



FRESHWATER WETLANDS APPLICATION CHECKLIST

Transition area waiver – Hardship transition area waiver

CALL NJDEP AT (609) 777-0454 IF YOU HAVE ANY QUESTIONS

All applications for transition area waivers **must** be submitted electronically through the submission system at <https://njdeponline.com>. Follow the registration process and create an account. To apply, select the service "Apply for a Land Use Permit or Authorization."

For more information on submitting an electronic application, visit https://nj.gov/dep/landuse/eservices/lur_auth_permits.html.

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1. A completed [Property Owner Certification form](#)
 - Acceptable file formats include pdf, jpg, and png.

2. Public notice:

A completed [Public Notice form](#). All documentation necessary to demonstrate that notice of the application has been provided in accordance with N.J.A.C. 7:7A-17 must be attached to the form (see below for details).

- Acceptable file formats include pdf, jpg, and png.

Documentation of public notice is required as follows:

- i. [Notice to municipal clerk \(N.J.A.C. 7:7A-17.3\(a\)\)](#)

A copy of the entire application, as submitted to the Department, must be provided to the municipal clerk in each municipality in which the site is located. The application consists of a description of the project, the specific permit(s)/authorization(s) being sought, and all items that will be uploaded to the online service, including all required items on this checklist.

- Documentation of compliance with this requirement shall consist of a copy of the certified United States Postal Service white mailing receipt, or other written receipt, for each copy of the application sent.

- ii. [Notice to governmental entities and property owners \(N.J.A.C. 7:7A-17.3\(b\) and \(c\)\)](#)

A brief description of the proposed project, a legible copy of the site plan, and the form notice letter described at N.J.A.C. 7:7A-17.3(e)1iii must be sent to the following recipients:

- A. The construction official of each municipality in which the site is located;
- B. The environmental commission, or other government agency with similar responsibilities, of each municipality in which the site is located;
- C. The planning board of each municipality in which the site is located;
- D. The planning board of each county in which the site is located;
- E. The local Soil Conservation District if the regulated activity or project will disturb 5,000 square feet or more of land; and

F. Adjacent property owners:

If the application is for one of the following projects (listed at N.J.A.C 7:7A-17.3(c)1-5), notice shall be sent to all owners of real property, including easements, located within 200 feet of any proposed above-ground structure, except for any conveyance lines suspended above the ground or small utility support structures (e.g. telephone poles):

- A linear project of one-half mile or longer
- A trail or boardwalk of one-half mile or longer
- A public project on a site of 50 acres or more
- An industrial or commercial project on a site of 100 acres or more
- A project to remove sediment or debris from a channel of one-half mile or longer

For any other project, notice shall be sent to all owners of real property, including easements, located within 200 feet of the site of the proposed regulated activity.

The owners of real property, including easements, shall be those on a list that was certified by the municipality, with a date of certification no more than one year prior to the date the application is submitted.

- Documentation of compliance with this requirement shall consist of:
 1. A copy of the certified United States Postal Service white mailing receipt for each public notice that was mailed, or other written receipt;
 2. A certified list of all owners of real property, including easements, located within 200 feet of the property boundary of the site (including name, mailing address, lot, and block) prepared by the municipality for each municipality in which the project is located. The date of certification of the list shall be no earlier than one year prior to the date the application is submitted to the Department; and
 3. A copy of the form notice letter.
- The form notice letter required under N.J.A.C. 7:7A-17.3(e)1iii shall read as follows:

"This letter is to provide you with legal notification that an application for a transition area waiver <<has been/will be>> submitted to the New Jersey Department of Environmental Protection, Division of Land Resource Protection for the development shown on the enclosed plan(s). A brief description of the proposed project follows: <<INSERT DESCRIPTION OF THE PROPOSED PROJECT>>

The complete permit application package can be reviewed at either the municipal clerk's office in the municipality in which the site subject to the application is located, or by appointment at the Department's Trenton Office. The Department of Environmental Protection welcomes comments and any information that you may provide concerning the proposed development and site. Please submit your written comments within 15 calendar days of receiving this letter to:

*New Jersey Department of Environmental Protection
Division of Land Resource Protection
P.O. Box 420, Code 501-02A
Trenton, New Jersey 08625
Attn: (Municipality in which the property is located) Supervisor"*

iii. Newspaper notice (N.J.A.C. 7:7A-17.4)

Newspaper notice, in the form of a legal notice or display advertisement in the official newspaper of the municipality(ies) in which the project site is located, or if no official newspaper exists, in a newspaper with general circulation in the municipality(ies), is required for the following projects:

- A. A linear project of one-half mile or longer
- B. A shore protection development, including beach nourishment, beach and dune maintenance, or dune creation of one-half mile or longer
- C. A public project on a site of 50 acres or more
- D. An industrial or commercial project on a site of 100 acres or more
- E. Maintenance dredging of a State navigation channel of one-half mile or longer

If your project is not one listed above, newspaper notice is not required.

