

Construction Code Communicator



State of New Jersey
 Chris Christie, Governor
 Kim Guadagno, Lt. Governor

Department of Community Affairs
 Richard E. Constable III, Commissioner

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Winter 2012

The Winter Communicator: A Reminder

The final issue of the *Construction Code Communicator* each year will consist of a collection and re-printing of all the Alerts, Hot Topics, Letters from the Director, guidance documents, and other information items that were posted on the Division's website during the calendar year.

Once the *Construction Code Communicator* has been posted, the individual Alerts, Hot Topics, Letters from the Director, guidance documents, and other information items will be removed from the Division's website. However, it will still be possible to see a copy of any of these documents as it was originally posted on the Division's website by accessing the Division's Document Library or through the "Topics A-Z" tab on the Division's website: www.nj.gov/dca/divisions/codes/.

In short, there are no new articles in this issue.






Also, the Index for all four issues of the *Construction Code Communicator* 2012 is included in this issue as a handy reference.

Prospectively, the *Construction Code Communicator* will follow this same format: three issues, Spring, Summer, and Fall, that contain articles and a Winter issue that will provide in one place all the Alerts, Hot Topics, Letters from the Director, guidance documents, and other information items that were posted on the Division's website in that calendar year. We hope that you continue to appreciate this aspect of the *Construction Code Communicator*.

If you have any questions about the *Construction Code Communicator*, or if you have any recommendations for articles, please feel free to contact me at (609) 984-7609 or at etempleton@dca.state.nj.us.

Source: Emily W. Templeton
 Division of Codes and Standards



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State Permit Surcharge Fee and Permits for Storm Damage Repair

In a letter dated November 2, 2012, Director Smith wrote:

Dear Construction Official:

I am writing to remind everyone that municipalities may waive fees for permits for work made necessary by hurricane damage. Pursuant to N.J.A.C. 5:23-4.19(b)5., if the municipality is waiving its fees, then the State permit surcharge fee also is waived.

Should you have any questions, please feel free to contact the Office of Regulatory Affairs at (609) 984-7672.

Sincerely,

Edward M. Smith
 Director
 Division of Codes and Standards

Are You Ready to Ride?

In a May 21, 2012 Alert, the Bureau of Code Services provided the following Safety tips:

The DOs of Ride Safety:

- Do observe each ride before participating – make sure you are comfortable with it
- Do look for the posted State of New Jersey certificate of operation – this document ensures rides are inspected and have passed the stringent safety regulations required by the state
- Do read and obey all written and verbal warnings and instructions
- Do observe age, height and weight, and other physical restrictions for each ride

Before the Ride Begins:

- Do fasten safety equipment such as a seatbelt, shoulder harness, lap bar or chain
- Do secure all clothing and personal possessions
- Do follow instructions of ride operators

While the Ride is in Motion:

- Do keep hands, arms, legs and feet inside the ride at all times

Before Getting off of the Ride:

- Do keep all safety equipment fastened until the operator instructs you to exit
- Do stay in the ride until it comes to a complete stop and wait for the operator to tell you to get out
- Do enter or dismount a ride only in the area instructed by the ride operator

The DON'Ts of Ride Safety

- Don't throw any object from an amusement ride or attraction
- Don't endanger or injure yourself or others around you on the ride by behaving in a reckless manner
- Don't enter any ride that you are uncomfortable with or that your child fears
- Don't horseplay around, on or near a ride at any time
- Don't enter a ride without the supervision of the ride operator
- Don't bring food or drinks on any ride, and don't smoke

Child Safety

- Parents should take several additional safety precautions for their children, especially small children, when participating in amusement rides or attractions

Parents should:

- Know your child's capabilities and limitations with regard to whether the ride is appropriate for them
- Watch the ride in operation before entering to make sure your child can ride it safely
- Remind your child of Ride Safety 'Dos' and 'Don's'
- Remind your child to stay seated, hold on to safety bars and obey the ride operator's instructions
- Designate an easily recognizable place to meet your child after the ride is over
- Supervise your child at all times

Safety is the most important component of every family outing. New Jersey's amusement parks, fairs, carnivals and attractions are some of the best in the country and are designed to entertain every member of your family. So the next time you visit your favorite amusement park, fair or carnival, just remember to be "Ready to Ride."

