

P.P. Exam Prep Class
Local Redevelopment and Housing Law
(N.J.S.A. 40A:12A)

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Local Redevelopment & Housing Law

- The general purpose for designating a **redevelopment area** under the LRHL is to encourage and assist redevelopment of an area consistent with goals and objectives of the community, which generally includes upgraded structures and improvements, and the introduction of uses that are appropriate to a specific area.
- Also allows redevelopment entities to use **eminent domain**.
- The general purpose for designating a **rehabilitation area** is to encourage the renovation or reconstruction existing structures; to eliminate substandard structural or housing conditions; and arrest the deterioration of the area and potentially offer **tax abatements on improvements for a period of 5 years**.
- Once designated a rehabilitation area, tools to encourage rehabilitation can be put into place, including reconstruction design standards and potentially a property tax abatement program on improvements.

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STATUTORY CRITERIA FOR REHABILITATION AREA DETERMINATION

Per the LRHL (N.J.S.A. 40A:12A-14), an area may be determined to be in need of rehabilitation if, “**there exist in that area conditions such that,**”

1. A significant portion of structures therein are in a **deteriorated** or **substandard condition** and there is a continuing pattern of **vacancy, abandonment** or **underutilization** of properties in the area, with a persistent **arrearage of property tax payments** thereon;
2. **More than half** of the housing stock in the delineated area is **at least 50 years old**, or a majority of the **water and sewer infrastructure** in the delineated area is **at least 50 years** old and is in need of repair or substantial maintenance; and
3. A program of rehabilitation, as defined in section 3 of P.L.1992, c.79 (C. 40A:12A-3), may be expected to **prevent further deterioration** and **promote the overall development** of the community.

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STATUTORY CRITERIA FOR REDEVELOPMENT AREA DETERMINATION:

A site must meet **one or more of the following criteria to be designated:**

- a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, **as to be conducive to unwholesome living or working conditions.**
- b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be **untenable.**
- c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, **is not likely to be developed through the instrumentality of private capital.**
- d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, **are detrimental to the safety, health, morals, or welfare of the community.**

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STATUTORY CRITERIA FOR REDEVELOPMENT AREA DETERMINATION

- e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, **resulting in a stagnant or not fully productive condition of land** potentially useful and valuable for contributing to and serving the public health, safety and welfare.
- f. **Areas, in excess of five contiguous acres**, whereon buildings or improvements have been **destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty** in such a way that the aggregate assessed value of the area has been materially depreciated.
- g. In any municipality in which an **enterprise zone** has been designated pursuant to the “New Jersey Urban Enterprise Zones Act,” the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment for the purpose of granting tax exemptions within the enterprise zone district or the adoption of a tax abatement and exemption ordinance. **The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L. 1992, c.79 (C.40A:12A-1 et al.) for determining that the area is in need of redevelopment or any area in need of rehabilitation** and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

Local Redevelopment & Housing Law

- h. The designation of the delineated area is **consistent with smart growth planning principles** adopted pursuant to law or regulation.
- Furthermore, the definition of a “redevelopment area” at Section 3 of the LRHL permits the inclusion of additional parcels by stating:
 - *A redevelopment area may include land, buildings or improvements which of themselves are not detrimental to the public health, safety or welfare, but **the inclusion of which is found necessary**, with or without change in their condition, **for the effective redevelopment of the area** of which they are a part.*

- **Case law regarding the use of criteria has** reinforced and held that statutory interpretation is a judicial, not administrative, function, and municipalities are not allowed broad interpretation of the statutory criteria. Criteria must be interpreted as the legislature intended because the end result may be eminent domain.
- **See:**
 - **Gallenthin v. Paulsboro**, 191 N.J. 344, 924 A.2d 447.
 - **HJB Associates, Inc. v. Belmar**, (A-6510-05T56510-05T5) (cite pending).

