District. Such letter may include, but not be limited to, the following:**

- 1. **The identification of the zone in which the property is located;**
- 2. **The identification of the current approved use and/or occupancy of the property in question;**
- 3. **Whether such use identified in (a)2 above is permitted in the zone or is a preexisting nonconformity; and/or**
- 4. **The identification of any known current violations.**

## 19:4-4.13 Special exception uses

(a)-(e) (No change.)

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

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

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

(i) The Executive Director shall render a written decision that shall be transmitted to the applicant by certified mail and advise the applicant of the applicant's right to appeal said decision. Any decision of the Executive Director shall constitute a decision that may be appealed in accordance with N.J.A.C. 19:4-4.19.

(j) Immediately after deciding upon an application for a special exception use, the Executive Director shall transmit to the Board of Commissioners a copy of the decision, a copy of the plan, and any other information relevant to the matter.

(k) The Board of Commissioners may, by a concurring vote of a majority of its members, affirm or reverse, wholly or partly, or modify such decision, or may remand the entire matter for further action by the Executive Director, based upon the record of the matter. Such action shall be in the form of a written decision explaining the reasons for such action.

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

(m) The approval of a special exception use shall become null and void one year after the date on which the approval is issued, unless within such period:

1. A zoning certificate is obtained; or
2. Occupancy certification is obtained and the use commenced.

(n) Extensions of the approval, not exceeding one year each, may be granted by the Chief Engineer upon written application, without notice or hearing. No more than five such extensions shall be granted.]

**(f) Upon the close of the public record and within one week after the receipt of transcripts, the NJMC staff shall transmit a copy of the record of the matter, consisting of the application, transcripts, and exhibits, to the Board of Commissioners for review.**

**(g) Within eight weeks of the close of the public record, a comprehensive report containing findings, conclusions, and/or recommendations regarding the special exception use application shall be prepared by the NJMC staff and signed by the Executive Director and the Director of Land Use Management.**

**(h) The NJMC staff shall transmit a copy of the report to the applicant via certified mail. The applicant may appeal the recommendation in accordance with N.J.A.C. 19:4-4.19.**

**(i) After the appeal period, the NJMC staff shall transmit a copy of the report to the Board of Commissioners for review. The matter shall be placed on the agenda of the next available scheduled meeting of the Board of Commissioners in accordance with statutory notice requirements.**

**(j) The NJMC staff shall notify the applicant, via certified mail, of the date of the meeting of the Board of Commissioners at which the special exception use request will be decided.**

**(k) The Board of Commissioners shall decide, by a concurring vote of a majority of its members, to grant or deny the special exception use requested, based upon the record of the matter.**

**1. In the granting of any special exception use, the decision may impose such conditions, safeguards, limitations and restrictions upon the premises benefited by the special exception use as may be necessary to:**

**i. Comply with other standards set forth in these regulations;**

**ii. Reduce or minimize any potentially injurious effect of such special exception use upon other property in the neighborhood;**

**iii. Carry out the general purpose and intent of these regulations; and**

**iv. Promote the intent and purpose of the NJMC Master Plan.**

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

**(l) The decision of the Board of Commissioners shall be memorialized by a formal written resolution adopted at the meeting at which the special exception use is decided.**

**(m) A copy of the decision of the Board of Commissioners shall be transmitted to the applicant by the NJMC via certified mail, and the NJMC shall advise the applicant of its right to appeal said decision as a final action of the Board of Commissioners in accordance with N.J.A.C. 19:4-4.19(e).**

**(n) No person shall contact or attempt to contact any member of the Board of Commissioners or the NJMC staff regarding a special exception use application to discuss an impending decision on the subject application after the close of the public record.**

**(o) The approval of a special exception use shall become null and void five years after the date on which the approval is issued, unless within such period:**

**1. A zoning certificate is obtained; or**

**2. Occupancy certification is obtained and the use commenced.**

**(p) No extensions of approval shall be granted.**

(a)-(i) (No change.)

(j) Notwithstanding the provisions of this section, in case of a request for a variance from a bulk regulation in this chapter, the Chief Engineer may waive a public hearing, but may not waive notification requirements, provided, however, that the applicant submit written comments relative to the application to the NJMC prior to such public notification. Public comment will be accepted within 10 days of the date of publication. **If there is sufficient public interest in the application during the comment period, as determined by the Chief Engineer, the NJMC reserves the right to require a public hearing.**

#### 19:4-4.19 Appeals

(a) Subject to the limits on third party hearings at (g) below, any variance recommendation, special exception use recommendation, or decision of the NJMC staff, including a decision that a person or entity has violated these regulations pursuant to N.J.A.C. 19:4-4.21, may be appealed in accordance with this section. Any recommendation of the NJMC staff, other than a variance recommendation **or special exception use recommendation**, shall not be subject to appeal.

(b) Any adversely affected person or entity may appeal any decision, [or] variance recommendation, **or special exception use recommendation** by the NJMC staff through the New Jersey Office of Administrative Law (OAL), pursuant to the following procedures:

1. The person or entity appealing a decision, [or] variance recommendation, **or special exception use recommendation** of the NJMC staff shall be known as an appellant and shall file a notice of appeal in writing, by certified mail, with the Executive Director within 15 days after the date of the decision.

2. (No change.)

3. The notice of appeal shall contain the following:

i. (No change.)

ii. A brief statement of facts describing the NJMC staff decision, [or] variance recommendation, **or special exception use recommendation** being appealed, as well as the nature and scope of the interest of the person or entity appealing such decision; and

iii. A statement of all facts alleged to be at issue and their relevance to the NJMC staff's decision, [or] variance recommendation, **or special exception use recommendation** for which the appeal is made.

4. Within 10 days of receipt of a notice of appeal from a person or entity directly affected by a NJMC staff decision, [or] variance recommendation, **or special exception use recommendation**, that is, the applicant for any zoning, subdivision, variance, **special exception use**, building permit, or other approval, or the person or entity cited for violation of these regulations, the Executive Director shall transmit the matter to the OAL for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The Executive Director shall forward a third party appeal to the Board of Commissioners, which shall determine whether the third party appellant has the required interest under the Administrative Procedure Act, N.J.S.A. 52:14B-3.1 through 3.3, to be granted an appeal. Should the Board of Commissioners determine that the third party appeal may proceed, the Board of Commissioners shall direct the Executive Director to transmit the third party appeal to the OAL.

(c) An appeal by a person or entity directly affected by a NJMC staff decision, [or] variance recommendation, **or**

**special exception use recommendation**, that is, the applicant for any zoning, subdivision, variance, **special exception use**, building permit or other approval, or the person or entity cited for violation of these regulations, shall stay all proceedings in furtherance of the action with respect to which the decision appealed from was made and shall toll all applicable time limits, with the exception of fines, which shall continue to accrue, unless the Chief Engineer certifies to the Board of Commissioners, after the notice of appeal has been filed, that by reason of facts stated in the certificate, such stay and tolling would cause imminent peril to life or property. An appeal by a third party shall not automatically stay all decisions of or proceedings before the Board of Commissioners. In the case of a third party appeal, the Board of Commissioners shall grant a request for stay if the appellant shows good cause why the proceeding or action of the Board of Commissioners should be stayed.

(d) (No change.)

(e) An appellant aggrieved by [the] **any** final decision of the Board of Commissioners pursuant to (d) above **resulting from any resolution of the Board of Commissioners** may seek further judicial review by the Superior Court of New Jersey Appellate Division by filing a Notice of Appeal pursuant to *R. 2:1 et seq.*

(f)-(g) (No change.)

## SUBCHAPTER 5. DISTRICTS, USES AND STANDARDS

### 19:4-5.2 General provisions

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

1.-7. (No change.)

[8. Where development includes housing to meet municipal growth share obligations in N.J.A.C. 19:4-12, the bulk, layout, and design requirements in N.J.A.C. 19:4-12.8 through 12.11 shall apply.]

### 19:4-5.15 Parks and Recreation zone; special exception uses

(a) The special exception uses in the Parks and Recreation zone are:

1. Marinas; **and**

2. Primary and secondary schools.[]; and

3. The construction, maintenance and use of any structures and improvements, including retail, essential for and used solely in conjunction with the operation and maintenance of any permitted use.]

