

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION ADOPTS AMENDED LAND USE REGULATIONS - AUGUST 2017

The New Jersey Department of Environmental Protection (NJDEP) has adopted amendments to the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13), Coastal Zone Management Rules (N.J.A.C. 7:7) and Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A), effective July 17, 2017. The adopted amendments include additional restrictions and allowances for work in regulated riparian zones, revisions and recodification for consistency between NJDEP Rules, alignment of the rules with the Uniform Construction Code (UCC) and National Flood Insurance Program (NFIP), and the implementation of a cap on stormwater calculation review fees. Noteworthy changes are highlighted below.

- “Lowest Floor” has been redefined to mean: (1) the bottom of the lowest supporting horizontal structural member of a building where any portion of the building is located within a V Zone or Coastal A Zone, as determined by FEMA; and (2) the top surface of the floor or the lowest enclosed area of any building **not** located within a V Zone or Coastal A Zone.
- Consistency with the UCC has been added to NJDEP’s policies associated with lowest floor requirements for new, reconstructed, improved, or enlarged buildings in that most buildings must be constructed with a lowest floor at least one foot above the flood hazard area design flood elevation **and** no lower than the elevation required under the UCC. Additional restrictions are also added for work in V Zones and Coastal A Zones.
- Additional flood hazard area restrictions have been added for work in 300-foot riparian zones and particularly the inner 150 feet.
- An increase in the permissible allowance of disturbance to riparian zone vegetation is included for conducting those activities not specifically identified by NJDEP in Table 11.2 at N.J.A.C. 7:13-11.2.
- The NJDEP has implemented a \$20,000 cap on the permit application fee for stormwater management review.

Alignment of the NJDEP Rules with the UCC and NFIP may present more stringent building standards to meet the lowest floor requirements. The UCC references compliance with ASCE 24 which meets or exceeds the minimum NFIP requirements. ASCE 24 requires certain buildings including those with large numbers of persons (e.g., schools, senior care facilities, theaters, museums, etc.) and critical facilities (e.g., hospitals, fire and police stations, etc.) to contain a lowest floor elevation up to two feet above the flood hazard elevation or the 500-year flood elevation in certain situations.

A copy of the final rules can be found at: <http://www.nj.gov/dep/landuse/lawsregs.html>.

To discuss this rule and how it could impact your project, please contact your Langan Project Manager or:

Robert March, PWS, Project Scientist
rmarch@langan.com | 973.560.4427