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The **Redevelopment Area Adoption** Process

1. Governing Body adopts **Resolution directing the Planning Board to undertake a preliminary investigation** of an area for redevelopment criteria and conduct a public hearing.
2. **Planning Board prepares a map** showing the boundaries of the proposed redevelopment area and the location of parcels to be included with an appended statement setting forth the basis for the investigation.
3. Planning Board sets a date for a public hearing and gives public notice describing the boundaries of the area, the location of the map for public inspection. **Notice is also sent to owners of all parcels in the proposed area at least 10 days prior to the hearing.**
4. **Planning Board** completes public hearing and **makes recommendation to the Governing Body** on whether or not to designate all or part of a proposed area as being in need of redevelopment.
5. **Governing Body** adopts a binding **resolution** designating all or part of a proposed area as a Redevelopment Area.

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The **Redevelopment Area Adoption** Process (cont.)

5. **Governing Body** authorizes preparation of a **Redevelopment Plan** which may be delegated to the Planning Board.
6. Planning Board either reviews the Redevelopment Plan for **consistency with Master Plan** within 45 days of referral by GB or prepares the redevelopment plan and submits to GB for action.
7. **Governing Body** adopts, by ordinance, the redevelopment plan after introduction of the ordinance and a public hearing.
8. Per Harrison Redevelopment Agency v. DeRose, 398 N.J. Super. 361 (App. Div. 2008), **individual written notice to property owners should be provided** that (1) the property has been designated by the governing body as being “in need of redevelopment”; (2) the designation operates as a finding of public purpose and authorizes the exercise of eminent domain against the property owner’s will; and (3) that the property owner has 45 days to challenge the an “area in need of redevelopment” designation. **Otherwise** the property owner retains a constitutional right, despite the usual 45-day limitations period, to challenge the redevelopment designation in defense of an eminent domain proceeding.

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Mandatory Provisions of a Redevelopment Plan

1. Its **relationship to definitive local objectives** as to appropriate land uses, density of population and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements;
2. The **proposed land uses and building requirements** in the Redevelopment Area;
3. Adequate provision for temporary and permanent **relocation** as necessary of residents in the Redevelopment Area including an estimate of the extent to which decent, safe, and sanitary dwelling units will be available to them in the existing local housing market;
4. **The identification of property located in the Redevelopment Area which is to be acquired in accordance with the Redevelopment Plan**; and
5. Any significant relationship of the Redevelopment Plan to the master plans of contiguous municipalities; the Master Plan of the County in which the municipality is located; and the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," P.L. 1985, C.398 (C. 52:18A-196 *et al.*)
6. Enumeration of deed-restricted affordable units in redevelopment area and their disposition.

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The Rehabilitation Area Designation Process

- In order for an area to be designated, the governing body must adopt a resolution designating an area as such. No special public notice is needed for the designation, only that which would be normally required to publicize any meeting of the governing body. Prior to the adoption of a resolution, the governing body is required to submit the resolution to the municipal planning board for its review. The planning board then has 45 days to submit its recommendations on the designation to the governing body, including any proposed revisions.
- After adoption of the resolution by the governing body, it is then required that the Department of Community Affairs Commissioner review and approve the rehabilitation designation. The Community Affairs Commissioner must receive a copy of the resolution designating the area in need of rehabilitation from the municipal clerk for review. If the area in need of rehabilitation is not located in an area where state laws or regulations encourage development or redevelopment, the designation cannot take effect. The Commissioner has 30 days to approve or reject the rehabilitation-area designation.
- If the area is one in which development or redevelopment is encouraged (a designated Center, Transit Village or Planning Areas 1 or 2 of the State Plan Policy Map), the designation is considered to be in effect at the time the clerk transmitted a copy of the governing body resolution to the Commissioner.

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Powers of the Redevelopment Entity

- Issue bonds;
- Acquire property by purchase or eminent domain;
- Obtain professional consultant services to prepare or carry out a redevelopment or site plan;
- Form partnerships and agreements with redevelopers and/or public agencies to execute a plan, including the provision of financing or financial assistance, infrastructure and access to a site;
- Lease or sell real or personal property or improvements without public bidding;
- Enter upon any building or property in any redevelopment area in order to conduct investigations or make surveys, sounding or test borings necessary to carry out the purposes of the LRHL;

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Powers of the Redevelopment Entity (cont.)