- Documentation of newspaper notice shall consist of:
 1. A copy of the published newspaper notice; and
 2. The date and name of the newspaper in which notice was published.
- The newspaper notice may be either a legal notice or display advertisement and must read as follows:

“Take notice that an application for a transition area waiver <<has been/ will be>> submitted to the New Jersey Department of Environmental Protection, Division of Land Resource Protection for the development described below:

APPLICANT:

PROJECT NAME:

PROJECT DESCRIPTION:

PROJECT STREET ADDRESS:

BLOCK: LOT:

MUNICIPALITY: COUNTY:

The complete permit application package can be reviewed at either the municipal clerk’s office in the municipality in which the site subject to the application is located, or by appointment at the Department’s Trenton Office. The Department of Environmental Protection welcomes comments and any information that you may provide concerning the proposed development and site. Please submit your written comments within 15 calendar days of the date of this notice to:

*New Jersey Department of Environmental Protection
 Division of Land Resource Protection
 P.O. Box 420, Code 501-02A
 501 East State Street
 Trenton, New Jersey 08625
 Attn: (Municipality in which the property is located) Supervisor”*

3. Application fees:

The appropriate application fee, as specified in N.J.A.C. 7:7A-18.1, payable through the online service via credit card or e-check, or to receive a bill, select “Bill Me” on the payment screen. Bills will be sent to the Fee Billing Contact identified in the service and must be paid directly to the Department of Treasury.

4. Site plans:

All site plans must include the scale of the site plans, a north arrow, the name of the person who prepared the plans, date the site plans were prepared, and the applicant’s name and the block, lot, and municipality in which the site is located. In addition, the site plans shall include the following information, both on and adjacent to the site, in accordance with N.J.A.C. 7:7A-16.7(a)4:

- i. Existing features:
 - A. Lot Lines and right of-way lines;
 - B. Delineation of wetlands, transition areas, and State open waters;
 - C. Land cover and vegetation.
 - ii. Proposed regulated activities:
 - A. Changes in lot lines;
 - B. Location and area of any transition areas that will be disturbed;
 - C. Size, location, and detail of any proposed activities;
 - D. Details of any planting to restore temporarily disturbed areas in accordance with N.J.A.C. 7:7A-11.8.
 - iii. Topography:
 - A. Existing and proposed topography. All topography must reference NGVD or include the appropriate conversion factor to NGVD.
 - iv. Soil erosion and sediment control:
 - A. Details of any proposed soil erosion and sediment control measures.
- Acceptable file formats include pdf and zip. Site plans must be certified in accordance with N.J.A.C. 7:7A-16.2(j) and prepared according to the Department's [site plan specifications](#) for electronic site plans. All plans must be digitally signed and sealed by a New Jersey licensed professional engineer, surveyor, or architect, as appropriate, pursuant to N.J.A.C. 13:40-7.2 through 7.4, with signatures and seals that meet the requirements of N.J.A.C. 13:40-8.1A. Site plans with electronic signatures, such as scans of site plans with a handwritten signature, will not be accepted.

5. Photographs:
 - i. Color photographs depicting:
 - A. The existing site conditions; and
 - B. The location of the proposed disturbance.
 - ii. A photo location map showing the location and direction from which each photograph was taken.
- Acceptable file formats include pdf, doc, docx, jpg, zip, ppt, and pptx.

6. A compliance statement that includes:
 - i. A statement indicating that the property owner has requested a hardship transition area waiver;
 - ii. Documentation of the following:
 - A. The presence of transition areas on the site makes it impossible to build a single-family dwelling on the site under the other provisions of N.J.A.C. 7:7A;
 - B. The lot or lots that make up the site were created by a subdivision occurring prior to July 1, 1988;
 - C. The site has been owned continuously by the applicant since prior to July 1, 1988;
 - D. The site is not contiguous with an improved property that was owned by the applicant on July 1, 1988;
 - E. The applicant has not received a hardship transition area waiver based on these hardship criteria at any time during the five years prior to the present application for a hardship transition area waiver;
 - F. The amount, nature, and date of any investments made to maintain and/or develop the property as a whole, other than the purchase price;

- iii. If the site is located in a municipality with the endangered plant known as swamp pink (*Helonias bullata*), which are listed in [Known Locations of Swamp Pink in NJ](#), a signed statement from the applicant certifying that the proposed activities will not result in any direct or indirect adverse impacts to swamp pink or its documented habitat;
 - iv. If the site is located in a municipality with the endangered bog turtle (these municipalities are listed in [Known Locations of Bog Turtles in NJ](#)), a signed statement from the applicant, certifying that the proposed activities will not result in any direct or indirect adverse impacts to bog turtles or to their documented habitat;
 - v. If the site is located in an area designated a Wild and Scenic River, or under study for such designation, a letter from the National Park Service approving the proposed activities;
 - vi. If the application reflects any of the characteristics at N.J.A.C. 7:7A-19.5(l), a Phase IA historical and archaeological survey, and an architectural survey, defined at N.J.A.C. 7:7A-1.3; and
 - vii. A copy of the deed and/or other legal documents pertaining to the site.
- The compliance statement should be uploaded under the attachment type “Environmental Report with Site Location Maps.” Acceptable file formats include pdf, doc, docx, rtf, and zip.

