



**State of New Jersey**  
Department of Environmental Protection  
Division of Land Use Regulation  
Mail Code 501-02A  
PO Box 420  
Trenton, NJ 08625-0420  
Fax# (609)-777-3656  
[www.nj.gov/dep/landuse/](http://www.nj.gov/dep/landuse/)



## **FRESHWATER WETLANDS TRANSITION AREA WAIVER APPLICATION CHECKLIST AND FEE TABLE**

(Updated 12/2010)

**This checklist is to be used to apply for a transition area waiver. If a transition area disturbance can be covered by a general permit, use the application checklist for that general permit.**

**The Department issues the following types of transition area waivers:**

1. Averaging plan transition area waiver (see N.J.A.C. 7:7A-6.2);
2. Special activity transition area waiver for stormwater management (see N.J.A.C. 7:7A-6.3(d));
3. Special activity transition area waiver for linear development (see N.J.A.C. 7:7A-6.3(e));
4. Special activity transition area waiver for redevelopment (see N.J.A.C. 7:7A-6.3(f));
5. Special activity transition area waiver for activities eligible for an individual freshwater wetlands permit (see N.J.A.C. 7:7A-6.3(g));
6. Matrix type width reduction transition area waiver (see N.J.A.C. 7:7A-6.4); and
7. Hardship transition area waiver (see N.J.A.C. 7:7A-6.5).

**To complete this checklist, you may need the following attachments:**

**Attachment A:** Form letter for providing certified mail notice of an application

**Attachment B:** Form for providing newspaper notice of an application

**Attachment C:** List of municipalities with swamp pink plants

**Attachment D:** List of municipalities with bog turtles

**Attachment E:** Form letter for providing an offer of sale for a hardship transition area waiver

**Attachment F:** Organizations to be contacted for the sale of property

**LURP2 Form:** Application form

**NOTE:** Please provide only one copy of each item listed below, unless the item specifically states that more copies should be provided.

**NOTE:** The person who signs the LURP2 application form as the applicant must be the owner of the site, or a person with legal authority over the site to carry out all requirements of any authorization issued. Others may assist the applicant in preparing the application, however only one person may be identified in the application as the applicant's agent. The agent may be a consultant, engineer, attorney, or other person who has assisted or prepared the application. The agent is the person to which all correspondence will be sent and the person that has authority to make decisions with regard to the application.

**APPLICATION REQUIREMENTS:**

**To be deemed administratively complete, an application for a transition area waiver must include all of the following items:**

- 1. A LURP2 application form, completed in accordance with the directions on the form;
- 2. The appropriate fee, indicated in the fee table below, paid as follows:
  - The fee shall be paid by personal check, certified check, attorney check, government purchase order, or money order;
  - The fee shall be made payable to “**Treasurer, State of New Jersey**”;
  - Each check, purchase order, or money order must be marked with the name of the applicant;
  - Each check, purchase order, or money order must indicate the type of transition area waiver for which the application is submitted (for example, "linear development waiver");
  - If more than one permit is requested a fee break down should be included on a separate page.
- 3. Proof that the public notice requirements at A and B below have been met. (Note: To prove that an item has been sent to a person, submit either the stamped white postal receipt you receive when you send the item by certified mail, or the signed green certified mail return receipt card.) All of the following must be submitted:
  - A. Proof that the municipal clerk has been sent a copy of the entire application that was submitted to NJDEP;
  - B. Proof that a completed copy of the notice letter found in Attachment A has been sent to each of the following:
    - \_\_\_ i. The municipal environmental commission (if one exists);
    - \_\_\_ ii. The municipal planning board;
    - \_\_\_ iii. The municipal construction official;
    - \_\_\_ iv. The county planning board; and
    - \_\_\_ v. One of the following sets of neighboring landowners (applicant choose one option):
      - Option 1: All owners of land within 200 feet of the boundary of the site (see N.J.A.C. 7:7A-1.4 for a definition of "site").
        - If this option is selected, the application must also include a certified list of landowners within 200 feet of the site, obtained from the municipality;
      - Option 2: All owners of land within 200 feet of the disturbance.
        - If this option is chosen, the application must also include a tax map with the location of the proposed disturbance outlined, and with an area extending 200 feet on all sides of the proposed disturbance outlined; or
      - Option 3: If the project is a linear development, trail, or boardwalk; and the project is more than one half mile long, proof that both of the following have been done:
        - A copy of the notice in Attachment A has been sent to all owners of land within 200 feet of any proposed above ground structure (not including telephone

poles, power lines or similar structures), such as an access road, treatment plant, power substation, or similar structure; and

