

ASSEMBLY, No. 4180

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 1, 2020

Sponsored by:

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Co-Sponsored by:

Assemblyman Scharfenberger

SYNOPSIS

Revises DEP's regulation of certain seasonal structures including cabanas under CAFRA.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/29/2020)

A4180 HOUGHTALING, DOWNEY

2

1 AN ACT concerning certain development in the coastal area and
2 amending P.L.1973, c.185 and P.L.1993, c.190.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.1973, c.185 (C.13:19-3) is amended to read
8 as follows:

9 3. As used in **[this act]** P.L.1973, c.185 (13:19-1 et seq.) :

10 "Beach" means a gently sloping unvegetated area of sand or
11 other unconsolidated material found on tidal shorelines, including
12 ocean, inlet, bay and river shorelines, and that extends landward
13 from the mean high water line to either: the vegetation line; a man-
14 made feature generally parallel to the ocean, inlet, bay or river
15 waters such as a retaining structure, seawall, bulkhead, road or
16 boardwalk, except that sandy areas that extend fully under and
17 landward of an elevated boardwalk are considered to be beach
18 areas; or the seaward or bayward foot of dunes, whichever is closest
19 to the ocean, inlet, bay or river waters;

20 "Commercial development" means a development designed,
21 constructed or intended to accommodate commercial or office uses.
22 "Commercial development" shall include, but need not be limited
23 to, any establishment used for the wholesale or retail sale of food or
24 other merchandise, or any establishment used for providing
25 professional, financial, or other commercial services;

26 "Commissioner" means the Commissioner of Environmental
27 Protection;

28 "Department" means the Department of Environmental
29 Protection;

30 "Development" means the construction, relocation, or
31 enlargement of any building or structure and all site preparation
32 therefor, the grading, excavation or filling on beaches or dunes, and
33 shall include residential development, commercial development,
34 industrial development, and public development;

35 "Dune" means a wind- or wave-deposited or man-made
36 formation of vegetated sand that lies generally parallel to and
37 landward of the beach, and between the upland limit of the beach
38 and the foot of the most inland slope of the dune. Dune includes
39 the foredune, secondary and tertiary dune ridges, as well as man-
40 made dunes, where they exist;

41 " Dwelling unit" means a house, townhouse, apartment,
42 cooperative, condominium, **[cabana,]** hotel or motel room, a room
43 in a hospital, nursing home or other residential institution, mobile
44 home, campsite for a tent or recreational vehicle or any other
45 habitable structure of similar size and potential environmental

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 impact, except that dwelling unit shall not mean a vessel as defined
2 in section 2 of P.L.1962, c.73 (C.12:7-34.37);

3 "Governmental agency" means the Government of the United
4 States, the State of New Jersey, or any other state, or a political
5 subdivision, authority, agency or instrumentality thereof, and shall
6 include any interstate agency or authority;

7 "Industrial development" means a development that involves a
8 manufacturing or industrial process, and shall include, but need not
9 be limited to, electric power production, food and food by-product
10 processing, paper production, agri-chemical production, chemical
11 processes, storage facilities, metallurgical processes, mining and
12 excavation processes, and processes utilizing mineral products;

13 "Person" means any individual, corporation, company,
14 association, society, firm, partnership, joint stock company, or
15 governmental agency;

16 "Public development" means a solid waste facility, including an
17 incinerator and landfill, wastewater treatment plant, public
18 highway, airport, an above or underground pipeline designed to
19 transport petroleum, natural gas, or sanitary sewage, and a public
20 facility, and shall not mean a seasonal or temporary structure
21 related to the tourism industry, an educational facility or power
22 lines;

23 "Public highway" means a public highway as defined in section 3
24 of P.L.1984, c.73 (C.27:1B-3);

25 "Reconstruction" means the repair or replacement of a building,
26 structure, or other part of a development;

27 "Residential development" means a development that provides
28 one or more dwelling units;

29 "Seasonal or temporary structure related to the tourism industry"
30 means a beach badge shed, bench, canopy, cabana, lifeguard stand
31 and associated temporary equipment storage container, picnic table,
32 portable restroom, stage platform, and wooden walkway, typically
33 used for recreational purposes during the summer months; and

34 "Solar panel" means an elevated panel or plate, or a canopy or
35 array thereof, that captures and converts solar radiation to produce
36 power, and includes flat plate, focusing solar collectors, or
37 photovoltaic solar cells and excludes the base or foundation of the
38 panel, plate, canopy, or array.