### 19:4-5.27 Low Density Residential zone; special exception uses

(a) The special exception uses in the Low Density Residential zone are:

1. (No change.)

2. Health **care** centers;

3.-7. (No change.)

## 19:4-5.33 Planned Residential zone; permitted uses

(a) The permitted uses in the Planned Residential zone are:

1.-4. (No change.)

5. Health **care** centers;

6.-14. (No change.)

## 19:4-5.39 Neighborhood Commercial zone; permitted uses

(a) The permitted uses in the Neighborhood Commercial zone are:

1.-8. (No change.)

9. Health **care** centers;

10.-14. (No change.)

15. Residential dwellings [accessory to a permitted use] **included within a mixed-use structure;**

16. (No change.)

17. Single-family and two-family dwellings; [and]

18. Social services[.]; **and**

**19. Veterinary facilities.**

## 19:4-5.41 Neighborhood Commercial zone; use limitations

(a) The use limitations in the Neighborhood Commercial zone are:

1.-4. (No change.)

**5. No residential dwelling units within a mixed-use structure shall be permitted to be located at the ground or first floor level of a structure.**

## 19:4-5.46 Commercial Park zone; permitted uses

(a) The permitted uses in the Commercial Park zone are:

1.-5. (No change.)

6. Health **care** centers;

7.-16. (No change.)

## 19:4-5.52 Regional Commercial zone; permitted uses

(a) The permitted uses in the Regional Commercial zone are:

1.-7. (No change.)

8. Health **care** centers;

9.-18. (No change.)

19:4-5.73 Light Industrial A zone; permitted uses

(a) The permitted uses in the Light Industrial A zone are:

1.-11. (No change.)

**12. Kennels;**

Recodify existing 12.-23. as **13.-24.** (No change in text.)

19:4-5.74 Light Industrial A zone; special exception uses

(a) The special exception uses in the Light Industrial A zone are:

1.-7. (No change.)

8. Health **care** centers;

9.-15. (No change.)

19:4-5.80 Light Industrial B zone; permitted uses

(a) The permitted uses in the Light Industrial B zone are:

1.-15. (No change.)

**16. Kennels;**

Recodify existing 16.-26. as **17.-27.** (No change in text.)

19:4-5.81 Light Industrial B zone; special exception uses

(a) The special exception uses in the Light Industrial B zone include:

1.-4. (No change.)

5. Health **care** centers;

6.-12. (No change.)

19:4-5.124 Schedule of lot size requirements and bulk regulations

(a) The schedule of lot size requirements and bulk regulations in Table 4-1 summarizes the lot size requirements and bulk regulations for all zones. This schedule is for reference purposes only, and the full text of these regulations shall be consulted for additional requirements that may or may not appear in the schedule.

(b) (No change.)

Table 4-1

Schedule of Lot Size Requirements and Bulk Regulations

LOT SIZE REQUIREMENTS

| ZONE   | Minimum<br>Lot<br>Area | Minimum<br>Lot<br>Width | Minimum<br>Lot<br>Depth |
|--------|------------------------|-------------------------|-------------------------|
| ---    | ---                    | ----                    | ----                    |
| ...    |                        |                         |                         |
| HC     | 20,000<br>sq. ft.      | 100<br>feet<13>         | -                       |
| ...    |                        |                         |                         |
| TC<15> | 1 acre                 | 100 feet                | 150 feet                |

Table 4-1

Schedule of Lot Size Requirement and Bulk Regulations

BULK REGULATIONS

| ZONE   | Maximum<br>Lot<br>Coverage | Minimum<br>Open<br>Space | Minimum<br>Front<br>Yard | Minimum<br>Side<br>Yard | Minimum<br>Rear<br>Yard | FAR       |
|--------|----------------------------|--------------------------|--------------------------|-------------------------|-------------------------|-----------|
| ---    | -----                      | ----                     | ----                     | ----                    | ----                    | ---       |
| ...    |                            |                          |                          |                         |                         |           |
| HC     | 50%                        | [5] <b>15%</b>           | 25 feet                  | 10 feet                 | 25 feet                 | 0.75      |
| ...    |                            |                          |                          |                         |                         |           |
| TC<15> | [50] <b>70%</b>            | 15%                      | <b>Note 16</b>           | -                       | -                       | Note [16] |

NOTES AND ADDITIONAL REQUIREMENTS:

<1-4> (No change.)

<5> Additional requirement - Maximum building height: [40] **35** feet

<6> Except where abutting a residential use, the minimum [rear] side yard shall be 10 feet

<7-15> (No change.)

**<16> Minimum setback from front lot line for commercial off-street parking uses: 20 feet.**

<[16] **17**> Maximum floor area: 4.7 million gross square feet [in the zone] **for projects proceeding in accordance with approvals issued by the NJMC prior to February 17, 2004, and maximum FAR of 4.0 for commercial off-street parking uses, where one square foot of every two square feet of floor area shall apply to the FAR calculation**

#### 19:4-6.3 Retail sale events

(a)-(b) (No change.)

(c) General requirements applicable to retail sales events are as follows:

1.-4. (No change.)

5. The number of sale days and the duration of these sales shall be as follows:

i.-ii. (No change.)

**iii. Sales held exclusively for the benefit of nonprofit organizations shall not be counted toward the total number of sale days permitted.**

6. (No change.)

(d)-(f) (No change.)

#### 19:4-6.4 Outdoor events

(a) Not including retail sales events pursuant to N.J.A.C. 19:4-6.3, outdoor events shall be regulated by the NJMC in accordance with the following:

1.-4. (No change.)

[5. The outdoor event shall meet all applicable setbacks of the zone in which the property is located.]

[6.] **5.** (No change in text.)

[7. Parking shall be provided at the rate of one space for each 200 square feet of event area. This requirement is in addition to the parking requirement for the existing uses on the site with common hours of operation as the event.]

Recodify existing 8.-10. as **6.-8.** (No change in text.)

## 19:4-6.5 Property maintenance

(a) (No change.)

(b) The following minimum maintenance activities shall be performed:

1. (No change.)

2. All drainage facilities, including ditches, basins, downspouts, gutters, inlets and pumps, shall be maintained in satisfactory operating condition and free of debris and siltation. **Preventative and corrective maintenance shall be required to maintain the function of stormwater management measures.**

3. (No change.)

4. All refuse and recyclable materials shall be placed in refuse or recycling facilities in accordance with N.J.A.C. 19:4-8.15(f). Such areas, and any screening, shall be maintained in a safe, clean and efficient manner.

**i. All dumpsters shall have covers.**

5.-10. (No change.)

(c) (No change.)

## 19:4-7.3 Performance standards; noise

(a)-(b) (No change.)

(c) The instrument shall be set to the A-weighted response scale and the meter of the slow response. Measurements shall be conducted in accordance with [the American National Standards Institute (ANSI)] specification S12.50-2002, which describes various methods for determining the sound power levels for machinery and equipment. These standards are incorporated herein by reference, as amended and supplemented, and can be obtained from the American National Standards Institute, 25 West 43rd Street, 4th Floor, New York, NY 10036.

(d)-(k) (No change.)

## 19:4-7.6 Performance standards; hazardous materials, liquids and chemicals

(a) (No change.)

(b) In all zones, any activity involving the manufacture, utilization, or storage of explosive, flammable, highly combustible, highly toxic, corrosive, or unstable materials shall be conducted in accordance with the regulations of the NJ UCC, N.J.A.C. 5:23; the NJ UFC, N.J.A.C. 5:18; and the New Jersey Right-to-Know Law, N.J.S.A. [47:1A-1] **34:5A-1** et seq.

(c)-(e) (No change.)

## 19:4-7.9 Performance standards; wastewater

(a) (No change.)

(b) The following pertains to temporary wastewater facilities:

1. Prior to the availability of public sewerage facilities, uses established or changed, or any structure which is constructed, moved or remodeled, or reconstructed in the District after June 20, 1988 can be utilized only with the following temporary sewerage facilities:

i. (No change.)