- A display advertisement has been published in the newspaper of record for the municipality in which the site is located and in a newspaper with regional circulation in the region in which the site is located. The advertisement shall be at least four column inches in size;
  - To prove that this advertisement has been placed, the application must include a copy of the advertisement, or a copy of an affidavit from the newspaper, stating that the advertisement was published;

**Note:** if a project site is located in more than one municipality or county, the notice requirements in item 3 above must be met for each municipality and/or county in which the site is located.

4. A copy of a USGS quad map, with: the site clearly outlined; and State Plane coordinates for a point at the approximate center of the site. The accuracy of the State plane coordinate shall be within 50 feet of the actual center point of the site. Please use nad 1983. For assistance in determining the State plane coordinates for a site, contact the Department's Geographic Information (GIS) Office at (609) 777-0672.

**Note:** For a linear development, the State plane coordinates shall include the coordinates for the end point of the development and the coordinates for points located at 1,000 foot intervals along the entire length of the development.

5. An up to date county road map or local street map, with the site clearly indicated;
6. Original color photographs, mounted on 8½ by 11 inch paper, clearly showing the portion of the site that will be disturbed by the activities proposed in the transition area. A minimum of four photographs shall be included;
7. A compliance statement that includes all of the following:
- A. A description of the project and all proposed regulated activities;
  - B. A list of all of the limits and requirements in the transition area provisions of the freshwater wetlands rules at N.J.A.C. 7:7A-6 that apply to the proposed activities; and
  - C. An explanation of how the proposed activities comply with each limit or requirement listed under B above;
  - D. If a site is known or suspected to be contaminated with toxic substances, and if the Department requests it, a laboratory analysis of representative samples of the soil or sediment on the site;
8. The following information on the location of wetlands on the site:
- A. A line delineation LOI issued under N.J.A.C. 7:7A-3.3, or a line verification LOI issued under N.J.A.C. 7:7A-3.4. A presence/absence LOI issued under N.J.A.C. 7:7A-3.2 is not sufficient.;
  - B. If no LOI has been issued for the site, or if only a presence/absence LOI has been issued, submit all the information required for an application for a line delineation LOI or line verification LOI.;

- This delineation shall be drawn onto the site plan required under item below. A formal delineation report is not required. However, the application must include the data sheets used by the delineator to record the information on soils and vegetation which formed the basis for the delineation;

- 9. Five folded copies of a site plan, signed and sealed by a licensed surveyor, showing the entire site and indicating the following:
  - A. All existing structures in the area that will be disturbed by the proposed activities;
  - B. All proposed structures, disturbances, and activities; and
  - C. If a delineation of wetlands, transition areas, and State open waters is required under item above, this delineation must be drawn on the site plan;
- 10. Information regarding whether other approvals are required for the activities by Federal, interstate, State and local agencies for the activity; information regarding whether any such approvals or denials have been received; and information regarding whether the proposed activities are consistent with the rules, plans, or policies of other Federal, interstate, State and local agencies;
- 11. If the application is for a proposed project that has disturbances of ¼ acre impervious surface in freshwater wetlands and/or transition area **or** if the total pervious and impervious disturbance to wetlands and/or transition is greater than an acre **or** if more than ¼ acre of impervious surface drains to any outfall requiring a general permit 11 the applicant must submit a Stormwater Report that proves the proposed project meets the Water Quality Standards at N.J.A.C. 7:8 and a full set of construction site plans.