Local Property Maintenance and Resale Inspection Ordinances

In a letter dated June 2012, Director Smith wrote:

Dear Construction Official:

The Division of Codes and Standards is conducting a review of local property maintenance ordinances and resale inspection ordinances whether applicable to single-family, multi-family or non-residential structures. We also are interested in change of tenancy ordinances which contain provisions requiring building upgrades or some form of compliance with one of the adopted subcodes of the UCC or a fire safety code.

Please submit the ordinances to the Office of Regulatory Affairs at PO Box 818 Trenton NJ 08625-0818. Ordinances may also be sent via e-mail to susan.lydon@dca.state.nj.us. If the municipality has no such ordinances, please respond and let us know this.

Should you have any question you may contact Susan Lydon of the Office of Regulatory affairs at 609-984-7672. Thank you for your anticipated cooperation.

Sincerely,

Edward M. Smith
Director
Division of Codes and Standards

Permit Extension Act, Updated Guidance

In a letter dated December 10, 2012, Director Smith wrote:

Dear Construction Official:

As you may know, P. L. 2012, c.48, the Greenwald Jobs Creation Bill (A-1338) extends the expiration date of certain permits under the Permit Extension Act of 2008, P.L. 2008, c.78. Under this new law, the dates have changed, the definition of "environmentally sensitive areas" is modified and amendments have been made to the list of permits and approvals included and excluded under the Permit Extension Act. The other terms and conditions of the Permit Extension Act remain as they were. Below and attached please find updated guidance on the application of the Permit Extension Act which has been revised to reflect the new expiration dates.

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The Flood Hit! Now What?



In an article originally published in Summer 2007 but posted at the Division's website in Summer 2011 again as a reminder, the Division advised:

When flooding causes damage throughout your community, as a local Uniform Construction Code (UCC) enforcement agency, you may be called on to assist in the process of returning building occupants safely back into their homes or businesses. UCC enforcement agencies should provide property owners with the necessary support to evaluate conditions in identified damaged buildings. Depending on the extent of damage to the building, examples of tasks that your agency might be asked to complete are:

- Assessment by building inspectors of damage to foundation walls and inspection for signs of structural damage
- Evaluation by electrical inspectors of the damage to the property's electrical system, including the electrical service and whether reconnection can be made by the utility provider
- Evaluation by plumbing inspectors of the condition of the property's piping and fuel service, including recommending when it is safe to turn service back on
- Evaluation by fire-protection inspectors of the status of fire-protection systems within buildings

Completing these tasks may be overwhelming to your agency, depending on the extent of flood damage in your community. The Department of Community Affairs, Division of Codes and Standards is able to provide assistance to local enforcement agencies in helping a community complete the above tasks during a disaster. A brochure, "Flooding Hazards: What You Need to Know," is available on the Department's web site at:

<http://www.nj.gov/dca/divisions/codes/alerts/pdfs/flood.pdf>

Please feel free to reach out to me with questions or comments. I can be reached at (609) 292-7898 or cgiangeruso@dca.state.nj.us.

Source: Carmine Giangeruso
Division of Codes and Standards
Construction Official/Emergency Coordinator

UL-listed Fire Resistive Cable

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In a letter dated September 26, 2012, Director Smith wrote:

Dear Construction Officials and Electrical Subcode Officials:

As you may be aware, Underwriters Laboratories (UL) has pulled its listing of all fire resistive cable, including listings for electrical circuit protective systems using fire resistive cable. I am writing to offer guidance on how to handle the withdrawal of these listings based on the information available.

Currently, UL still is investigating how and whether these products fail to perform and under what circumstances. We will continue to monitor this investigation closely and we will provide updated information and instructions as warranted. For now, code officials are advised to follow the below guidance:

Existing installations in any building or project for which a certificate of occupancy has been issued regardless of its age should be left as is. There is no recall or retrofit at this point in time.

For projects for which permits have been issued, but for which no certificate of occupancy has been issued, and for projects for which permit applications have been received, but for which no permit has been issued, the project should be allowed to proceed with the use of the product since the product was listed at the time of permit application. However, the applicant and the owner, if other than the applicant, should be given a copy of the enclosed notice informing them of the current situation and allowing them to make decisions based upon what is known at this time.

