
Permit-By-Rule:
A Guide for Single Family/Duplex
Homeowners & Construction Code
Officials



New Jersey Department of Environmental Protection
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State of New Jersey

Christine Todd Whitman, Governor

New Jersey Department of Environmental Protection

Robert C. Shinn, Jr., Commissioner

How can I get further information?

- For information on this and other land use regulation programs, please contact:

The Bureau of Coastal Regulation at (609) 292-8262.

For inquiries on jurisdictional determinations contact the Program's Jurisdictional Determination Unit at (609) 633-6755 or by E-Mail at bcubberl@dep.state.nj.us
- For additional information on New Jersey's Coastal Management Program and other land use regulation programs visit our website at www.state.nj.us/dep/landuse.

INTRODUCTION

This guide is designed to assist construction code officials and homeowners in determining a proposed residential project's eligibility for a Permit-by-Rule.

A Permit-by-Rule is a category of permits for developments, which the Department has determined have minimal potential for environmental impact. Permits-by-Rule are available for specific upland developments subject to the Waterfront Development Law and Coastal Area Facility Review Act (CAFRA). **No Submission to, or approval from, the Department of Environmental Protection, Land Use Regulation Program is required.** Developments at single family homes or duplexes that are eligible for Permits-by-Rule include:

1. The expansion of a single family home or duplex adjacent to a natural waterway by a cumulative surface area of 400 square feet on the property constructed after July 19, 1994 (including but not limited to driveways and sheds with a footprint greater than 120 square feet), provided that the expansion is not on the waterward side of the existing dwelling and is not located on a beach, dune or wetland;

2. The development (including expansion or reconstruction with expansion) of a single family home or duplex and/or accessory development (such as garages, sheds, pools, driveways, grading, excavation and filling, excluding shore protection structures) located on a bulkheaded lagoon lot; and

3. The voluntary reconstruction of a non-damaged legally constructed, currently habitable residential or commercial development within the same footprint, provided that such reconstruction is in compliance with existing requirements or codes of municipal, State and Federal law.

NOTE: Each Permit-by-Rule has specific conditions for eligibility which are further described in this guide.

DETERMINING WHETHER A PROJECT QUALIFIES FOR A PERMIT-BY-RULE

The following pages are designed to assist you in determining if a proposed project is eligible for a Permit-by-Rule. Should you have any questions concerning whether a proposed project is eligible for a Permit-by-Rule, please contact the Program's Jurisdictional Determination Unit at (609) 633-6755 or by e-mail at bcubber1@dep.state.nj.us for assistance.

EXPANSION OF A SINGLE FAMILY HOME OR DUPLEX ON A NATURAL WATERWAY

Description of Permit-by-Rule:

The expansion of a legally constructed, habitable single family home or duplex on the non-waterward sides of the single family home or duplex, provided that the expansion does not exceed a cumulative surface area of 400 square feet on the property constructed after July 19, 1994, and provided that such expansion is not proposed on a beach, dune, or wetland. For example, a 200 square foot expansion of a single family home or duplex could be authorized under this Permit-by-Rule and an additional 200 square foot expansion could later be authorized under this Permit-by-Rule, since the cumulative footprint of development for both expansions would not exceed 400 square feet on the property. However, a property on which a 300 square foot expansion was already constructed pursuant to a Permit-by-Rule would not be eligible for another Permit-by-Rule subsequently for an additional 200 square foot expansion since the cumulative total footprint of development for both expansions would exceed 400 square feet.

Worksheet

EXPANSION OF A SINGLE FAMILY HOME OR DUPLEX ON A NATURAL WATERWAY

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|----|--|-----|----|
| 1. | Is the existing structure a single family home or duplex? | Yes | No |
| 2. | Is the existing single family home or duplex habitable? | Yes | No |
| 3. | Is the proposed expansion located on the non-waterward side of the existing dwelling | Yes | No |

The waterward side of a single family home or duplex is area of the property located between the tidal water body and a line(s) drawn through points of the footprint of the building closest to the water, and parallel to the water body. (See Appendix "A")

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| 4. | Is the proposed expansion located outside of a beach, dune or wetland? | Yes | No |
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Dunes are defined based on slope regardless of whether or not there is a house, driveway, gravel yard or other improvement on the site. Beaches and dunes can be found along the bay and riverfronts as well as the ocean.

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| 5. | Is the cumulative surface area (footprint) of the proposed expansion and all expansions after July 19, 1994, less than or equal to 400 square feet ? | Yes | No |
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NOTE: *Multiple Permits-by-Rule may be issued for a site provided that the cumulative total expansion area pursuant to the permit-by-rule for the expansion of a single family home located on a natural waterway does not exceed 400 square feet.*

If the answer to question 1,2,3,4 or 5 is **NO**, then the proposed project is not eligible for a Permit-by-Rule, and the applicant should apply to the Land Use Regulation Program for a permit.