In addition to the above the following must be submitted

Stormwater management must be provided in certain cases as described below. See [www.njstormwater.org](http://www.njstormwater.org) for more information. (Note: if your freshwater wetlands application is being submitted jointly with a stream encroachment, waterfront development and/or CAFRA application, different means of determining whether the Stormwater Management rules may apply.) Stormwater fees may also apply.

A. Check (and explain) if the project:

- Is exempt from the stormwater rules at N.J.A.C. 7:8-5.2(d). (In such cases, you do not need to complete the rest of this section.)
- Meets the waiver requirements for public roadway improvements at N.J.A.C. 7:8-5.2(e).

B. Enter the total amount of land that will be disturbed (as described below):

\_\_\_\_\_ ft<sup>2</sup> or acres (circle one).

“Disturbance” means the sum of the following:

- The total amount of proposed disturbance within freshwater wetlands, transition areas and open waters onsite.
- The total amount of proposed disturbance onsite, if runoff from the disturbed area will be collected and discharged into freshwater wetlands, transition areas or open waters.

If at least 1 acre (43,560 ft<sup>2</sup>) of land will be disturbed, as described above, submit the following (in the engineering report):

- One completed Low Impact Design checklist (see Appendix A of BMP manual at [www.njstormwater.org](http://www.njstormwater.org)).
- One copy of a USGS map, showing the site and its HUC-14 watershed and indicating any 300-ft buffers onsite.
- Proof that the groundwater recharge standards at N.J.A.C. 7:8-5.4(a)2 are met (unless exempted at N.J.A.C. 7:8-5.4(a)2ii).
- Proof that the runoff quantity standards at N.J.A.C. 7:8-5.4(a)3 are met (unless the project lies in a tidal floodplain and will cause no adverse impacts to flooding, as described at N.J.A.C. 7:8-5.4(a)3iv).
- Proof that the use of nonstructural stormwater strategies has been maximized onsite via one of the following:
  - A completed Nonstructural Stormwater Strategies Point System spreadsheet (see [www.njstormwater.org](http://www.njstormwater.org)).
  - A detailed narrative (including an alternative analysis where necessary), explaining how the project does (or does not) implement all nine nonstructural strategies required at N.J.A.C. 7:8-5.3.

C. Enter the net-increase in impervious area onsite (as described below):  
\_\_\_\_\_ ft<sup>2</sup> or acres (circle one).

“Impervious areas” means the sum of the following:

- The total amount of proposed impervious areas within freshwater wetlands, transition areas and open waters onsite.
- The total amount of proposed impervious areas onsite, if runoff from the impervious areas will be collected and discharged into freshwater wetlands, transition areas or open waters. Include all new impervious areas onsite, as well as existing impervious areas from which stormwater currently sheet-flows, but which will be collected into a basin or storm sewer system. Subtract any impervious areas being removed onsite, if runoff from the area to be removed is currently collected and discharged into within freshwater wetlands, transition areas and open waters.

If a net-increase of at least ¼ acre (10,890 ft<sup>2</sup>) of impervious area will occur, as described above, submit all material in Part B above and the following:

- Proof (in the engineering report) that the water quality standards at N.J.A.C. 7:8-5.5 are met.

D. Complete a Stormwater Review Fee worksheet to calculate the appropriate stormwater review fee

- 12. If the site is located in a municipality with the endangered plant known as swamp pink (*helonias bullata*) (these municipalities are listed in Attachment C), the application must include 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;

- 13. If the site is located in a municipality with the endangered bog turtle (these municipalities are listed in Attachment D), the application must include 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;
  
- 14. If the site is located in an area designated a Wild and Scenic River, or under study for such designation, submit a letter from the National Park Service approving the proposed activities.
  - As of August 1, 2001, the water bodies containing designated wild and scenic river areas in New Jersey are:
    - The Maurice River and tributaries;
    - The Great Egg Harbor River and tributaries
    - Portions of the Mullica/Lower Atsion River; and
    - Portions of the Delaware River.
  - Contact the Department at the above address for more detailed information on wild and scenic rivers.
  