Projects for which applications are filed after today's date cannot use a product for which there is no listing. In these cases, an alternate method of compliance must be used to achieve required fire rating.

Should you have any questions or need any further information, please feel free to contact our Code Assistance Unit at (609) 292-7899 or codeassist@dca.state.nj.us.

Sincerely,

Edward M. Smith
Director
Division of Codes and Standards

As code officials, you will continue to deal with this law on two levels: its impact on permits issued under the UCC and its impact on prior approvals. The Act stops the clock on the running of approvals during the "extension period," which is now defined as January 1, 2007 through December 31, 2014. This means that any UCC permit that was valid as of January 1, 2007 will still be valid on December 31, 2014. On December 31, 2014, when the clock starts again, the permit is valid for an additional six months or for the time that would have remained on January 1, 2007, whichever is shorter. Any permit issued during the extension period (between January 1, 2007 and December 31, 2014) will be valid until June 30, 2015 (six months beyond the end of the extension period,) or until the date when it would have expired if the Permit Extension Act had not been passed, whichever is longer. (Some examples of how to apply the Permit Extension Act to UCC permits are enclosed.)

There continues to be an exclusion in the Act for permits issued for projects in environmentally sensitive areas. To determine whether your municipality or any portion of your municipality is an "environmentally sensitive area" as that term is defined in the Act, please refer to the enclosed attachment.

In order to determine whether a prior approval qualifies for extension under this Act, construction officials should check with the agencies and officials responsible for issuing those prior approvals to make sure that those prior approvals remain in effect. A list of the approvals included and of those excluded by the Act is enclosed.

In those cases where plan review was done by DCA, any plan release that was valid on or after January 1, 2007 may be used to support issuance of a permit through June 30, 2015. Once again, before issuing a permit, it is necessary to check with the agencies or officials involved to ensure that any required prior approvals remain valid.

Information, including the full text of the Act, is posted on the Division's website at for your use. (Direct link: http://www.njleg.state.nj.us/2012/Bills/A1500/1338_R4.PDF).

Should you have any questions about the application of the Permit Extension Act, please feel free to call the Code Assistance Unit at (609) 984-7607.

Sincerely,
Edward M. Smith
Director
Division of Codes and Standards

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Attachments:

- Definition of "Environmentally Sensitive Area"
- List of permits included and excluded
- Examples of Application to Permits Issued under the UCC

Permit Extension Act of 2008

Definition of "Environmentally Sensitive Area"

"Environmentally sensitive areas" include areas designated in the State Development and Redevelopment Plan as Planning Area 4B (Rural/Environmentally Sensitive), Planning Area 5 (Environmentally Sensitive), or a critical environmental site, but shall not include any "extension area."

An "extension area" is an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area), Planning Area 4A (Rural Planning Area), a designated center, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to refine this definition as it pertains to Statewide planning areas, whichever is later; a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6); regional growth areas, villages, and towns, designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); the planning area of the Highlands Region as defined in section 3 of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-3), and any Highlands center designated by the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection. "Extension area" shall not include an area designated pursuant to the State Development and Redevelopment Plan adopted, as of the effective date of P.L.2008, c.78, pursuant to P.L.1985, c.398 as Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive), except for any area within

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Planning Area 4B or Planning Area 5 that is a designated center, or a designated growth center in an endorsed plan.