**DEVELOPMENT (INCLUDING EXPANSION OR RECONSTRUCTION AND
EXPANSION) OF A SINGLE FAMILY HOME OR DUPLEX
ON A BULKHEADED LAGOON LOT**

Description of Permit-by-Rule:

The development (including expansion or reconstruction and expansion) of a single family home or duplex and/or accessory development (such as garages, sheds, pools driveways, grading, excavation and clearing, excluding shore protection structures) on a bulkheaded lagoon lot, provided that the proposed development complies with all of the following:

- i. The proposed single family home or duplex is not part of a larger development;
- ii. The site is located on a man-made lagoon lot, with an existing bulkhead along the entire waterfront portion of the site;
- iii. All waterfront portions of the site are protected by a currently serviceable bulkhead;
- iv. There are no wetlands on site landward of the bulkhead;
- v. The proposed single family home or duplex and accessory structures (excluding decks) are set back a minimum of 15 feet from the waterward face of the bulkhead. If there is no alternative to locating the proposed single family home or duplex and accessory structures at least 15 feet landward of the bulkhead, the setback shall be reduced if an engineering certification is provided demonstrating that, after the proposed development has been constructed, the shore protection structures can be replaced within 18 inches of the existing bulkhead and a conservation restriction is recorded for the property which states that any reconstruction of a bulkhead shall be within 18 inches of the existing bulkhead;
- vi. A silt fence is erected landward of the bulkhead with a 10-foot landward return on each end prior to construction. This fence shall be maintained and remain in place until all construction and landscaping activities are completed;
- vii. If the development includes the construction of a driveway, any newly constructed portion of the driveway shall be covered with a permeable material or else be pitched to drain all runoff onto permeable areas of the site;
- viii. The development shall comply with the elevation and flood proofing requirements of the National Flood Insurance Program regulations at 44 CFR Chapter 1;

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- ix. The single family home or duplex shall be serviced by an existing municipal sewer system; and
- x. All sub-gravel liners must be made of filter cloth or other permeable material.

Worksheet

DEVELOPMENT (INCLUDING EXPANSION OR RECONSTRUCTION AND EXPANSION) OF A SINGLE FAMILY HOME OR DUPLEX ON A BULKHEADED LAGOON LOT

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| 1. | Is the proposed structure a single family home or duplex which is not part of a larger development? | Yes | No |
| 2. | Is the site to be developed located on a man-made lagoon and not a natural waterway? | Yes | No |
| <p><i>A man-made lagoon is defined as an artificially created linear waterway sometimes branched, ending in a dead end with no significant upland drainage. Lagoons have been created through dredging and filling of wetlands, bay bottom and other estuarine water areas for the purpose of creating waterfront lots for residential development adjacent to the lagoon. A natural waterway which is altered by activities including, but not limited to filling, channelizing, or bulkheading is not considered to be a man-made lagoon, nor is a bulkheaded boat slip considered to be a lagoon.</i></p> | | | |
| 3. | Does the bulkhead extend across the entire water frontage of the property? | Yes | No |
| 4. | Are wetlands absent from the area of the site landward of the bulkhead? | Yes | No |
| 5. | Is all proposed construction (excluding open decks and patios) set back at least 15 feet from the waterward face of the bulkhead? | Yes | No |
| 6. | Is a silt fence proposed to be installed along the length of the bulkhead, with a 10 foot return on each side (silt fence shall be maintained in place until all construction and landscaping is completed)? | Yes | No |
| 7. | Is the driveway (proposed driveways only) proposed to be covered with a porous material, or else be pitched to drain runoff onto permeable areas of the site? | Yes | No |

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|-----|--|-----|----|
| 8. | Does the development comply with the elevation and flood proofing requirements of the National Flood Insurance Program regulations, 44CFR Chapter1? | Yes | No |
| 9. | Is the proposed single family home or duplex serviced by an existing municipal sewer system? | Yes | No |
| 10. | Are subgravel landscape liners made of filter cloth or other permeable material? | Yes | No |
| 11. | If the proposed development includes the construction of a swimming pool, will the swimming pool backwash system discharge to a municipal sewer system or area other than adjacent wetlands or surface water body? | Yes | No |

If the answer to question 1,2,3,4,6,7,8,9,10, 11 or 12 is **NO**, then the proposed project is not eligible for a Permit-by-Rule, and the applicant should apply to the Land Use Regulation Program for a permit.

If the answer to **question 5 only is NO**, obtain a certification from a licensed Professional Engineer stating that, upon completion of the proposed construction, future bulkhead reconstruction can be accommodated within 18 inches of the existing bulkhead. In addition, record a conservation restriction with the County Clerk, stating that future bulkhead reconstruction shall be within 18 inches of the existing bulkhead (as measured from the waterward face of the old bulkhead sheathing to the waterward face of the new bulkhead sheathing).