- Relocate individuals or businesses displaced through implementation of the redevelopment plan;
- Upon adoption of a redevelopment plan, make plans for a program of voluntary repair and rehabilitation of building and improvements and for the enforcement of laws, codes and regulations relating to the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;
- Accept and consider referrals and/or recommendations of the governing body or planning board;
- Publish and disseminate information concerning a project (RFPs, RFQs, marketing publications, etc.)
- Any other actions necessary or convenient to carry out its powers.

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Regional Planning & Regulatory Entities

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REGIONAL PLANNING & REGULATORY ENTITIES

- Statutes creating entities with regulatory powers.
- **BIG 3:**
 - **Hackensack Meadowlands Reclamation and Development Act (1969) NJSA 13:17-1 et seq.; NJAC 19:4 et seq.**
 - **NJ Pinelands Protection Act (1979) NJSA 13:18A-23 et seq.; NJAC 7:50-1.1 et seq.**
 - **Highlands Water Protection and Planning Act (2004) NJSA 13:20-1 et seq.; NJAC 7:38-1 et seq.**



Hackensack Meadowlands Reclamation and Development Act

- Effective **Jan. 13, 1969**, recognizes the importance of the Meadowlands as a unique place for new jobs, thriving communities and recreational opportunities in New Jersey. The Act created the Hackensack Meadowlands Development Commission (HMDC). The agency was renamed the **New Jersey Meadowlands Commission** (NJMC) on Aug. 27, 2001 to better reflect its role in the region as a State agency.
- The Act was preceded by two prior attempts at regionalization in 1955 and 1960.
- NJMC is the **zoning and planning agency** for its jurisdiction (parts of 14 municipalities in Bergen and Hudson Counties). (30.4 square miles=19,456 acres)
- The objectives of the Act include:
 - The preservation of the delicate balance of nature;
 - The provision of special protection from air and water pollution and a special provision for solid waste disposal; and
 - The orderly, comprehensive development of the Hackensack Meadowlands in order to provide more space for industrial, commercial, residential, public recreational, and other uses.

Hackensack Meadowlands Reclamation and Development Act

- The NJMC is charged with environmental protection and stewardship, promoting orderly development, and providing for the **solid waste needs** of the region.
- The NJMC's **permitting function** is a valuable tool to assist with carrying out its responsibilities. The Commission conducts **site plan and subdivision reviews** to evaluate consistency with its regulations. A **zoning certificate** must be obtained prior to the improvement or filling of a site and/or the construction of or addition to any structure.
- Additionally, the NJMC issues **occupancy certification** prior to any change of tenancy in the District to certify the proposed use or occupancy complies with the applicable regulations. In cases where proposed development or occupancy does not comply with NJMC regulations, **variance approvals** must be sought.
- Prior to the start of any new construction or alterations to existing structures, the NJMC conducts a **construction plan review** in accordance with the State building code. **The municipalities are, however, responsible for issuing construction permits upon approval by the Commission.**
- Other valuable tools are the NJMC's **powers of acquisition**, generally used to obtain land for preservation and/or redevelopment, and redevelopment.

