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New Jersey Sports and Exposition Authority



Flood Plain Management Regulations

N.J.A.C. 19:4-9.1 *et seq.*

Current through April 1, 2013

§ 19:4-9.1 Title

This subchapter shall be known and may be referred to as the Flood Plain Management Regulations of the Hackensack Meadowlands District.

§ 19:4-9.2 Purposes

This subchapter sets forth procedures and engineering and planning standards in accordance with which the NJMC shall review and approve or disapprove applications for the development or use of land within the District. It is designed to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed: to protect human life and health; to minimize expenditure of public money for costly flood control projects; to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; to minimize prolonged business interruptions; to minimize damage to new and existing construction; to minimize damage to public and private facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard; to help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas; to ensure that potential buyers are notified that property is in an area of special flood hazard; to ensure that those who own or occupy the areas of special flood hazard assume responsibility for their actions; and generally to provide for the exercise of the powers regarding the review and regulation of land use and development conferred upon the NJMC by Chapter 404 of the Laws of 1968. In order to accomplish its purpose, this subchapter includes methods and provisions for: restricting or prohibiting uses which are dangerous to health, safety and property due to water hazards, or which result in damaging increases in flood heights; requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; controlling the alteration of natural flood plains, stream channels, and natural protective barriers which help accommodate or channel flood waters; controlling filling, grading, dredging and other development which may increase flood damage; and preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

§ 19:4-9.3 Words and phrases defined

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

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

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater change of flooding in any given year.

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

"Base flood elevation" means the height of the base flood in relation to the North American Vertical Datum of 1988 (NAVD88) as determined by the National Geodetic Survey of the National Ocean Service, incorporated herein by reference, as amended and supplemented, for which information is available at NGS

Information Services, NOAA, N/NGS12, National Geodetic Society, SSMC-3, #9202, 1315 East-West Highway, Silver Spring, MD 20910-3282.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

"Elevated building" means a non-basement building that is:

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

2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

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

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

"FIA" means the Federal Insurance Administration.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal water; and/or

2. The unusual and rapid accumulation or runoff of surface waters from any source.

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

"Flood insurance study" means the official report provided in which the FIA has provided flood profiles, as well as the FIRM's and the water surface elevation to the base flood.

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

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

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

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in the states without approved programs.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling and complies with the standards of the New Jersey Uniform Construction Code, N.J.A.C. 5:23. The term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

"Manufactured home park or manufactured home subdivision" means a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the "start of construction" commenced on or after February 17, 2004 and includes any subsequent improvements to such structures.

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

"Recreational vehicle" means a vehicle that is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the longest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

"Structure" means a walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.

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

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

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2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

§ 19:4-9.4 Lands to which this subchapter applies

This subchapter shall apply to all areas of special flood hazards within the boundaries of the District.

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

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

§ 19:4-9.6 Fees

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

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

§ 19:4-9.7 Penalties and enforcement

Penalties and enforcement of these regulations shall be enforced as per N.J.A.C. 19:4-4.21.

§ 19:4-9.8 Other permits

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

§ 19:4-9.9 Abrogation and greater restrictions

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

§ 19:4-9.10 Warning and disclaimer of liability

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

§ 19:4-9.11 Development permit required

No structure or land shall be constructed, moved, located, extended, converted or altered after February 17, 2004 within any area of special flood hazard established in N.J.A.C. 19:4-9.5 unless a zoning certificate, construction permit, occupancy certification, subdivision approval, sanitary landfill approval or other development permit approvals as required by Chapter 404 of the Laws of 1968 (N.J.S.A. 13:17-1 et seq.) shall first have been obtained from the NJMC certifying that the proposed construction, use or development complies with these regulations.

§ 19:4-9.12 Administration

The administration and implementation of this subchapter in accordance with its provisions is vested in the Chief Engineer, except for the granting of variances pursuant to N.J.A.C. 19:4-4.14(a).

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

(a) The Chief Engineer shall administer the provisions of this subchapter in the manner set forth herein and in furtherance of such authority, shall, but not be limited to:

1. Maintain permanent and current records with respect to this section, including amendments thereto;
2. Review and approve or disapprove all development permits after determining that the requirements of this regulation have or have not been satisfied;
3. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard.

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

ii. If it is determined that there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit; if such mitigation cannot be accomplished, the permit shall be denied;

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

5. Notify adjacent communities and the State Coordinating Agency for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the

FIA; require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished;

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

7. Make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in N.J.A.C. 19:4-4.19.

§ 19:4-9.14 Variances from floodplain management regulations

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

1. The danger that materials may be swept onto other lands, to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage to the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(b) The procedure to be followed in an application for a variance from this chapter shall be the same as the procedure specified in N.J.A.C. 19:4-4.14.

§ 19:4-9.15 Standards for the granting of variances

(a) Variances may be issued for new construction and substantial improvements to be erected on a lot contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the items in N.J.A.C. 19:4-9.14(a) have been fully considered.

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(b) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(e) Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in N.J.A.C. 19:4-9.14(a) or conflict with existing local laws or ordinances.

(f) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

§ 19:4-9.16 Conditions

Upon consideration of the factors of N.J.A.C. 19:4-9.14(a) and the purposes of this chapter, the decision may impose such conditions to the granting of variances as deemed necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of this chapter. Failure to comply with any of the conditions or restrictions placed on a variance shall constitute a violation of this chapter.

§ 19:4-9.17 Written decision and records

A written decision on an application for a variance shall be rendered in accordance with the procedure specified in N.J.A.C. 19:4-4.14. The Chief Engineer shall maintain complete records of all actions with respect to applications for variances, including technical information, and shall report any variances to the Federal Emergency Management Agency upon request.

§ 19:4-9.18 Appeals

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

§ 19:4-9.19 Scope

In all areas of special flood hazards, the standards in this subchapter are required.

§ 19:4-9.20 Buildings

(a) Residential construction: New construction and substantial improvement of any residential structure shall have the lowest floor elevated to a minimum of one foot above the base flood elevation. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

(b) Non-residential construction: New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation, and have adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures, or together with the attendant utilities and sanitary facilities shall:

1. Be floodproofed, so that below the elevation equal to one foot above the base flood elevation, the structure is water tight with walls impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy; and

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

(c) Manufactured homes shall be anchored in accordance with N.J.A.C. 19:4-9.23.

(d) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is elevated to a minimum of one foot above the base flood elevation.

§ 19:4-9.21 Building sites

(a) All building site construction, including, but not limited to, parking lots, driveways, sidewalks, truck maneuvering areas, and landscaped areas, shall be consistent with the need to minimize flood hazards and damage.

(b) All building site construction shall have public utilities and facilities such as sewer, gas, electric, and water systems located and constructed to minimize flood hazards and damage.

(c) Base flood elevation data shall be provided for building site proposals which contain at least three acres.

§ 19:4-9.22 Subdivision improvements

(a) All subdivision proposals, including roads, culverts, bridges, and tide gates, shall be consistent with the need to minimize flood hazards and damage.

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

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(d) Base flood elevation data shall be provided for subdivision proposals which contain at least three lots or three acres (whichever is less).

§ 19:4-9.23 Anchoring

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

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

§ 19:4-9.24 Construction material and methods

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

§ 19:4-9.25 Utilities

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(c) On-site water disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(d) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

§ 19:4-9.26 Enclosure openings

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

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

2. The bottom of all openings shall be no higher than one foot above grade; and

3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.