[ii. Temporary wastewater facilities that hold or contain wastewater and do not discharge directly into the Hackensack River or its tributaries may be permitted upon a showing of the following requirements:

(1) The wastewater facility has a volumetric capacity of less than five daily volumes of wastewater;

(2) The wastewater facility is constructed of materials which are impervious, watertight, and noncorrosive; and

(3) Copies of a contract indicating the terms, conditions, and firm or entity engaged to maintain the wastewater facility are provided.]

**ii. Temporary wastewater facilities that hold or contain wastewater and do not discharge directly into the Hackensack River or its tributaries may be permitted if complying with the following requirements:**

**(1) The wastewater facility shall be constructed using one or more tanks with a maximum capacity of 6,000 gallons per tank. The facility shall be sized to accommodate the facility's wastewater flow for a 14-day period. The tank(s) shall comply with the following requirements:**

**(A) The tank(s) shall have a vent and visible/audible high level alarm, and shall be aerated and properly anchored to prevent uplift.**

**(B) The tank(s) shall be constructed of materials which are impervious, watertight, and noncorrosive.**

**(C) Tank installations shall be approved by the NJDEP, when required.**

**(2) Maintenance:**

**(A) Copies of a contract indicating the terms, conditions, and firm or entity engaged to maintain the wastewater facility shall be provided to the NJMC.**

**(B) The wastewater facility shall be pumped no less than every 14 days. Receipts shall be maintained on site at all times, and monthly records shall be provided to the NJMC.**

**(3) Within 90 days of availability of a public sanitary sewer, the temporary wastewater facility shall be decommissioned and removed, and inflows shall be redirected to the public sanitary sewer.**

iii. (No change.)

2.-3. (No change.)

(c)-(d) (No change.)

19:4-7.10 Performance standards; traffic

(a) A traffic impact analysis (TIA) shall be submitted to the NJMC for the following:

1. (No change.)

2. Any proposed development that creates 100 or more vehicle trips during [the] **any** peak hour [time periods of both the proposed use and the adjacent roadway(s)] **of adjacent street traffic, excluding trip reduction credits**, as determined by calculations based on the **manual**, Institute of Transportation Engineers (ITE) Trip Generation [Manual], 7th Edition, incorporated herein by reference, as amended and supplemented, a copy of which can be obtained from the Institute of Transportation Engineers, 525 School Street, S.W., Suite 410, Washington, DC 20024;

3.-4. (No change.)

(b) The TIA, and any portion thereof or alternative thereto, shall be developed in consultation with the NJMC staff and the Transportation Management Association(s) serving the **Meadowlands** region such as Meadowlink or the Hudson Transportation Management Association, and shall be subject to NJMC approval. **The TIA shall analyze locations and peak hours as determined by the NJMC.**

(c) The TIA shall be prepared by a New Jersey-licensed professional engineer or professional planner specializing in transportation, or other individual determined by the NJMC to be qualified as an expert in traffic engineering, and shall include the following:

1. (No change.)

2. Existing conditions:

i. (No change.)

ii. A traffic count program, in accordance with the following:

(1) Traffic counts shall be conducted for [AM and PM peak hours, unless otherwise required by the NJMC;] **all locations and peak hours determined by the NJMC;**

(2) Traffic counts shall not be conducted more than one year prior to the date of application; [and]

(3) Any method used to balance or adjust traffic count data between intersections or roadway sections shall be described; **and**

**(4) An existing condition traffic volume diagram shall be provided, including each peak hour analyzed;**

iii. A capacity analysis, in accordance with the following:

(1) The capacity analysis shall be conducted using the methods of the Highway Capacity Manual (HCM), 2000 prepared by the Transportation Research Board (TRB) National Research Council, 2101 Constitution Avenue, N.W., Washington, DC 20418, [and] **incorporated herein by reference, as amended and supplemented;**

**(2) The Highway Capacity Software (HCS+)[, 2000], prepared by the University of Florida's McTrans, P.O. Box 116585, Gainesville, FL 32611, incorporated herein by reference, as amended and supplemented, shall be used to conduct the capacity analysis.** The generated capacity analysis reports **in HCS detailed report output format** shall be included in an appendix to the TIA report. **The Synchro 7 software package, prepared by Trafficware Ltd, P.O.**

**Box 499, Sugar Land, TX 77487, incorporated herein by reference, as amended and supplemented, shall also be used to analyze multiple signalized intersections along a corridor as determined by the NJMC;**

[(2)] **(3)** Capacity analyses shall be conducted for all locations and peak time periods [for existing, proposed, future, and proposed mitigated conditions] **as determined by the NJMC;**

[(3)] **(4)** (No change in text.)

[(4)] **(5)** A summary, **table**, and diagram of all capacity analyses by [condition,] location[,], and time period shall be provided. The [summary list] **table** shall include Level of Service (LOS), [Volume to Capacity] **volume to capacity (V/C) ratio, density in passenger cars per mile per lane**, and delay in seconds for each movement [and] **of each analyzed intersection, ramp and/or roadway, as applicable.**

[3. Future "no-build" conditions:

i. A description of the future "no-build" conditions that are projected without the proposed development shall be provided, in accordance with the following:

(1) The TIA shall identify any development, other than the proposed project, using the same existing or proposed roadway network as the project in question that would be built by the same proposed build year(s), inclusive of all phrases, and the resulting trips;

(2) A two percent growth rate, compounded annually, shall be applied to the existing traffic volumes of the study area;

(3) The existing traffic volumes shall be combined with the resulting volumes generated by (c)3i(1) and (2); and

(4) Apply the trips resulting from (c)3i(1) to the roadway network, including any proposed transportation improvements to be constructed by the build year, exclusive of site-related improvements; and

ii. A capacity analysis of the "no-build" conditions shall be conducted in accordance with (c)2iii above;]

[4.] **3. Trip generation, distribution, modal split and assignment:**

i. A trip generation analysis shall be conducted using the [trip generation rates and] procedures **described in the ITE Trip Generation Handbook, Second Edition, incorporated herein by reference, as amended and supplemented, a copy of which can be obtained from the Institute of Transportation Engineers, 525 School Street, S.W., Suite 410, Washington, DC 20024. Trip generation shall be calculated using the trip generation rates and/or formulas** described in the ITE Trip Generation [Manual] **manual** referenced in (a)2 above. All methods, land use codes, rates and formulas used from the manual shall be noted, including appropriate edition and page number. Alternative trip generation from surveys may be used if the process and sources are documented and determined adequate by the NJMC. All trip generation methods, including trip reduction credits such as pass-by, transit, or internal [and external] capture, shall be subject to NJMC approval. **All trip generation methods shall include written justification, including illustrations.**

ii. **A tabular summary shall be provided indicating the entering, exiting, and total trips for the peak hours determined by the NJMC.**

[ii.] **iii.** Trip distribution shall be determined by using a gravity model method approved by the NJMC that replicates the flow of traffic by trip origin and destination. [The trip] **Trip** distribution [process] **documentation including rationale, procedures, and calculations** shall be described and illustrated in the TIA.

[iii.] **iv.** The modal split, or mode choice, shall be provided describing the means of transportation used, including personal vehicle, transit, walking, or other means. The modal split shall be provided for each existing and future condition and listed by percentage of mode type. The TIA shall provide the source of the modal split information and indicate the relevance of this data to the proposed site development or project. **The modal split shall be subject to approval by the NJMC.**

[iv.] **v.** (No change in text.)

