

CHAPTER 260

AN ACT concerning public access to the waterfront and adjacent shoreline, and amending R.S.12:5-3 and P.L.1973, c.185.

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

1. R.S.12:5-3 is amended to read as follows:

Department approval required for waterfront development; exemptions.

12:5-3. a. All plans for the development of any waterfront upon any navigable water or stream of this State or bounding thereon, which is contemplated by any person or municipality, in the nature of individual improvement or development or as a part of a general plan which involves the construction or alteration of a dock, wharf, pier, bulkhead, bridge, pipeline, cable, or any other similar or dissimilar waterfront development shall be first submitted to the Department of Environmental Protection. No such development or improvement shall be commenced or executed without the approval of the Department of Environmental Protection first had and received, or as hereinafter in this chapter provided.

b. The following are exempt from the provisions of subsection a. of this section:

(1) The repair, replacement or renovation of a permanent dock, wharf, pier, bulkhead or building existing prior to January 1, 1981, provided the repair, replacement or renovation does not increase the size of the structure and the structure is used solely for residential purposes or the docking or servicing of pleasure vessels;

(2) The repair, replacement or renovation of a floating dock, mooring raft or similar temporary or seasonal improvement or structure, provided the improvement or structure does not exceed in length the waterfront frontage of the parcel of real property to which it is attached and is used solely for the docking or servicing of pleasure vessels; and

(3) Development in the coastal area, as defined in section 4 of P.L.1973, c.185 (C.13:19-4), landward of the mean high water line of any tidal waters.

c. Notwithstanding the provisions of any law, rule, or regulation to the contrary, the Department of Environmental Protection shall not, as a condition of approval required pursuant to subsection a. of this section, include solar panels in any calculation of impervious surface or impervious cover.

As used in this subsection, "solar panel" means an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array.

d. The Department of Environmental Protection may, as a condition of an approval required pursuant to subsection a. of this section, and pursuant to standards established by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), require a person or municipality to provide on-site public access to the waterfront and adjacent shoreline, or off-site public access to the waterfront and adjacent shoreline if on-site public access is not feasible as determined by the department. Nothing in this subsection shall be construed to abrogate or otherwise affect any public access obligations or requirements of any approval, administrative order, consent decree, or court order in effect prior to the effective date of P.L.2015, c.260.

2. Section 10 of P.L.1973, c.185 (C.13:19-10) is amended to read as follows:

C.13:19-10 Review of applications; required findings.

10. The commissioner shall review filed applications, including any environmental impact statement and all information presented at public hearings or during the comment period, or submitted during the application review period. A permit may be issued pursuant to this act only upon a finding that the proposed development:

a. Conforms with all applicable air, water and radiation emission and effluent standards and all applicable water quality criteria and air quality standards.

b. Prevents air emissions and water effluents in excess of the existing dilution, assimilative, and recovery capacities of the air and water environments at the site and within the surrounding region.

c. Provides for the collection and disposal of litter, recyclable material and solid waste in such a manner as to minimize adverse environmental effects and the threat to the public health, safety, and welfare.

d. Would result in minimal feasible impairment of the regenerative capacity of water aquifers or other ground or surface water supplies.

e. Would cause minimal feasible interference with the natural functioning of plant, animal, fish, and human life processes at the site and within the surrounding region.

f. Is located or constructed so as to neither endanger human life or property nor otherwise impair the public health, safety, and welfare.

g. Would result in minimal practicable degradation of unique or irreplaceable land types, historical or archeological areas, and existing public scenic attributes at the site and within the surrounding region.

h. Provides, pursuant to standards established by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), on-site public access to the waterfront and adjacent shoreline, or off-site public access to the waterfront and adjacent shoreline if on-site public access is not feasible as determined by the department. Nothing in this subsection shall be construed to abrogate or otherwise affect any public access obligations or requirements of any permit, administrative order, consent decree, or court order in effect prior to the effective date of P.L.2015, c.260.

3. This act shall take effect immediately.

Approved January 19, 2016.