



Stream Encroachment

- What is stream encroachment?
 - Stream encroachment in the Land Use Program is a term that refers to development or construction within the flood plain.



Flood Plain Regulations

- New Jersey regulates construction in the flood plain under the Flood Hazard Control Act ([N.J.S.A. 58:16A-50 et seq](#)) and the implementing rules at [N.J.A.C. 7:13](#)

Flood Plain Regulations

FLOOD HAZARD AREAS

58:16A-50. Short title; declaration of policy

a. This act shall be known and may be cited as the "Flood Hazard Area Control Act."

b. It is in the interest of the safety, health, and general welfare of the people of the State that legislative action be taken to empower the Department of Environmental Protection to delineate and mark flood hazard areas, to authorize the Department of Environmental Protection to adopt land use regulations for the flood hazard area, to control stream encroachments, to coordinate effectively the development, dissemination, and use of information on floods and flood damages that may be available, to authorize the delegation of certain administrative and enforcement functions to county governing bodies and to integrate the flood control activities of the municipal, county, State and Federal Governments.

So what is the Flood Plain?

- The flood plain is the area next to a body of water, such as a stream, lake, or pond, that floods when it rains. The extent of the flood plain is determined by the area that would flood in a 100 year storm.
 - A 100 year storm is a storm that has a 1 in 100 chance of occurring during any particular year. It does not mean that these storms occur one every 100 years, but that each year there is a 1% chance of a storm of this magnitude occurring

Why does the Flood Plain matter?

- There are two main reasons the state regulates work in the flood plain.
 1. To minimize losses due to the estimated \$3 billion dollars in flooding damage that occurs in the US each year.
 2. To minimize the effects of the planned waterfront development on other buildings within the floodplain. If your building displaces flood waters, those waters will result in a higher flood for the surrounding areas.

Definitions

- **The floodway** - The area of the flood plain that includes the stream bed, and usually extends to the banks or beyond. It is the area where water moves fast and is deep.
- **The flood fringe** - The area where waters are slow and still

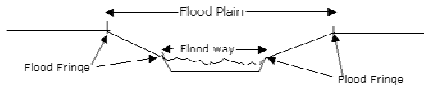


image from <http://www.newcastlec Colorado.org>

Construction

- Building in the floodway blocks flowing water. This can back up water upstream and worsen flooding

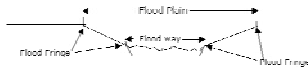


image from <http://www.newcastlec Colorado.org>

Construction

- Building in the flood fringe prevents the spreading out of water. This makes flow faster and increases downstream flooding.

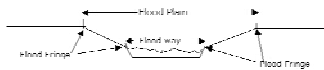


image from <http://www.newcastlec Colorado.org>

How to Determine if a Property is in the Flood Plain

- Every body of water has a flood plain.
 - If there is a stream, lake, pond, or river on or near the property, it is likely in a flood plain.
 - If the land near the water body is flat it is more likely to be in the flood plain.
 - If there are steep slopes around the water bodies, the flood plain may be smaller and more restricted.

Mapping the Flood Plain

- Many of the flood plains for large streams and rivers have already been mapped. These maps are part of the Flood Insurance Program, and are called Federal Flood Insurance Maps.

Obtaining Flood Plain Maps

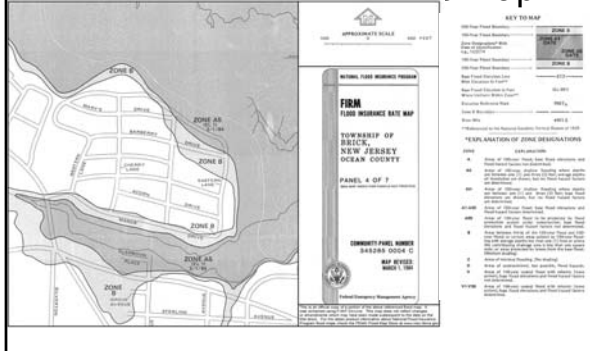
- These maps are available at municipal offices. Some of them are also available from the website of the Federal Emergency Management Agency (FEMA) at:

www.msc.fema.gov

- You can search for maps by address on the site by clicking on the FEMA Flood Map Store icon.



Sample Flood Insurance Map



Mapping the Flood Plain

- Many of the flood plains of smaller streams, lakes, and ponds are not included on the Flood Insurance maps.
- If it is not already mapped, a determination is free through the DEP. A jurisdictional determination, or JD, can be obtained by contacting the NJ DEP representative in your county.