**vi.** A total site traffic volume diagram shall be provided, including each peak hour analyzed.

#### **4. Future no-build conditions:**

**i.** The future no-build conditions that are projected without the proposed development shall include the following:

**(1)** The identification of any development, other than the proposed project, using the same existing or proposed roadway network as the project in question that is projected to be built by the same proposed build year(s), inclusive of all phases, and the resulting trips. The trip generation of the development shall be calculated in accordance with (c)3 above;

**(2)** A background growth rate, compounded annually, determined from the Annual Background Growth Rate Table, published by the New Jersey Department of Transportation (NJDOT), April 2007, incorporated herein by reference as amended and supplemented, and applied to the existing traffic volumes of the study area. The Annual Background Growth Rate Table may be obtained from the NJDOT, 1035 Parkway Avenue, PO Box 600, Trenton, NJ 08625-0600, or its website, <http://www.state.nj.us/transportation/>;

**(3)** The future no-build traffic volumes derived by combining the resulting volumes generated by (c)4i(1) and (2);

**(4)** Trips resulting from (c)4i(3), applied to the roadway network, including any proposed transportation improvements projected to be constructed by the build year, exclusive of site-related improvements; and

**(5)** Traffic volume diagrams, including each peak hour analyzed, for the following:

**(A)** Any development other than the proposed project;

**(B)** The total of the other developments; and

**(C)** The no-build condition.

**ii.** A capacity analysis of the no-build conditions shall be conducted in accordance with (c)2iii above.

#### **5. Future ["build"] build conditions:**

**i.** [A description of the future "build"] **The future build** conditions that are projected with the proposed development shall [be provided, including a] **include the following:**

**(1)** A description and illustration of proposed site access and the proposed roadway and intersection configurations[.];

**(2)** The traffic volume used in the build capacity analysis, derived by combining the site trip generation volumes

calculated in accordance with (c)3 above and the no-build volumes of (c)4 above;

**(3) Trips resulting from (c)5i(2) above, applied to the roadway network, including any proposed transportation improvements projected to be constructed by the build year, exclusive of site-related improvements; and**

**(4) A build condition traffic volume diagram, including each peak hour analyzed.**

ii. A capacity analysis of the ["build"] **build** conditions shall be conducted in accordance with (c)2iii above. [LOS tables and associated maps and figures shall also be provided. The traffic volume used in the "build" capacity analysis shall be derived by combining the "no-build" volumes of (c)3 above and the trip generation volumes of (c)4 above.

iii. Analysis results shall be described by road, ramp or intersection; and]

6. Impact assessment and mitigation condition:

i. The TIA shall assess the results of the ["build"] **build** analysis by comparing the no-build and ["build"] **build** traffic impact, in accordance with the following:

(1) Any roadway, **ramp**, or intersection that exceeds a LOS "D" or degrades the [existing] **no-build** LOS by more than one LOS letter grade shall be subject to mitigation measures.

(2) (No change.)

(3) If the project is built in multiple years, ["build"] **build** and mitigation conditions shall reflect the multiple ["build"] **build** years separately.

(4) Proposed on-site and off-site transportation improvements supplemental to the no-build or proposed ["build"] **build** transportation improvements shall be described and illustrated **with a detailed conceptual design showing all geometric elements and dimensions, and detailed cost estimate.**

(5) (No change.)

(d) (No change.)

## SUBCHAPTER 8. SITE PLAN REQUIREMENTS

### 19:4-8.2 Parking

(a)-(b) (No change.)

(c) Design requirements are as follows:

1.-4. (No change.)

5. All vehicular use areas, except those in the Environmental Conservation zone and single-family and two-family detached residences, shall be curbed with full depth concrete or granite block and paved or otherwise improved with an all-weather dustless material. **Use of pavement materials other than asphalt or concrete shall be subject to approval by the Chief Engineer.**

6.-13. (No change.)

(d)-(e) (No change.)

(f) Shared parking requirements are as follows:

1. Parking areas may be shared by more than one use if a shared parking plan prepared in accordance with these regulations is approved by the NJMC. A shared parking plan prepared by a New Jersey-licensed professional engineer or other individual determined by the NJMC to be qualified as an expert in traffic engineering shall be submitted to the NJMC and shall include the following:

i. Determination of required number of spaces:

(1) For new construction, the minimum number of parking spaces constructed for a shared use project shall be determined by a shared parking plan, developed in accordance with the Urban Land Institute's (ULI) Shared Parking Manual, [1983] **Second Edition, 2005**, incorporated herein by reference, as amended and supplemented, or other similarly recognized publication. The Shared Parking Manual can be obtained from the Urban Land Institute, 1025 Thomas Jefferson Street, N.W., Suite 500 West, Washington, DC 20007.

(2) (No change.)

ii.-iv. (No change.)

2.-7. (No change.)

(g) (No change.)

19:4-8.4 Parking and loading requirements

(a) The following shall be the minimum parking and loading requirements per use:

Table 8-1

Parking and Loading Requirements

|        | Use                | Minimum Parking Requirements   | Minimum Loading Requirements         |
|--------|--------------------|--|--------------------------------------|
|        | ---                | -----  | -----                                |
| 1.-29. | (No change.)       |  |                                      |
| 30.    | Health care center | Two spaces per examination or treatment room; and one space per employee (including doctors and staff) | One loading space; 12 feet x 30 feet |

31.-38. (No change.)

|     |                     |   |  |
|-----|---------------------|---|--|
| 39. | Intermodal facility | One space per [1,000] <b>25,000 sq. ft. of lot area used for intermodal operations; and cumulative parking requirement per additional use</b> | Two loading spaces (12 feet x 60 feet) for structures up to and including 40,000 sq. ft.; three loading spaces (12 feet x 60 feet) for structures over 40,000 sq. ft. and up to and including 100,000 sq. ft.; and one loading space (12 feet x 60 feet) per additional 100,000 sq. ft. over 100,000 sq. ft. |
|-----|---------------------|---|--|

|     |               |   |   |
|-----|---------------|---|---|
| 40. | <b>Kennel</b> | <b>One space per employee; one space per facility vehicle; and one space per 10 animals</b> | <b>One loading space; 12 feet x 30 feet</b> |
|-----|---------------|---|---|

Recodify existing 40.-48. as **41.-49.** (No change in text.)

|     |                        |   |                      |
|-----|------------------------|---|----------------------|
| 50. | <b>Outdoor storage</b> | <b>One space per employee; and one space per facility vehicle</b> | <b>None required</b> |
|-----|------------------------|---|----------------------|

Recodify existing 49.-74. as **51.-76.** (No change in text.)

|     |                            |   |   |
|-----|----------------------------|---|---|
| 77. | <b>Veterinary facility</b> | <b>Two spaces per examination or treatment room; and one space per employee (including doctors and staff)</b> | <b>One loading space; 12 feet x 30 feet</b> |
|-----|----------------------------|---|---|

Recodify existing 75.-76. as **78.-79.** (No change

in text.)

(b) (No change.)

#### 19:4-8.5 Line-of-sight triangle

(a) Line-of-sight triangles shall be provided in accordance with established American Association of State Highway and Transportation Officials (AASHTO) design recommendations for intersection sight distances/sight triangles as found in the AASHTO manual, "A Policy on Geometric Design of Highways and Streets," [Fourth] **Fifth** Edition, [2001] **2004**, incorporated herein by reference, as amended and supplemented, and shall be indicated on the site plan.

(b)-(d) (No change.)

#### 19:4-8.6 Drainage

(a) (No change.)

(b) Design requirements for drainage are as follows:

1.-2. (No change.)

3. Runoff estimation:

i. The Rational Method, utilizing the rational formula listed in Figure 8-2 below, shall be used for [computing the runoff from any drainage area up to 20 acres] **the sizing of storm sewer systems only**. The antecedent precipitation factor (Ca) shall be used with the Rational [and Modified Rational] Method, as shown in the Standards for Soil Erosion and Sediment Control in New Jersey at N.J.A.C. 2:90-1.3, incorporated herein by reference, as amended and supplemented. For [areas larger than 20 acres] **the sizing of volume-based stormwater systems and for comparing pre- and post-construction peak flows**, the National Resources Conservation Service's (NRCS), Technical Release No. 55 (TR-55), "Urban Hydrology for Small Watersheds," incorporated herein by reference, as amended and supplemented, or equivalent approved by the NJMC, shall be used. A copy may be obtained from the NRCS New Jersey State Office, 220 Davidson Avenue, 4th floor, Somerset, New Jersey 08873, or online at the NRCS website, <http://www.wcc.nrcs.usda.gov/hydro/hydro-tools-models-tr55.html>; and

Figure 8-2

-----

Rational Formula

$$Q = ciA$$

where:

Q = Peak flow in cubic feet per second (cfs)

c = Runoff coefficient (weighted) x the antecedent precipitation factor

i = Rainfall intensity in inches per hour (in/hr)

A = Drainage area in acres (ac)

ii. The runoff coefficients (c) listed in Table 8-2 below shall be used in the rational formula:

[Table 8-2

Coefficient of Runoff Values

| Land Use<br>-----          | Description<br>-----             | Hydrologic Soils Group |       |      |      |
|----------------------------|----------------------------------|------------------------|-------|------|------|
|                            |                                  | A                      | B     | C    | D    |
|                            |                                  | -                      | -     | -    | -    |
| Cultivated Land:           | Without conservation treatment   | 0.50                   | 0.70  | 0.80 | 0.90 |
|                            | With conservation treatment      | 0.30                   | 0.45  | 0.65 | 0.70 |
| Pasture:                   | Poor condition                   | 0.40                   | 0.65  | 0.75 | 0.85 |
| Grassland or<br>Range Land | Fair condition                   | -----                  | 0.25  | 0.50 | 0.65 |
| Meadow                     | Good condition                   | -----                  | ----- | 0.40 | 0.60 |
| Wood or Forest<br>Land:    | Poor cover; thin stand, no mulch | -----                  | 0.35  | 0.60 | 0.70 |
|                            | Good cover                       | -----                  | ----- | 0.45 | 0.60 |

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|   |   |       |       |      |      |      |
|---|---|-------|-------|------|------|------|
| Open Space:                             | Poor condition (grass cover < 50 percent)             | ----- | 0.65  | 0.70 | 0.85 |      |
| Lawns, Parks,<br>Golf Courses,<br>etc.) | Fair condition (grass cover 50 percent to 75 percent) | ----- | 0.45  | 0.60 | 0.75 |      |
|   | Good condition (grass cover > 75 percent)             | ----- | 0.25  | 0.50 | 0.65 |      |
| Urban Areas:                            |   |       |       |      |      |      |
| Commercial and<br>Business              | 85 percent impervious                                 | 0.85  | 0.90  | 0.90 | 0.95 |      |
| Industrial                              | 72 percent impervious                                 | 0.65  | 0.80  | 0.90 | 0.90 |      |
| Residential:                            |   |       |       |      |      |      |
| Average Lot Size<br>(acres):            | Average percent impervious:                           |       |       |      |      |      |
|   | 1/8   | 65    | 0.60  | 0.75 | 0.85 | 0.90 |
|   | 1/4   | 38    | 0.30  | 0.55 | 0.70 | 0.80 |
|   | 1/3   | 30    | ----- | 0.50 | 0.70 | 0.80 |
|   | 1/2   | 25    | ----- | 0.45 | 0.65 | 0.75 |
|   | 1   | 20    | ----- | 0.40 | 0.65 | 0.75 |
| Impervious<br>Areas:                    | Parking lots, roofs, driveways,<br>etc.               | 0.99  | 0.99  | 0.99 | 0.99 |      |
| Paved                                   | Streets and roads                                     | 0.99  | 0.99  | 0.99 | 0.99 |      |

|        |                   |      |      |      |      |
|--------|-------------------|------|------|------|------|
| Gravel | Streets and roads | 0.60 | 0.75 | 0.85 | 0.90 |
| Dirt   | Streets and roads | 0.50 | 0.70 | 0.80 | 0.85 |

Note: Hydrologic Soil Groups Texture descriptions are the following:

A Sand, loamy sand, or sandy loam

B Silt loam or loam

C Sandy clay loam

D Clay loam, silty clay loam, sandy clay, silty clay, or clay]

**Table 8-2**

**Coefficient of Runoff Values**

| Land Use<br>-----              | Description<br>-----                  | Hydrologic Soils Group |             |             |             |
|--------------------------------|---------------------------------------|------------------------|-------------|-------------|-------------|
|                                |                                       | A                      | B           | C           | D           |
|                                |                                       | -                      | -           | -           | -           |
| <b>Cultivated Land:</b>        | <b>Without conservation treatment</b> | <b>0.49</b>            | <b>0.67</b> | <b>0.81</b> | <b>0.88</b> |
|                                | <b>With conservation treatment</b>    | <b>0.27</b>            | <b>0.43</b> | <b>0.61</b> | <b>0.67</b> |
| <b>Pasture:</b>                | <b>Poor condition</b>                 | <b>0.38</b>            | <b>0.63</b> | <b>0.78</b> | <b>0.84</b> |
| <b>Grassland or Range Land</b> | <b>Fair condition</b>                 | <b>-----</b>           | <b>0.25</b> | <b>0.51</b> | <b>0.65</b> |

|  |  |             |             |             |             |
|--|--|-------------|-------------|-------------|-------------|
| <b>Meadow</b>                            | <b>Good condition</b>  | -----       | -----       | <b>0.41</b> | <b>0.61</b> |
| <b>Wood or Forest Land:</b>              | <b>Poor cover; thin stand, no mulch</b>                      | -----       | <b>0.34</b> | <b>0.59</b> | <b>0.70</b> |
|  | <b>Good cover</b>  | -----       | -----       | <b>0.45</b> | <b>0.59</b> |
| <b>Open Space:</b>                       | <b>Poor Condition (grass cover &lt; 50 percent)</b>          | -----       | <b>0.65</b> | <b>0.70</b> | <b>0.85</b> |
| <b>Lawns, Parks, Golf Courses, etc.)</b> | <b>Fair Condition (grass cover 50 percent to 75 percent)</b> | -----       | <b>0.45</b> | <b>0.63</b> | <b>0.74</b> |
|  | <b>Good Condition (grass cover &gt; 75 percent)</b>          | -----       | <b>0.25</b> | <b>0.51</b> | <b>0.65</b> |
| <b>Commercial and Business Areas:</b>    | <b>85 percent impervious</b>                                 | <b>0.84</b> | <b>0.90</b> | <b>0.93</b> | <b>0.96</b> |
| <b>Industrial Districts:</b>             | <b>72 percent impervious</b>                                 | <b>0.67</b> | <b>0.81</b> | <b>0.88</b> | <b>0.92</b> |
| <b>Residential:</b>                      |  |             |             |             |             |
| <b>Average Lot Size (acres):</b>         | <b>Average percent impervious:</b>                           |             |             |             |             |
|  | <b>1/8</b>   | <b>65</b>   | <b>0.59</b> | <b>0.76</b> | <b>0.86</b> |
|  | <b>1/4</b>   | <b>38</b>   | <b>0.29</b> | <b>0.55</b> | <b>0.70</b> |
|  | <b>1/3</b>   | <b>30</b>   | -----       | <b>0.49</b> | <b>0.67</b> |
|  | <b>1/2</b>   | <b>25</b>   | -----       | <b>0.45</b> | <b>0.65</b> |
|  | <b>1</b>   | <b>20</b>   | -----       | <b>0.41</b> | <b>0.63</b> |

|                          |   |             |             |             |             |
|--------------------------|---|-------------|-------------|-------------|-------------|
| <b>Impervious Areas:</b> | <b>Parking lots, roofs, driveways, etc.</b> | <b>0.99</b> | <b>0.99</b> | <b>0.99</b> | <b>0.99</b> |
| <b>Paved</b>             | <b>Streets and roads</b>                    | <b>0.99</b> | <b>0.99</b> | <b>0.99</b> | <b>0.99</b> |
| <b>Gravel</b>            | <b>Streets and roads</b>                    | <b>0.57</b> | <b>0.76</b> | <b>0.84</b> | <b>0.88</b> |
| <b>Dirt</b>              | <b>Streets and roads</b>                    | <b>0.49</b> | <b>0.69</b> | <b>0.80</b> | <b>0.84</b> |

**Note: Hydrologic Soil Groups texture descriptions are the following:**

**A Sand, loamy sand, or sandy loam**

**B Silt loam or loam**

**C Sandy clay loam**

**D Clay loam, silty clay loam, sandy clay, silty clay, or clay**

iii. (No change.)

4. Stormwater drainage collection system design requirements are as follows:

i. The design of pipes and conduits shall use Manning's equation, listed in Figure 8-3 below, to determine capacity.