39 (cf: P.L.2010, c.4, s.3)

40

41 2. Section 6 of P.L.1993, c.190 (C.13:19-5.1) is amended to read
42 as follows:

43 6. a. Notwithstanding any other provision of law, rule, or
44 regulation to the contrary, the commissioner is authorized to issue a
45 general permit in lieu of a permit issued pursuant to section 5 of
46 P.L.1973, c.185 (C.13:19-5). The department shall adopt rules and
47 regulations which identify the activities subject to general permit
48 review, and which establish the criteria for the approval or

1 disapproval of a general permit issued pursuant to this section. The
2 department shall approve, approve with conditions, or disapprove
3 an application for a general permit pursuant to this section in
4 accordance with P.L.1975, c.232 (C.13:1D-29 et al.).

5 b. Notwithstanding any other provision of law, rule, or
6 regulation to the contrary, the commissioner shall issue a general
7 permit in lieu of a permit issued pursuant to section 5 of P.L.1973,
8 c.185 (C.13:19-5) for the construction of a seasonal or temporary
9 structure related to the tourism industry at a commercial
10 development, a hotel, a motel, or a residential development having
11 75 or more dwelling units, subject to the following criteria:

12 (1) the seasonal or temporary structure related to the tourism
13 industry shall not be located on a dune, coastal bluff, or in a
14 wetland;

15 (2) the placement of the seasonal or temporary structure related
16 to the tourism industry shall not include the excavation, grading, or
17 filling of a beach;

18 (3) the seasonal or temporary structure related to the tourism
19 industry shall have no adverse impact on a special area as that term
20 is defined by the department in rules and regulations adopted
21 pursuant to P.L.1973, c.185 (C.13:19-1 et seq.);

22 (4) the seasonal or temporary structure related to the tourism
23 industry shall be located a minimum of 50 feet from a wetland;

24 (5) the seasonal or temporary structure related to the tourism
25 industry shall remain in place only from May 1 through October 31,
26 except that underground utilities, floor decking, open drink and
27 food concession stand shells, and stage shells may remain in place
28 on a year-round basis;

29 (6) public access shall be provided in accordance with P.L.2019,
30 c.81 (C.13:1D-150 et al.), and any rules and regulations adopted
31 pursuant thereto;

32 (7) a seasonal or temporary structure related to the tourism
33 industry located on a beach shall be immediately removed from the
34 beach and relocated to a secure place at any time that the National
35 Weather Service issues a Severe Weather Alert, for the municipality
36 in which the seasonal or temporary structure related to the tourism
37 industry is located, for significant weather events, such as Coastal
38 Flood Warning, Extreme Wind Warning, Hurricane Warning,
39 Tornado Warning, or Tropical Storm Warning, that would directly
40 affect any structure left on the beach, for the duration of the Severe
41 Weather Alert; and

42 (8) the seasonal or temporary structure related to the tourism
43 industry shall be located a minimum of 50 feet landward of the
44 mean high water line, except that a seasonal or temporary structure
45 related to the tourism industry may be located on a beach when the
46 structure is located on the most landward portion of the beach, and
47 the structure complies with the following conditions:

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1 N.J.A.C.7:7-6.22, concerning the construction of certain structures
2 related to the tourism industry at hotels and motels, commercial
3 developments, and multi-family residential developments with more
4 than 75 units. This bill would require the DEP Commissioner to
5 issue a general permit (a type of simplified permit in lieu of a
6 permit otherwise required by the law) for the construction of a
7 seasonal or temporary structure related to the tourism industry at a
8 commercial development, a hotel, a motel, or a residential
9 development having 75 or more dwelling units, provided that
10 certain specified criteria set forth in the bill are met.