7. Color copies of the following maps:

- i. The tax map for the property;
 - ii. A copy of the portion of the county road map showing the property location; and
 - iii. A copy of the USGS quad map(s) that includes the site, with the site clearly outlined to scale.
- The required maps should be uploaded with the compliance statement under the attachment type “Environmental Report with Site Location Maps.” Acceptable file formats include pdf, doc, docx, rtf, and zip.

8. Location of wetlands:

Documentation that a line delineation or line verification Letter of Interpretation (LOI) has been issued for the site

- Acceptable file formats include pdf, jpg, and png.

9. Hardship transition area waiver (TAW) documentation:

- i. The deeds for all adjacent properties currently owned by the applicant;
- ii. Offer document(s) demonstrating that the applicant unsuccessfully attempted to purchase adjacent properties for fair market value in order to create a developable land;
- iii. Each completed “Hardship Transition Area Waiver Letter – Offer of Property Sale to Public and/or Private Conservation Organizations” showing the applicant has offered the site (including easements as shown on the tax duplicate) for sale at fair market value as determined by a fair market value appraisal, performed by a State-licensed appraiser, to adjacent property owners within 200 feet of the property as a whole and to land conservancies, environmental organizations, and government agencies on the Department’s list of [organizations to be contacted for the sale of property](#).
 - A. Each offer of sale shall be sent by certified mail and shall:
 - 1) Indicate that the offer is open for a period of at least 90 calendar days;
 - 2) Include a copy of a fair market value appraisal, performed by a State-licensed appraiser, that assumes that a minimum beneficial economically viable use of the property will be allowed; and

3) Include full disclosure of the location on the property of any freshwater wetlands, transition areas, and/or State open waters.

B. The letters must be accompanied by a list, certified by the municipality, of all owners of real property within 200 feet of the property as a whole, including owners of easements as shown on the tax duplicate;

- iv. All responses the property owner received to the letters sent under iii above. Each response shall be submitted to the Department within 15 calendar days after the property owner's receipt of the response; and
 - v. Document(s) showing when the property as a whole, as defined at N.J.A.C. 7:7A-1.3, was acquired, the purchase price of the property as a whole and the instrument which documents the applicant's real property interest.
- Acceptable file formats include pdf, jpg, and png.

10. Calculations and analyses:

- i. If the project is a major development as defined by N.J.A.C. 7:8-1.2, a demonstration of compliance with the requirements of the Stormwater Management Rules, N.J.A.C. 7:8.
- All calculations or analyses submitted as part of an application must include the certification set forth at N.J.A.C. 7:7A-16.2(j). Acceptable file formats include pdf, doc, docx, rtf, and zip unless stormwater calculations are necessary. Stormwater calculations must be digitally signed and sealed by a New Jersey licensed professional engineer in accordance with N.J.A.C. 13:40-8.1A. Stormwater calculations with electronic signatures, such as scans of calculations with a handwritten signature, will not be accepted. Therefore, when calculations are necessary, the acceptable file formats are limited to pdf and zip.

11. Natural Heritage Program Letter:

A copy of an NJDEP, Office of Natural Lands Management Natural Heritage Database data request response for endangered or threatened species of flora or fauna, including a Landscape Map report, if available

- Acceptable file formats include pdf, jpg, and png.

12. Additional requirements:

- i. Highlands applicability determination (highlands exemption) – applies only if the project is located within the Highlands Preservation Area
 - Acceptable file formats include pdf, jpg, and png.
- ii. Conservation restriction – applies only if the proposed project is subject to an existing conservation restriction
 - Acceptable file formats include pdf, jpg, and png.
- iii. Written consent from municipality – applies only if the project includes a gas pipeline and any section of that pipeline is located within a municipally-owned right-of-way. Written consent shall consist of one of the following:
 - A. Written consent from the municipality in the form of a resolution of the governing body or an ordinance
 - B. A municipal designation of the route pursuant to N.J.S.A. 48:9-25.4
 - C. A Board of Public Utilities designation of route pursuant to N.J.S.A. 48:9-25.4
 - Acceptable file formats include pdf, jpg, and png.