## Figure 8-3

## Manning's Equation

$$Q = (1.486/n)AR^{(2/3)} S^{(1/2)}$$

where:

Q = Flow, cubic feet per second (cfs)

n = Manning's roughness coefficient

A = Cross-sectional area of flow in square feet (sf)

R = Hydraulic radius in feet,  $R=A/P$ , where P is the wetted perimeter, measured in feet and defined as the length of the line of contact between the flowing water and the channel (ft)

S = Slope of energy grade in feet per foot (ft/ft)

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ii.-vii. (No change.)

viii. Where a drainage system [starts at or] discharges **to grade or** into a stream, ditch or other body of water, a concrete headwall with wing-walls and a rip-rap apron pad, or other as approved by the NJMC, shall be constructed. The apron pad and/or scour hole design shall consider the tailwater elevation to be equal to the mean low water (MLW) elevation if tidally influenced. **Additionally, where maximum velocities exceed the allowable velocities for soil stability, as determined in the Standards for Soil Erosion and Sediment Control in New Jersey, N.J.A.C. 2:90, scour control shall be provided.**

ix. (No change.)

x. Roof leaders and their respective receiving systems shall be sized to pass a minimum rainfall intensity per N.J.A.C. 5:23-3.15(b)12ii of the Uniform Construction Code (UCC), **or the design storm intensity, whichever is greater.**

**xi. All concrete pipes shall be minimum ASTM Class III unless loading conditions require stronger pipe.**

**xii. The minimum depth of cover over the concrete pipe shall be in accordance with Table 8-3 below:**

Table 8-3

Minimum Depth of Coverage over Concrete Pipe

| Pipe Diameter<br>(in inches)<br>----- | ASTM<br>Class Pipe<br>----- | Minimum Cover<br>(surface to top of<br>pipe in inches)<br>----- |
|---------------------------------------|-----------------------------|---|
| 12                                    | III                         | 17  |
|                                       | IV                          | 12  |
|                                       | V                           | 7   |
| 15                                    | III                         | 16  |
|                                       | IV                          | 11  |
|                                       | V                           | 7   |
| 18                                    | III                         | 16  |
|                                       | IV                          | 10  |
|                                       | V                           | 6   |
| 24                                    | III                         | 15  |
|                                       | IV                          | 6   |
|                                       | V                           | 6   |
| 30                                    | III                         | 10  |
|                                       | IV                          | 6   |
|                                       | V                           | 6   |
| 36 and above                          | III                         | 6   |
|                                       | IV                          | 6   |

**xiii. The minimum depth of cover for ductile iron, polyvinyl chloride (PVC), and high-density polyethylene (HDPE) pipe shall conform to the manufacturer's standards.**

5. Surface and subsurface detention basins shall be designed in accordance with N.J.A.C. 7:8, the Stormwater Management Rules, and the NJDEP "New Jersey Stormwater BMP Manual," each incorporated herein by reference, as amended and supplemented. The New Jersey Stormwater BMP Manual is available online at [http://www.state.nj.us/dep/stormwater/bmp\\_manual2.htm](http://www.state.nj.us/dep/stormwater/bmp_manual2.htm). The following are exceptions to the above requirements:

i.-iii. (No change.)

iv. Detention basins shall be maintained to prevent clogging and/or siltation. [A maintenance plan shall be submitted to

the NJMC for review and approval.]

6. Stormwater pollutant removal shall be performed in compliance with N.J.A.C. 7:8, the Stormwater Management Rules. In addition:

i. (No change.)

ii. Similar structural stormwater management measures may not be used in series to achieve the required 80-percent TSS removal unless approved by the [NJMC] **Chief Engineer**.

iii.-iv. (No change.)

#### 19:4-8.9 Landscaping

(a) (No change.)

(b) The landscape plan shall include the following:

1.-3. (No change.)

4. A plant schedule indicating botanical and common names, quantity, size at time of planting [and] **(including plant height and caliper, where applicable), size at time of** maturity, and spacing of all proposed plantings; and

5. (No change.)

(c) Plant standards for landscaping are as follows:

1. All proposed plantings shall conform to the American Standard for Nursery Stock, (ANSI Z60.1-[1996] **2004**), published [November 6, 1996] **May 12, 2004** by the American Nursery and Landscape Association, 1000 Vermont Avenue, NW, Suite 300, Washington, DC 20005, incorporated herein by reference, as amended and supplemented. Plantings shall also conform to hardiness zone 6 standards of the United States Department of Agriculture (USDA) Plant Hardiness Zone Map, as developed by the USDA, Miscellaneous Publication No. 1475, issued January 1990, incorporated herein by reference, as amended and supplemented. The map is available through the USDA and other cooperative extensions. A web-based interactive Plant Hardiness Zone Map (2001 US National Arboretum "Web Version" of the USDA Plant Hardiness Zone Map) can be found in the United States National Arboretum website at <http://www.usna.usda.gov/Hardzone/ushzmap.html>.

2.-4. (No change.)

(d)-(e) (No change.)

#### 19:4-8.12 Sidewalks

(a)-(b) (No change.)

(c) The minimum sidewalk width shall be four feet. Where a sidewalk abuts a curb or the edge of pavement, the minimum width shall be six feet. **Sidewalks shall conform to the minimum design criteria required by the NJ UCC Barrier Free Subcode, N.J.A.C. 5:23-7.**

(d)-(e) (No change.)

19:4-8.13 Lighting

(a) Adequate site illumination for uncovered areas shall be provided in accordance with the following:

1.-2. (No change.)

3. Evenly distributed, minimum illumination levels shall be maintained throughout the uncovered areas during non-daylight hours as per Table [8-3] **8-4** below.

Table [8-3] **8-4**

Site Illumination Requirements for Uncovered Areas

| Use   | Minimum [Average]<br>Footcandle Level |
|---|---------------------------------------|
| ---   | -----                                 |
| Parking Lots                                      | 1.0                                   |
| Loading, Unloading and Material Handling<br>Areas | 4.0                                   |
| Driveway Entrances and Exits                      | 2.0                                   |
| Pedestrian Walkway Areas                          | 0.5                                   |

4.-6. (No change.)

(b) Adequate site illumination for covered parking and loading areas shall be provided in accordance with the following:

1.-2. (No change.)

3. Evenly distributed, minimum illumination levels shall be maintained at all times [as in Table 8-4 below] **in accordance with Figure 22-22 of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook, 9th edition, incorporated herein by reference, as amended and supplemented, which can be obtained from IESNA, 120 Wall Street, Floor 17, New York, NY 10005-4001.**

[Table 8-4

## Site Illumination Requirements for Covered Areas

| Area  | Minimum Footcandles in<br>Covered Area |       |
|---|--|-------|
|   | Day                                    | Night |
| ----  | ---                                    | ----- |
| General Parking and Pedestrian Areas              | 5                                      | 5     |
| Ramps, Aisles and Corridors                       | 10                                     | 10    |
| Parking Storage Areas                             | 5                                      | 5     |
| Entrance Areas                                    | 20                                     | 10    |
| Elevator Areas, Walkways, and Cashiers'<br>Booths | 20                                     | 20    |
| Stairwells  | 50                                     | 50]   |

4.-5. (No change.)

19:4-8.14 Signs

(a)-(d) (No change.)

(e) The following signs are exempt from zoning certificate approval and shall not be included in sign calculations determining gross sign area or number of signs, but shall comply with all other requirements:

1. Temporary signs for the purposes of warehouse sales, temporary/seasonal outdoor sales, and the sale of Christmas trees, when approved in compliance with N.J.A.C. 19:4-6.3, and grand opening sales, shall be limited to one per lot and shall not exceed the maximum size of any single sign as listed in Table 8-5 below. These signs shall conform to the following:

i. (No change.)

ii. Grand opening signs may be erected **within one month of occupancy certification, for** up to seven days before the event, and shall remain no longer than 14 days;

2.-3. (No change.)

(f) (No change.)

(g) Safety and maintenance requirements for signs are as follows:

1.-2. (No change.)

[3. No flashing signs, rotating or moving signs, animated signs, signs with moving lights, or signs that create the illusion of movement shall be permitted in any zone except for reader board signs and signs displaying the time and/or temperature. Such signs shall not be deemed to be a flashing sign if the lighting changes are not more frequent than every 15 seconds.]

**3. No flashing signs; rotating or moving signs; animated or video display signs; signs with moving lights; electronic, LED or digital signs; or signs that create the illusion of movement shall be permitted, with the following exceptions:**

**i. Reader board signs, where permitted, except in the Low Density Residential zone; and**

**ii. Signs displaying the time and/or temperature where display changes are not more frequent than every 15 seconds.**

4. Any illuminated sign located on a lot adjacent to or across a ROW from any permitted residential use shall not be illuminated between the hours of 10:00 P.M. and [7:00] **6:00** A.M. Such signs shall not have white illuminated backgrounds and shall be screened from residential uses where deemed necessary by the NJMC.