Voluntary Reconstruction within the Same Footprint

Description of Permit-by-Rule:

The voluntary reconstruction of a non-damaged legally constructed, currently habitable residential development within the same footprint, provided that such reconstruction is in compliance with existing requirements or codes of municipal, State and Federal law and provided:

1. The reconstruction does not result in the enlargement or relocation of the footprint of the development;
2. The reconstruction does not result in an increase in the number of dwelling units; and
3. The reconstruction does not increase the area covered by buildings and/or asphalt or concrete pavement.

This permit-by-rule does not apply to repairs or maintenance of the residential development, such as replacing siding, windows or roofs, which is not regulated.

NOTE: This permit also applies to the **voluntary reconstruction of a commercial development within the same footprint** provided specific conditions are met. The standards for this permit-by-rule are found at N.J.A.C. 7:7-7.2(a)7.

Worksheet

Voluntary Reconstruction within the Same Footprint

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|----|--|-----|----|
| 1. | Is the proposed development a residential development? | Yes | No |
| 2. | Is the existing residential development habitable? | Yes | No |
| 3. | Is the proposed reconstruction within the same footprint as the existing footprint of the development? | Yes | No |

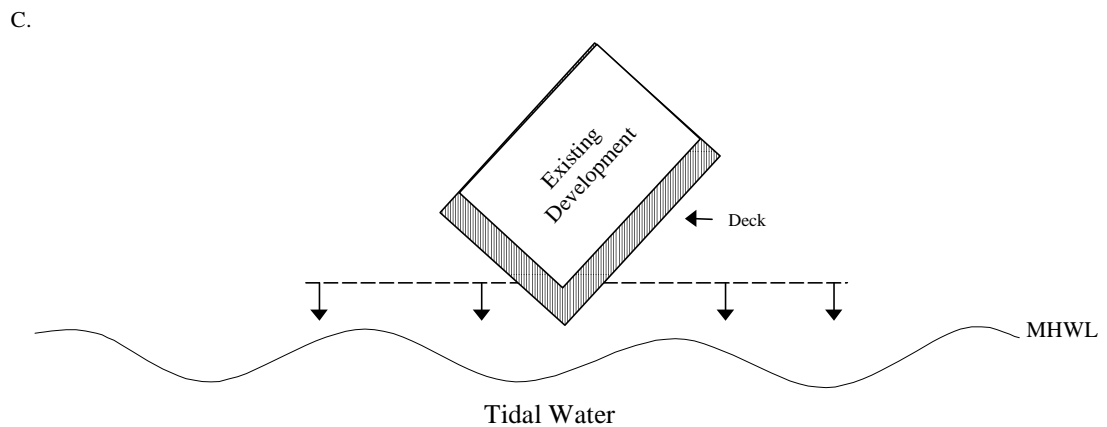
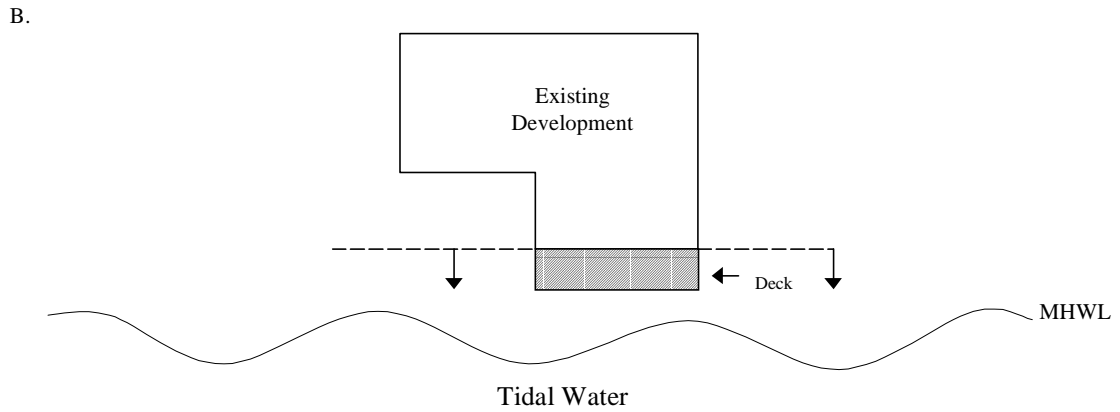
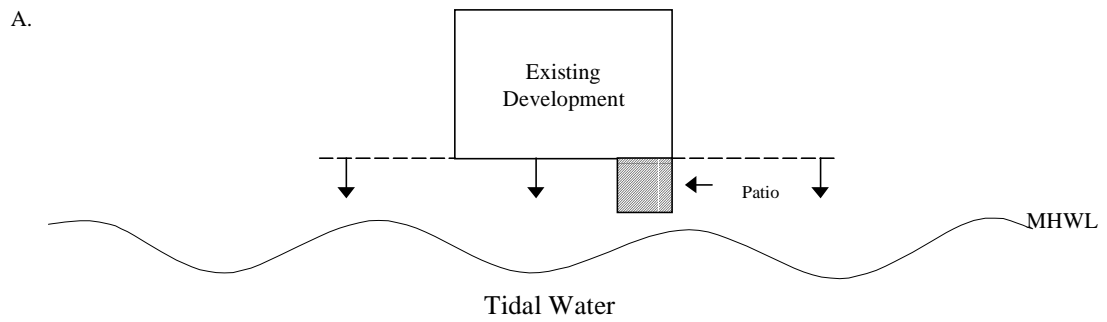
*NOTE: The **footprint of development** is the area of the ground enclosed by the exterior walls of the building. The footprint does **not** include decks, porches, patios, driveways, etc.*