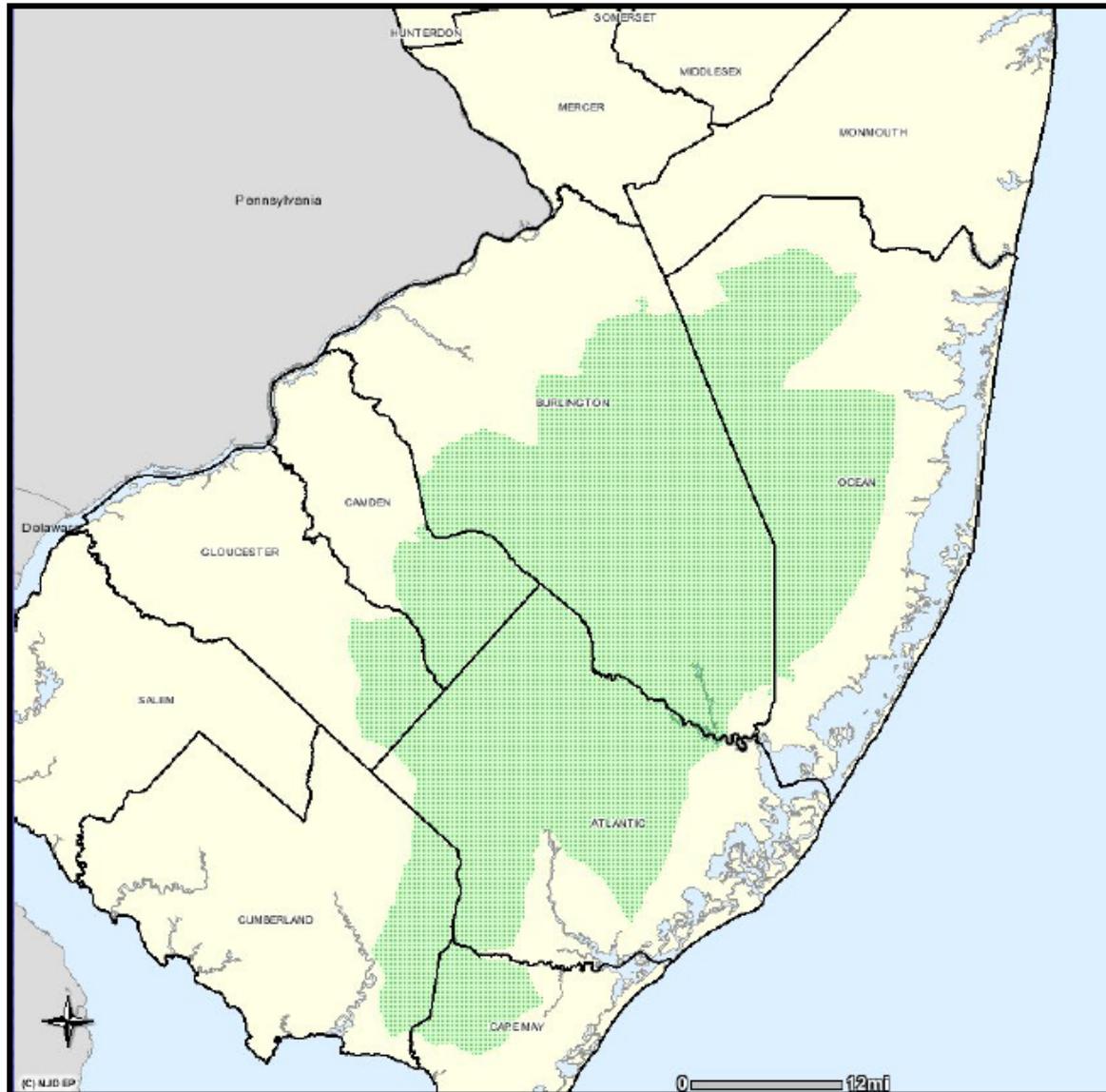
Hackensack Meadowlands Reclamation and Development Act

- **The Original 1970 Comprehensive Plan:**
- ...brought order to the District with respect to designating an appropriate array of land uses, reversing environmental degradation, and managing landfill operations. It did so while striving to achieve a **balance** between the pressures for economic growth, recreational areas, and open space preservation.
- Parks and recreation areas were proposed for **landfill sites**.
- Conservation and wildlife reserve areas were proposed at various locations along the Hackensack River, particularly the Saw Mill Creek Wildlife Management Area in Lyndhurst and Kearny.
- The Plan also identified several large tracts of lands as **Special Use Areas** where “regional facilities” would be encouraged as significant contributors to development. Among the suggested uses were **sports facilities**, cultural centers, and higher educational institutions. These Special Use Areas would incorporate creative design techniques and state-of-the-art technologies.
- The **Meadowlands Sports Complex** stands as the key example of this development genre.