5.-6. (No change.)

(h) The allowable signage per zone shall be as listed in Table 8-5 below, and the following:

1.-6. (No change.)

7. Concerning billboards:

i.-viii. (No change.)

**ix. Electronic, LED, digital, and/or video display billboards are prohibited.**

Table 8-5

Allowable Signage by Zone

√ = Permitted X = Not Permitted

sf = square feet sf/du = square feet[<sup>2</sup>] per dwelling unit

|   | <u>EC</u> | <u>PA</u> | <u>LDR</u> | <u>NC</u> ,<br><u>WR</u> | <u>CP</u> ,<br><u>RC</u> | <u>HC</u> | <u>AF</u> , <u>HI</u> , <u>I-A</u> ,<br><u>I-B</u> , <u>LI-A</u> ,<br><u>LI-B</u> , <u>PU</u> | <u>PR</u> ,<br><u>TC</u> ,<br><u>RA</u> <sup>1</sup> |
|---|-----------|-----------|------------|--------------------------|--------------------------|-----------|---|--|
| ...   |           |           |            |                          |                          |           |   |  |
| <u>Measurement:</u>                                 |           |           |            |                          |                          |           |   |  |
| ...   |           |           |            |                          |                          |           |   |  |
| Maximum number of signs per front yard <sup>6</sup> | n/a       | n/a       | 1          | 2                        | 2                        | 2         | 2   | 2  |

Notes:

- Note 1: Sign regulations may be superseded by individual redevelopment plans.
- Note 2: See also paragraph (h)7.
- Note 3: The maximum height of a ground, pole, or roof sign shall be measured from the ground level. **The maximum height of a wall sign shall be the wall height of the structure.**
- Note 4: None, except reader boards may be directly illuminated.
- Note 5: See paragraph (h)4 above.
- Note 6: **This method of calculation for the maximum number of signs shall not apply to multi-tenanted and multi-structure developments, which are governed by (i) below.**

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(i)-(j) (No change.)

19:4-8.15 Site service improvements

(a)-(e) (No change.)

(f) Requirements for **accessory** recycling and refuse areas are as follows:

1. Recycling and refuse areas shall be provided as follows:

i.-ii. (No change.)

**iii. All refuse and recycling areas shall be used for the collection and storage of waste generated on-site only.**

2. [The total area of either recycling or refuse areas on a lot shall not exceed 600 square feet each.] The dimensions of [such] **recycling or refuse** areas shall be sufficient to accommodate containers of adequate size and number consistent with anticipated usage and current methods of collection.

3. No recycling or refuse areas shall be located in a front yard, except where front yard loading is a pre-existing nonconformity [and] **or** other yards are not adequate.

4.-5. (No change.)

6. The following setbacks shall apply:

i.-ii. (No change.)

**iii. Refuse and recycling areas shall be located and designed to avoid adverse impacts to adjacent waterways and/or drainage facilities. A minimum setback of 25 feet shall be provided, where feasible.**

7.-12. (No change.)

(g) (No change.)

#### SUBCHAPTER 9. FLOOD PLAIN MANAGEMENT

##### 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.

...

"Base flood elevation" means the height of the base flood in relation to the [National Geodetic Vertical Datum (NGVD) of 1929,] **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.

...

#### SUBCHAPTER 10. PROJECT IMPACT ASSESSMENT

##### 19:4-10.4 Content of PIA

(a) [Each component of the PIA shall analyze] **The PIA shall assess the impacts of a proposed development by analyzing** existing conditions, proposed conditions, **potential** impacts, and mitigating factors. The following shall be the required components of the PIA:

1.-2. (No change.)

3. Wetlands:

[i. A delineation of existing wetlands and open water areas in accordance with Federal and State wetland delineation criteria;

ii. A discussion of off-site and on-site alternatives to the proposed wetland fill. The methodology for off-site alternatives analysis shall be discussed with the NJMC staff prior to conducting this study; and

iii. A discussion of the compensatory program for the loss of wetland function in conjunction with the proposed development;]

**i. A copy of any wetlands delineation prepared for a wetlands jurisdictional determination from the United States Army Corps of Engineers (USACE); and**

**ii. A copy of any jurisdictional determination and/or fill permit issued by the USACE;**

4. Floodplain areas: [The]

**i. A map depicting the established 100-year flood plain delineation as determined by FEMA, where applicable; and**

**ii. A description of the project's degree of compliance with the requirements of N.J.A.C. 19:4-9 regarding floodplain management;**

5. (No change.)

6. Drainage [and water quality]:

[i. A hydrologic and hydraulic study of the impacts of the proposed project, including existing drainage patterns; surface water hydrology and structure analysis tributary to and downstream of the project site; stormwater calculations for pre-and post-development conditions and a plan and discussion of storm water management practices to accommodate both storm water quantity and quality; and

ii. An assessment of the impact of the proposed development on water quality from effluent discharge or other sources;]

**i. A study of the project's degree of compliance with the requirements of N.J.A.C. 19:4-8.6 regarding drainage and water quality;**

7. Habitats:

i. An assessment of the impacts on wildlife and vegetation, including threatened and endangered species; [and

ii. An assessment of the impacts on wildlife and vegetation using accepted ecological principles and scientific literature on each species. Both direct and indirect impacts of the proposed development shall be considered;]

8. (No change.)

[9. Air quality:

i. An analysis of the impact on air quality from stationary sources to determine the effects of the proposed development on the ambient air quality;

ii. An analysis of the impact on air quality from mobile sources. An assessment of the effects of the project on regional and local ambient air quality, including the concentration of carbon monoxide emissions on adjacent roadways and within proximity of adjacent land uses shall be provided; and

iii. An analysis of short term impacts on air quality due to construction activities;

10. Noise:

i. An analysis of the noise generated at the project site;

ii. An analysis of the noise generated by the construction of the proposed project at the project site and at adjacent properties; and

iii. Comparison for the predicted noise levels with accepted standards, guideline levels, and noise evaluation criteria, including the performance standards of N.J.A.C. 19:4-7.3;]

**9. A description of the project's degree of compliance with the following performance standards shall be provided:**

i. N.J.A.C. 19:4-7.3 concerning noise;

ii. N.J.A.C. 19:4-7.4 concerning vibrations;

iii. N.J.A.C. 19:4-7.5 concerning airborne emissions, and shall also include the following:

(1) An analysis of the impact on air quality from mobile sources. An assessment of the effects of the project on regional and local ambient air quality, including the concentration of carbon monoxide emissions on adjacent roadways and within proximity of adjacent land uses shall be provided using the procedures described in the Air Quality Analysis for Intersection, published by the New Jersey Department of Environmental Protection, May 2004, incorporated herein by reference, as amended and supplemented, a copy of which can be obtained from the New Jersey Department of Environmental Protection, 401 East State Street, P.O. Box 402, Trenton NJ 08625-0402; and the Guideline for Modeling Carbon Monoxide from Roadway Intersections, published by the U.S. Environmental Protection Agency, November 1992, incorporated herein by reference, as amended and supplemented, a copy of which can be obtained from the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460 or its website, [http://www.epa.gov/scram001/guidance\\_sip.htm](http://www.epa.gov/scram001/guidance_sip.htm); and

(2) An analysis of short term impacts on air quality due to construction activities;

iv. N.J.A.C. 19:4-7.6 concerning hazardous materials, liquids and chemicals;

v. N.J.A.C. 19:4-7.7 concerning glare;

vi. N.J.A.C. 19:4-7.8 concerning radioactive materials; and

vii. N.J.A.C. 19:4-7.9 concerning wastewater;

[11.] **10. Site remediation:**

i. [Results of a historical records search] **Description** of the former uses on the property, **including results of a historical records search;**

ii. [An assessment] **A summary** of any environmental and/or contamination issues [on] **related to** soil, air and groundwater; [and]

[iii. An assessment of the feasibility of the site for the proposed use as well as a discussion of next steps with regard to remediation;]

**iii. A summary of remediation strategies approved or under consideration, including an anticipated remediation timeline; and**

**iv. A summary of the remedial project's status with the NJDEP, including contact information for the NJDEP case manager(s);**

[12.] **11.** (No change in text.)