**Permit Extension Act of 2008
List of Permits and Approvals Included and Excluded**

The law specifically **includes** UCC permits and includes the following: any approval of a soil erosion and sediment control plan granted by a local soil conservation district, any waterfront development permit, any permit issued pursuant to "The Wetlands Act of 1970," any permit issued pursuant to the "Freshwater Wetlands Protection Act," any approval of an application for development granted by the Delaware and Raritan Canal Commission, any permit issued by the New Jersey Meadowlands Commission, any approval of an application for development granted by the Pinelands Commission and determination of municipal and county plan conformance pursuant to the "Pinelands Protection Act," any permit issued or center designations made pursuant to the "Coastal Area Facility Review Act," any septic approval, any highway access permit or right-of-way permit granted by the Department of Transportation, any approval granted by a sewerage authority*, any approval granted by a municipal utilities authority, an agreement with a municipality, county, municipal authority, sewerage authority, or other governmental authority for the use or reservation of sewerage capacity, any approval issued by a county planning board, any preliminary and final approval granted in connection with an application for development pursuant to the "Municipal Land Use Law," any plan endorsement and center designations approved pursuant to the "State Planning Act," any permit or certification issued pursuant to the "Water Supply Management Act," any permit granted authorizing the drilling of a well, exemption from a sewerage connection ban granted*, wastewater management plan approved, and pollution discharge elimination system permit pursuant to the "Water Pollution Control Act," any certification granted pursuant to "The Realty Improvement Sewerage and Facilities Act," any certification or approval of water and sewerage facilities for 50 or more units granted pursuant to P.L.1971, c.386, any certification issued and water quality management plan approved pursuant to the "Water Quality Planning Act," any approval granted pursuant to the "Safe Drinking Water Act."

*Note: The continuation of an approval for connection to a sanitary sewer is contingent on the availability of sufficient capacity.

The law specifically **excludes** the following: any permit or approval issued by the government of the United

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States or any agency or instrumentality thereof, or any permit or approval for which the expiration is determined under Federal law; any permit or approval issued pursuant to the "Pinelands Protection Act," if the extension would result in a violation of federal law, or any State rule or regulation requiring Federal approval; any permit or approval issued within an environmentally sensitive area; any permit or approval within an environmentally sensitive area issued pursuant to the "Highlands Water Protection and Planning Act," or any permit or approval issued within the preservation area of the Highlands Region; any permit or approval issued by the Department of Transportation other than a right-of-way permit or a highway access permit; any permit or approval issued pursuant to the "Flood Hazard Area Control Act," except (a) where work has commenced in any phase or section of the development, on any site improvement or on any buildings or structures or (b) where the permit or approval authorizes work on real property owned by the government or the federal government; any coastal center designated pursuant to the "Coastal Area Facility Review Act," that as of March 15, 2007 (a) had not submitted an application for plan endorsement to the State Planning Commission, and (b) was not in compliance with the provisions of the Coastal Zone Management Rules; any permit or approval within the Highlands planning area located in a municipality subject to the "Highlands Water Protection and Planning Act," that has adopted, as of May 1, 2012, in accordance with the Highlands Water Protection and Planning Council conformance approval, a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory, except that the provisions of this paragraph shall not apply to any permit or approval within a Highlands center designated by the Highlands Water Protection and Planning Council, notwithstanding the adoption by the municipality of a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory.

Permit Extension Act of 2008, as amended and extended by P.L. 2012, c.48
Examples of Applying the Act to UCC Permits

The Permit Extension Act extends all permits that were open and valid as of January 1, 2007. Under the UCC rules, a construction permit lapses if (1) no work is done for a year or (2) work, having been started, is discontinued for six months. (See NJ.A.C.5:23-2.16(b)) The following are some examples of how certain scenarios would be affected by the Permit Extension Act:

Examples:

See Guidance –continued at right

Guidance

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1. A construction permit was obtained prior to January 1, 2006 and no work was done. The permit has lapsed and is not revived by the Permit Extension Act because it was not a valid, open permit on January 1, 2007.
2. A construction permit was obtained on April 1, 2006 and no work was done. The permit was deemed to have lapsed as of April 1, 2007. However, the permit is now deemed to have been revived by the passage of the Permit Extension Act. Since it would have been valid for three more months as of January 1, 2007, it will continue to be valid for three more months as of December 31, 2014, and its new expiration date, if it is not acted upon, will be March 31, 2015.
3. A construction permit was obtained on October 1, 2006 and no work was done. The permit would have been valid for nine more months as of January 1, 2007 and is now deemed to have been revived, and to continue to be valid as of December 31, 2014. However, since a permit that is only valid because it was extended by the Permit Extension Act can only remain valid for six months following the end of the extension period, the permit would only be valid for six more months, and would expire on June 30, 2015.
4. A construction permit is obtained between January 1, 2007 and June 30, 2014. Though the time would not begin to run until December 31, 2014, the permit would expire on June 30, 2015, since the Permit Extension Act does not allow any extensions beyond June 30, 2015 unless the permit would have continued in existence beyond that date had the Permit Extension Act not been adopted.
5. A construction permit is obtained after June 30, 2014. Since the permit is valid for a year, it is unaffected by the June 30, 2015 cut-off date and expires one year from the date of issuance, just as it would have if the Permit Extension Act had not been adopted.