Hackensack Meadowlands Reclamation and Development Act

- **Current Master Plan:**
http://www.njmeadowlands.gov/doc_archive/NJMC%20Doc%20Archive/econgrow_docs/lum_docs/NJMC%20Master%20Plan.pdf
- The Commission is **in, but not of**, the New Jersey Department of Community Affairs (NJDCA).
 - It consists of **seven members**:
 - The **Commissioner of the NJDCA**, ex officio, or his/her alternate, traditionally serving as chairman; and
 - **Six citizens from Bergen and Hudson counties** appointed by the Governor with the advice and consent of the State Senate.
 - The **Executive Director of the NJMC**, appointed by the Commission, is responsible for day to day operations and the implementation of Commission policies. He/she also serves as Secretary to the Commission.
- Read [Complete Guide to Planning in NJ](#) for further detail.

NJ Pinelands Protection Act



NJ Pinelands Protection Act

- The **Pinelands National Reserve (PNR)** was **created by Congress** under the **National Parks and Recreation Act of 1978**. The PNR is the first National Reserve in the nation. The PNR encompasses approximately 1.1 million acres covering portions of seven counties and all or parts of 56 municipalities.
- This internationally important ecological region is 1.1 million acres in size and occupies 22% of New Jersey's land area. It is the largest body of open space on the Mid-Atlantic seaboard between Richmond and Boston and is underlain by aquifers containing 17 trillion gallons of some of the purest water in the land.
- In **1979, NJ** formed a partnership with the federal government to preserve, protect and enhance the natural and cultural resources of this special place. The **NJ Pinelands Protection Act** was adopted.
- **State-regulated area** is **927,000 acres** in **53 municipalities**.
- Established local **permitted land uses, densities and intensities based on land use capacity**. Allowed local governments to regulate issues like building setbacks.

NJ Pinelands Protection Act

- The regulations and standards it contains are designed to promote orderly development of the Pinelands so as to preserve and protect the significant and unique natural, ecological, agricultural, archaeological, historical, scenic, cultural and recreational resources of the Pinelands.
- **Certified municipalities** can assume some administrative functions like answering questions about zoning. **52 of 53 municipalities are certified.** **Local approvals, building permits, etc. are still required** in certified municipalities.
- Local approval does not take effect and no development may begin until the ***local approval has been reviewed by the Pinelands Commission and the Pinelands Commission has issued a letter advising that the approval may take effect.***
- Amendments to local zoning ordinances in Pinelands jurisdiction must be approved by Pinelands Commission to ensure consistency with the **Pinelands Comprehensive Management Plan.**
http://www.state.nj.us/pinelands/cmp/amend/CMP_09_20_2010.pdf
- **Transfer of Development Rights** (Pinelands Credits) is managed by Pinelands Commission.
- Read [Complete Guide to Planning in NJ](#) for further detail.

- **Smaller Entities:**

- **Delaware & Raritan Canal Commission** was established in October 1974, when Governor Brendan Byrne signed the D&R Canal State Park Law. The Commission was created to accomplish 3 main tasks:



- To review and approve, reject or modify any action by the State in the Canal Park, or any permit for action in the park;
 - To undertake planning for the development of the Canal Park; and
 - **To prepare and administer a land use regulatory program that will protect the Canal Park from the harmful impacts of new development in central New Jersey.**
 1. Stormwater runoff and water quality impact;
 2. Stream corridor impact;
 3. Visual, historic and natural quality impact; and
 4. Traffic impact.
- **Approvals are required for projects in Review Zone: Zone A: generally within 1,000 feet of D&R Canal; and Zone B: counties that abut canal. (NJAC 7:45-1.1) Local approvals are still necessary.**