[13.] **12.** Public services: Documentation from the agency or company responsible for utility service [determining if sufficient capacity exists to accommodate] **detailing the ability to serve** the proposed development. This shall include wastewater treatment, water supply, energy supply and solid waste; [and]

**13. Affordable housing:**

**i. A description of the affordable housing obligation generated by the proposed development; and**

**ii. A statement of how the project shall satisfy the affordable housing obligation created;**

14. Fiscal impact:

i. Demographics of the appropriate municipality [and county], including population[,], **and** age distribution[,], employment and income levels as provided in the appropriate] **pursuant to** census reports and/or other published sources;

ii. The current municipal, [and] county [budgets and the current municipal], **and** school budgets, together with information on existing per capita costs and service levels in such areas as fire protection, police protection, governmental services, and schools. **The cost per pupil and maximum and available capacities of schools shall be provided;**

iii. Evaluation of the projected ratables, estimated taxes, and municipal and school budget increases due to the proposed development, **including an assessment of the project's impact to the Intermunicipal Tax Sharing Formula.** [A calculation shall be made, in cooperation with NJMC staff, of the projects revenue/cost balance and its benefits in terms of its impacts on the Intermunicipal Tax Sharing Formula] **The developer shall provide the assessed value of the proposed development and the projected number of school-age children to the NJMC staff for application to the Intermunicipal Tax Sharing Formula. The results shall be provided to the applicant for inclusion in the PIA report;** [and]

[iv. An estimate of the demands for services such as energy, solid waste, sanitary waste, potable water, transit, school children and schools, police, fire, emergency medical services and recreation and their impacts on municipal and/or county budgets.]

**iv. An estimate of the demands and costs for additional services, facilities, infrastructure, and equipment related to energy, solid waste, sanitary waste, potable water, transportation, education, police, fire, emergency medical services and recreation and their impacts on municipal, county, and school budgets; and**

**v. A summary statement of the project's net fiscal impact; and**

**15. A plan addressing how the developer proposes to mitigate any project impacts.**

**(b) Any development proposed in phases shall assess the impacts for each individual phase and the project as a whole.**

(c) A zoning certificate shall not be issued prior to the PIA being accepted and deemed complete by the NJMC.

**19:4-10.5 through 10.7 (Reserved)**

**19:4-10.9 Documentation**

**A list of all written resources used, as well as any individual agencies consulted with, regarding the information in this report, shall be provided.**

19:4-10.10 Developer's agreement

(a) The NJMC shall forward a copy of the Project Impact Assessment report [accepted and deemed complete by the NJMC], **and any subsequent revisions**, to the municipality in which the project is located.

(b) The subject municipality shall have 30 days within which to review and provide comment(s) on the report. Such time period may be extended upon written consent of the property owner and/or applicant (hereafter, "the developer").

(c) The developer of any project requiring an improvement pursuant to the results of the PIA where the total cost of required improvements is \$ 50,000 or more, shall enter into a developer's agreement[, with the NJMC] within 60 days of the issuance of a zoning certificate[, with the NJMC]. **An extension of this time period may be granted by the NJMC upon written request by the developer.**

(d) (No change.)

**(e) Monetary contributions by the developer in lieu of construction of the required improvements shall be utilized by the recipient of the funds to mitigate the project's impacts in accordance with the approved mitigation plan pursuant to N.J.A.C. 19:4-10.4(a)15.**

SUBCHAPTER 11. FEE SCHEDULE

19:4-11.1 General provisions

(a) This fee schedule shall not be applicable to county or municipal government. Any **application** fee, or portion thereof, provided for herein, may be waived by the Executive Director upon recommendation of the Chief Engineer upon good cause shown, including financial hardship, size and scope of the application and/or business entity, and general economic conditions in the regions. The NJMC shall automatically waive the required fee for zoning certificate and minor subdivision applications for residential development, or the residential portion of a mixed-use development, in which 100 percent of all housing units proposed in the application would be reserved as affordable units.

(b)-(f) (No change.)

19:4-11.2 Zoning

(a) Zoning fees are as follows:

1. (No change.)

2. A fee of \$ 100.00 plus \$ 2.00 per square foot of sign area is charged for the review of signs up to 300 square feet. For **any single** sign[s] in excess of 300 square feet, a fee of \$ 500.00 plus \$ 2.00 per square foot of sign area is charged;

3.-13. (No change.)

14. A fee of \$ 500.00 is charged for [interior alterations involving a change in use and/or requiring a zoning certificate] **review of any change in use requiring a zoning certificate;**

15. A fee of \$ 200.00 is charged for review of recycling areas; [and]

16. A fee of [\$ 45.00] **\$ 50.00** per hour is charged for the review of revisions to plans submitted for approval after the issuance of a zoning certificate[.];

**17. A fee of \$ 100.00 is charged for the review of a temporary zoning certificate; and**

**18. A fee of \$ 50.00 is charged for the review and preparation of each zoning compliance letter.**

(b) A fee of [\$ 45.00] **\$ 50.00** per hour is charged for the review of a petition to amend a redevelopment plan adopted by the Commission. **An initial fee of \$ 3,000 shall be submitted, from which the associated fees and expenses shall be deducted. Any additional fees and expenses shall be paid by the applicant prior to resolution of the petition. Any remaining balance of the fee shall be refunded upon resolution of the petition.**

## CHAPTER 5

### SUBDIVISION REGULATIONS

#### SUBCHAPTER 5. PROCEDURE FOR APPROVAL OF SUBDIVISION PLATS

##### 19:5-5.1 Application for subdivision

(a) (No change.)

**(b) The following datum, as provided 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, shall be utilized, in Stateplane feet:**

**1. Horizontal datum shall conform to North American Datum of 1983 (NAD83); and**

**2. Vertical datum shall conform to North American Datum of 1988 (NAVD88).**

##### 19:5-5.4 Minor subdivision procedure

(a) Within 45 days after the receipt of the proposed minor subdivision plat, the Chief Engineer shall review the plat and either:

1. Notify the applicant in writing that the minor subdivision plat will be approved upon submission of **the required minor subdivision fee pursuant to N.J.A.C. 19:4-11**, one original mylar and 10 copies of the minor subdivision plat, and [the required minor subdivision fee pursuant to N.J.A.C. 19:4-11] **when prepared digitally, a digital copy of the plat in AutoCAD-compatible format;** or

2. (No change.)

(b)-(d) (No change.)

## 19:5-5.7 Final plat procedure

(a) (No change.)

(b) Applications for final plat approval shall include the following:

1.-2. (No change.)

3. Ten copies and one original mylar of the proposed final plat, **and when prepared digitally, a digital copy of the plat in AutoCAD-compatible format**, prepared in accordance with these regulations; and

4. (No change.)

(c)-(h) (No change.)

## SUBCHAPTER 6. CONTENTS OF PLATS

## 19:5-6.3 Preliminary plat contents

(a)-(b) (No change.)

(c) The preliminary plat shall include or be accompanied by the following information:

1.-14. (No change.)

15. Topographic contours at five-foot intervals for land slopes averaging [ten] **10** percent or greater, two-foot intervals for land averaging between three and [ten] **10** percent and one-foot interval for all lands of lesser slope[. All such contours shall be based on United States Coastal and Geodetic Survey datum];

16.-27. (No change.)

## SUBCHAPTER 7. DESIGN STANDARDS

## 19:5-7.8 Drainage

(a)-(b) (No change.)

(c) In addition to the requirements of N.J.A.C. 19:4-8.6, the following shall apply to drainage systems in proposed ROWs and subdivision drainage easements:

1.-4. (No change.)

5. The spacing between inlets shall not exceed [500] **400** feet or a design inlet flow of six cubic feet per second; whichever condition shall be more stringent. Access manholes shall be spaced at a maximum of [500] **400** feet intervals through ROWs and at pipe junctions where there are no catch basins. **However, a recommended spacing length shall be 300 feet to allow for easier access to pipes for inspection and maintenance.**

6.-12. (No change.)