P.L. 2012, C. 48 Permit Extension Act

CHAPTER 48

AN ACT concerning the extension of certain permits and approvals affecting the physical development of property located within the State of New Jersey and amending P.L.2008, c.78.

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

1. Section 2 of P.L.2008, c.78 (C.40:55D-136.2) is amended to read as follows:

C.40:55D-136.2 Findings, declarations relative to extension of certain permits and approvals.

2. The Legislature finds and declares that:

a. The most recent national recession has caused one of the longest economic downturns since the Great Depression of the 1930s and has drastically affected various segments of the New Jersey economy, but none as severely as the State's banking, real estate and construction sectors.

b. The real estate finance sector of the economy is in severe decline due to the sub-prime mortgage problem and the resultant widening mortgage finance crisis. The extreme tightening of lending standards for home buyers and other real estate borrowers has reduced access to the capital markets.

c. As a result of the crisis in the real estate finance sector of the economy, real estate developers and redevelopers, including homebuilders, and commercial, office, and industrial developers, have experienced an industry-wide decline, including reduced demand, cancelled orders, declining sales and rentals, price reductions, increased inventory, fewer buyers who qualify to purchase homes, layoffs, and scaled back growth plans.

d. The process of obtaining planning board and zoning board of adjustment approvals for subdivisions, site plans, and variances can be difficult, time consuming and expensive, both for private applicants and government bodies.

e. The process of obtaining the myriad other government approvals, required pursuant to legislative enactments and their implementing rules and regulations, such as wetlands permits, treatment works approvals, on-site wastewater disposal permits, stream encroachment permits, flood hazard area permits, highway access permits, and numerous waivers and variances, also can be difficult and expensive; further, changes in the law can render these approvals, if expired or lapsed, impossible to renew or re-obtain.

f. County and municipal governments obtain determinations of master plan consistency, conformance, or endorsement with State or regional plans, from State and regional government entities which may expire or lapse without implementation due to the state of the economy.

g. The current national recession has severely weakened the building industry, and many landowners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants, due to the crisis in real estate financing and the building industry, uncertainty over the state of the economy, and increasing levels of unemployment in the construction industry.

h. The construction industry and related trades are sustaining severe economic losses, and the lapsing of government development approvals would, if not addressed, exacerbate those losses.

i. Financial institutions that lent money to property owners, builders, and developers are experiencing erosion of collateral and depreciation of their assets as permits and approvals expire, and the extension of these permits and approvals is necessary to maintain the value of the collateral and the solvency of financial institutions throughout the State.

j. Due to the current inability of builders and their purchasers to obtain financing, under existing economic conditions, more and more once-approved permits are expiring or lapsing and, as these approvals lapse, lenders must re-appraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans which, in turn, affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default.

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k. As a result of the continued downturn of the economy, and the continued expiration of approvals which were granted by State and local governments, it is possible that thousands of government actions will be undone by the passage of time.

l. Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions can be both costly in terms of time and financial resources, and insufficient to cope with the extent of the present financial situation; moreover, the costs imposed fall on the public as well as the private sector.

m. It is the purpose of this act to prevent the wholesale abandonment of approved projects and activities due to the present unfavorable economic conditions, by tolling the term of these approvals for a period of time, thereby preventing a waste of public and private resources.

2. Section 3 of P.L.2008, c.78 (C.40:55D-136.3) is amended to read as follows:

C.40:55D-136.3 Definitions relative to extension of certain permits and approvals.