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|----|---|-----|----|
| 4. | Does the proposed reconstruction result in the same number, or fewer, dwelling units? | Yes | No |
| 5. | Does the proposed reconstruction result in the same area or less, covered by buildings and/or asphalt or concrete pavement? | Yes | No |

If the answer to question 1, 2, 3, 4 or 5 is **NO**, then the proposed project is not eligible for a Permit-by-Rule, and the applicant should apply to the Land Use Regulation Program for a permit.

APPENDIX A

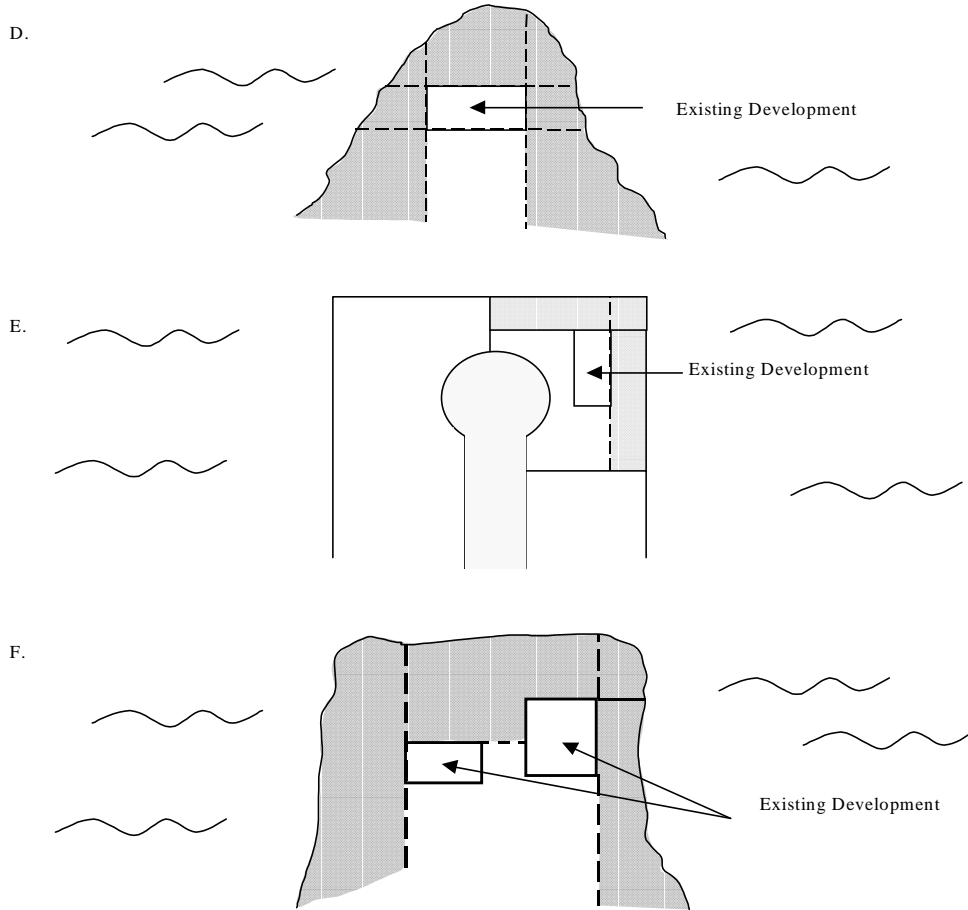
Waterward Side of Development



*NOT TO SCALE *

Note: Arrows Denote Waterward Side of the Development

Waterward Side of Development
(continued)



NOTE: Shaded areas denote waterward side of development

*NOT TO SCALE *