- 15. A copy of the deed and/or other relevant documents pertaining to the site, showing and/or describing property boundaries, ownership, easements, restrictions, previous approvals by any local, federal, interstate or state agency, and any other information relating to the site that will assist the Department in assessing compliance with the Freshwater Wetlands Protection Act rules, N.J.A.C. 7:7A.
  
- 16. For an averaging plan transition area waiver under N.J.A.C. 7:7A-6.2, the following information is required, in addition to the information required in items 1 through 15 above:
  - A. The total square footage of the standard transition area, determined in accordance with N.J.A.C. 7:7A-2.5;
  - B. The total square footage of transition area to be disturbed by the proposed project, including grading;
  - C. The total square footage by which the transition area will be reduced, and the total square footage of increased transition area which will be provided in compensation for the reduction; and
  - D. A site plan showing and clearly labeling the standard transition area, the proposed area in which the standard transition area will be reduced, and the proposed area that will be added to the transition area as compensation. The transition area shown on the site plan shall be reproducible in the field;
  
- 17. For a special activity transition area waiver for stormwater management under N.J.A.C. 7:7A-6.3(d), the following information is required, in addition to the information required in items 1 through 15 above:
  - A. A written alternatives analysis that satisfies the requirements of N.J.A.C. 7:7A-6.3(c) and (d). The alternatives analysis must list the possible alternatives, and explain why each was rejected;

- B. A site plan showing the standard transition area, as determined under N.J.A.C. 7:7A-2.5, and showing all proposed regulated activities (see N.J.A.C. 7:7A-2.5 for a list of activities regulated in transition areas);
18. For a special activity transition area waiver for linear development under N.J.A.C. 7:7A-6.3(e), the following information is required, in addition to the information required in items 1 through 15 above:
- A. A written alternatives analysis that satisfies the requirements of N.J.A.C. 7:7A-6.3(c) and (e). The alternatives analysis must list the possible alternatives, and explain why each was rejected; and
  - B. A site plan showing the standard transition area, as determined under N.J.A.C. 7:7A-2.5, and showing all proposed regulated activities (see N.J.A.C. 7:7A-2.5 for a list of activities regulated in transition areas);
19. For a special activity transition area waiver for redevelopment under N.J.A.C. 7:7A-6.3(f), a site plan showing the following is required, in addition to the information required in items 1 through 15 above:
- A. The location and extent of areas that are significantly disturbed so that they are not functioning as a transition area, including impervious surfaces, as defined at N.J.A.C. 7:7A-1.4; and
  - B. The location and extent of proposed development and attendant features including but not limited to septic systems discharging onsite, stormwater outfalls, and proposed stormwater management measures;
20. For a special activity transition area waiver for a project that would be eligible for an individual freshwater wetlands permit under N.J.A.C. 7:7A-6.3(g), the applicant must submit the following information, in addition to the information required in items 1 through 15 above:
- A. The information required for an individual freshwater wetlands permit application at N.J.A.C. 7:7A-10.6(b); and
  - B. A mitigation proposal in accordance with the requirements at N.J.A.C. 7:7A-15.26.
21. For a matrix type transition area waiver under N.J.A.C. 7:7A-6.4, the following information is required, in addition to the information required in items 1 through 15 above:
- A. The slope of the portion of the transition area contained within the site, as determined under N.J.A.C. 7:7A-6.4(g);
  - B. The dominant vegetation community in the portion of the transition area contained within the site, as determined under N.J.A.C. 7:7A-6.4(h); and
  - C. The development intensity of the proposed project, as determined under N.J.A.C. 7:7A-6.4(i);
22. For a hardship transition area waiver under N.J.A.C. 7:7A-6.5, in addition to the information required in items 1 through 15 above, the applicant shall demonstrate that the site meets the requirements at N.J.A.C. 7:7A-6.5(a). The applicant may demonstrate this by submitting documentation that all of the following criteria are met:

- 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 this chapter;
- 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 applicant has unsuccessfully attempted to purchase adjacent properties for fair market value in order to create a developable upland;
- G. The applicant has offered the site for sale at fair market value as determined by a fair market value appraisal, performed by a State-licensed appraiser and using a form letter provided by the Department (Attachment E), to adjacent property owners and the offer was refused or is not reasonable, assuming a minimum beneficial economically viable use, in accordance with N.J.A.C. 7:7A-17, to alleviate the hardship;
- H. The applicant has offered the site for sale at fair market value as determined by a fair market value appraisal, performed by a State-licensed appraiser, and using a form letter provided by the Department, to interested public and/or private conservation organizations on a list provided by the Department (Attachment F), and the offer was refused or is not reasonable, assuming a minimum beneficial economically viable use, in accordance with N.J.A.C. 7:7A-17, to alleviate the hardship;
- I. Document(s) showing when the property as a whole, as defined at N.J.A.C. 7:7A-1.4, was acquired, the purchase price of the property as a whole and the instrument which documents the applicant's real property interest;
- J. Document(s) showing the amount, nature, and date of any investments made to maintain and/or develop the property as a whole, other than the purchase price;
- K. A copy of each letter that the property owner sends under G. and H. above;
- L. All responses the property owner receives to the letters sent under G. and H. above. Each response shall be submitted to the Department within 15 days after the property owner's receipt of the response;
- M. 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;
- N. The written offer of sale required under G. and H. above shall be sent by certified mail and shall:
  - \_\_\_\_\_ i. Indicate that the offer is open for a period of at least 90 calendar days;
  - \_\_\_\_\_ ii. 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;
  - \_\_\_iii. Include full disclosure of the location on the property of any freshwater wetlands, transition areas, and/or State open waters.

## TRANSITION AREA WAIVER APPLICATION FEES<sup>1</sup>

| Type of transition area waiver  | Fee   |
|---|---|
| Any transition area waiver, if:<br>1. The entire site is covered by a valid line delineation or line verification LOI; and<br>2. The site is one acre or smaller            | \$240.00  |
| Any transition area waiver, if:<br>1. The affected portion of the site is covered by a valid line delineation or line verification LOI; and<br>2. The site is over one acre | \$600.00 plus \$48.00 per acre affected <sup>N2</sup>   |
| Any transition area waiver, if:<br>1. The site is not covered by a valid LOI, or has a presence/absence LOI only; and<br>2. The site is one acre or less                    | \$840.00<br><br>Note: this application fee is for a combined transition area waiver and LOI, since the wetlands must be delineated before the review of the transition area waiver application.                         |
| Any transition area waiver if:<br>1. The site is not covered by a valid LOI, or has a presence/absence LOI only; and<br>2. The site is larger than one acre                 | \$1,080.00 plus \$96.00 per acre<br><br>Note: this application fee is for a combined transition area waiver and LOI, since the wetlands must be delineated before the review of the transition area waiver application. |
| Multiple transition area waivers (unless all are special activity transition area waivers)  | Sum of all fees for all of the applicable transition area waivers   |
| Multiple special activity transition area waivers for a single site   | \$600.00 plus \$240 for each additional special activity waiver   |
| Transition area waiver (any type) and an individual freshwater wetlands or open water fill permit   | Either the applicable transition area waiver fee or the individual permit fee, whichever is higher  |
| Transition area waiver (any type) and one or more general permit authorizations   | The applicable transition area waiver fee, plus \$600.00 for the first general permit authorization, and \$240.00 for each additional general permit authorization  |
| Transition area waiver extension  | \$240.00  |

<sup>n1</sup> When these fee tables refer to a cost "per acre," this means the cost is per acre or fraction thereof. For example, an area of one and one third acres would have the same fee as an area of two acres. When these fee tables refer to a cost "per 1/10 acre," this means the cost is per tenth of an acre or fraction thereof, such that an area of 0.12 acres would have the same fee as an area of 0.2 acres. When these fee tables refer to an "acre affected," this means an acre of freshwater wetlands, State open waters, or transition area that will be affected by a regulated or prohibited activity. Plus, as applicable, the additional fees for major developments as defined at N.J.A.C. 7:8-1.2