3. As used in P.L.2008, c.78 (C.40:55D-136.1 et seq.):

"Approval" means, except as otherwise provided in section 4 of P.L.2008, c.78 (C.40:55D-136.4), any approval of a soil erosion and sediment control plan granted by a local soil conservation district under the authority conferred by R.S.4:24-22 et seq., waterfront development permit issued pursuant to R.S.12:5-1 et seq., permit issued pursuant to "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.), permit issued pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et al.), approval of an application for development granted by the Delaware and Raritan Canal Commission pursuant to the "Delaware and Raritan Canal State Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.), permit issued by the New Jersey Meadowlands Commission pursuant to the "Hackensack Meadowlands Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et al.), approval of an application for development granted by the Pinelands Commission and determination of municipal and county plan conformance pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), permit issued and center designations pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), septic approval granted pursuant to Title 26 of the Revised Statutes, permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto, right-of-way permit issued by the Department of Transportation pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5), approval granted by a sewerage authority pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), approval granted by a municipal authority pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), an agreement with a municipality, county, municipal authority, sewerage authority, or other governmental authority for the use or reservation of sewerage capacity, approval issued by a county planning board pursuant to chapter 27 of Title 40 of the Revised Statutes, preliminary and final approval granted in connection with an application for development pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), permit granted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), plan endorsement and center designations pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), permit or certification issued pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et al.), permit granted authorizing the drilling of a well pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), certification or permit granted, exemption from a sewerage connection ban granted, wastewater management plan approved, and pollution discharge elimination system permit pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), certification granted pursuant to "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), certification or approval granted pursuant to P.L.1971, c.386 (C.58:11-25.1 et al.), certification issued and water quality management plan approved pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), approval granted pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et al.), permit issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), any municipal, county, regional, or State approval or permit granted under the general authority conferred by State law or rule or regulation, or any other government authorization of any development

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application or any permit related thereto whether that authorization is in the form of a permit, approval, license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement or any other executive or administrative decision which allows a development or governmental project to proceed.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or facility, or of any grading, soil removal or relocation, excavation or landfill or any use or change in the use of any building or other structure or land or extension of the use of land.

"Environmentally sensitive area" means an area designated pursuant to the State Development and Redevelopment Plan adopted, as of the effective date of P.L.2008, c.78, pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 4B (Rural/Environmentally Sensitive), Planning Area 5 (Environmentally Sensitive), or a critical environmental site, but shall not include any extension area as defined in this section.

"Extension area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area), Planning Area 4A (Rural Planning Area), a designated center, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to refine this definition as it pertains to Statewide planning areas, whichever is later; a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6); regional growth areas, villages, and towns, designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); the planning area of the Highlands Region as defined in section 3 of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-3), and any Highlands center designated by the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection. "Extension area" shall not include an area designated pursuant to the State Development and Redevelopment Plan adopted, as of the effective date of P.L.2008, c.78, pursuant to P.L.1985, c.398 as Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive), except for any area within Planning Area 4B or Planning Area 5 that is a designated center, or a designated growth center in an endorsed plan.

"Extension period" means the period beginning January 1, 2007 and continuing through December 31, 2014.

"Government" means any municipal, county, regional, or State government, or any agency, department, commission or other instrumentality thereof.

3. Section 4 of P.L.2008, c.78 (C.40:55D-136.4) is amended to read as follows:

C.40:55D-136.4 Existing government approval; extension period.

4. a. For any government approval in existence during the extension period, the running of the period of approval is automatically suspended for the extension period, except as otherwise provided hereunder; however, the tolling provided for herein shall not extend the government approval more than six months beyond the conclusion of the extension period. Nothing in P.L.2008, c.78 (C.40:55D-136.1 et seq.) shall shorten the duration that any approval would have had in the absence of P.L.2008, c.78, nor shall P.L.2008, c.78 prohibit the granting of such additional extensions as are provided by law when the tolling granted by P.L.2008, c.78 shall expire. Notwithstanding any previously enacted provision of P.L.2008, c.78, as amended and supplemented, the running of the period of approval of all government approvals which would have been

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extended pursuant to the definition of "extension area," added by P.L.2012, c.48, shall be calculated, using that definition, retroactive to the enactment of P.L.2008, c.78.

b. Nothing in P.L.2008, c.78 (C.40:55D-136.1 et seq.) shall be deemed to extend or purport to extend:

(1) any permit or approval issued by the government of the United States or any agency or instrumentality thereof, or any permit or approval by whatever authority issued of which the duration of effect or the date or terms of its expiration are specified or determined by or pursuant to law or regulation of the federal government or any of its agencies or instrumentalities;

(2) any permit or approval issued pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.) if the extension would result in a violation of federal law, or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to Pub.L.95-625 (16 U.S.C. s.471i);

(3) any permit or approval issued within an environmentally sensitive area;

(4) any permit or approval within an environmentally sensitive area issued pursuant to the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), or any permit or approval issued within the preservation area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3);

(5) any permit or approval issued by the Department of Transportation pursuant to Title 27 of the Revised Statutes or under the general authority conferred by State law, other than a right-of-way permit issued pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto;

(6) any permit or approval issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), except (a) where work has commenced, in any phase or section of the development, on any site improvement as defined in paragraph (1) of subsection a. of section 41 of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-53) or on any buildings or structures or (b) where the permit or approval authorizes work on real property owned by the government or the federal government;

(7) any coastal center designated pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), that as of March 15, 2007 (a) had not submitted an application for plan endorsement to the State Planning Commission, and (b) was not in compliance with the provisions of the Coastal Zone Management Rules at N.J.A.C.7:7E-5B.6; or

(8) any permit or approval within the Highlands planning area located in a municipality subject to the "Highlands Water Protection and Planning Act," P.L.2004, c.120, that has adopted, as of May 1, 2012, in accordance with the Highlands Water Protection and Planning Council conformance approval, a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory, except that the provisions of this paragraph shall not apply to any permit or approval within a Highlands center designated by the Highlands Water Protection and Planning Council, notwithstanding the adoption by the municipality of a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory.

c. P.L.2008, c.78 shall not affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the extension period, nor shall it be construed to extend any approval in connection with a resource recovery facility as defined in section 2 of P.L.1985, c.38 (C.13:1E-137).

d. Nothing in P.L.2008, c.78 shall affect the ability of the Commissioner of Environmental Protection to revoke or modify a specific permit or approval, or extension thereof pursuant to P.L.2008, c.78, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the department.

e. In the event that any approval tolled pursuant to P.L.2008, c.78 is based upon the connection to a sanitary sewer system, the approval's extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received approval of a

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hookup prior to the date of enactment of P.L.2008, c.78. Priority regarding the distribution of further gallonage to any permit holder who has received the extension of an approval pursuant to P.L.2008, c.78 shall be allocated in order of the granting of the original approval of the connection.

f. P.L.2008, c.78 shall not toll any approval issued under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) in connection with an application for development involving a residential use where, subsequent to the expiration of the permit but prior to January 1, 2007, an amendment has been adopted to the master plan and the zoning ordinance to rezone the property to industrial or commercial use when the permit was issued for residential use.

g. Nothing in P.L.2008, c.78 shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

h. Nothing in P.L.2008, c.78 shall be deemed to extend the obligation of any wastewater management planning agency to submit a wastewater management plan or plan update, or the obligation of a municipality to submit a wastewater management plan or plan update, pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.) and the Water Quality Management Planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department of Environmental Protection, effective July 7, 2008.

i. All underlying municipal, county, and State permits or approvals within the extension area as defined in section 3 of P.L.2008, c.78 (C.40:55D-136.3), as amended, are extended in the Pinelands Area as designated pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.).

4. Section 5 of P.L.2008, c.78 (C.40:55D-136.5) is amended to read as follows:

C.40:55D-136.5 Notice.

5. State agencies shall, within 30 days after the effective date of P.L.2008, c.78 (C.40:55D-136.1 et seq.), and within 30 days after the effective date of any subsequent amendment and supplement thereto, place a notice in the New Jersey Register tolling all approvals in conformance with this act.

5. Section 6 of P.L.2008, c.78 (C.40:55D-136.6) is amended to read as follows:

C.40:55D-136.6 Liberal construction.

6. The provisions of this act shall be liberally construed to effectuate the purposes of this act, and any subsequent amendment and supplement thereto.

6. This act shall take effect immediately.

Approved September 19, 2012.



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