Contacts for JD's at NJ DEP

—Contacts for stream encroachment activities in the following counties:

- | | |
|--|--|
| <ul style="list-style-type: none"> – (609) 984-0162 • Ocean • Camden • Monmouth • Gloucester • Burlington • Salem • Atlantic • Cumberland • Cape May | <ul style="list-style-type: none"> – (609) 984-0194 • Hunterdon • Mercer • Middlesex • Union • Sussex • Warren • Bergen • Passaic • Morris • Union • Essex • Hudson |
|--|--|

Does being in the Flood Plain mean nothing can be built?

- Building in the Flood Plain requires a permit. There are two types, major and minor



image from <http://fcgov.com>

Does being in the Flood Plain mean nothing can be built?

- **Minor Permits** - a minor permit is required if the flooding impacts are easy to determine, or if the impacts will be minor.
 - Examples:
 - Utility Lines
 - Single Family Homes
- **Major Permits** - a major permit is required if the flooding impacts or project are complex or difficult to determine without substantial calculations
 - Examples
 - Roads over streams
 - Complex projects

Applying for a permit

- If you need to apply for a permit, you may do so by obtaining a form from the NJ DEP website at <http://www.state.nj.us/dep/landuse/forms/index.html#SE>
- In addition, you will most likely have to hire an engineer to do drawings of the proposed work and, in the case of a major permit, do the calculations of upstream and downstream effects.

Stream Buffers

- Some streams have additional buffers that with extra protections
 - Category One Waters - 300 foot if stormwater management applies 50 foot if sw management does not apply
 - C1 designation "targets waterbodies that provide drinking water, habitat for Endangered and Threatened species, and popular recreational and/or commercial species, such as trout or shellfish. Waterways can be designated Category One because of exceptional ecological significance, exceptional water supply significance, exceptional recreational significance, exceptional shellfish resource, or exceptional fisheries resource." (NJDEP)
 - Trout waters - 50 foot
 - Threaten or Endangered Species - 50 foot
 - Acid Producing Soils - 50 foot
 - Other waters - 25 foot


<http://www.nj.gov/dep/cleanwater/c1.html>

image from <http://www.roe.rutgers.edu>

Stream Buffers

- The Stream Encroachment Administrative Checklist, found at <http://www.state.nj.us/dep/landuse/forms/chkstream.doc> is required for permits and guides you through the requirements for obtaining one

- This is the end of the Stream Encroachment section of module 4. The rest of module 4 will focus on Tidelands.

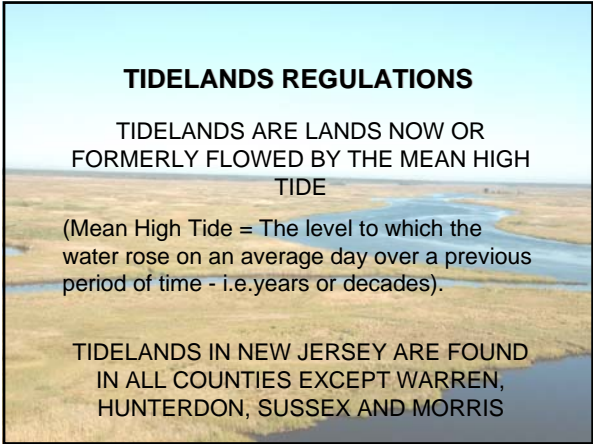


TIDELANDS REGULATIONS

TIDELANDS ARE LANDS NOW OR FORMERLY FLOWED BY THE MEAN HIGH TIDE

(Mean High Tide = The level to which the water rose on an average day over a previous period of time - i.e. years or decades).

TIDELANDS IN NEW JERSEY ARE FOUND IN ALL COUNTIES EXCEPT WARREN, HUNTERDON, SUSSEX AND MORRIS




Riparian

Definition: Riparian means located by the banks of a river, stream, or other body of water.



Tidelands Areas

- The state owns all Tide Flowed lands as Public Trusts Lands.
- Use of these areas is granted through a tidelands grant, license or lease
- These areas are not private property – i.e. A homeowner’s dock may be private property, but the tideflowed land it sits on may be state owned.
- Property ownership in riparian areas may be regulated by the Bureau of Tidelands Management.



Bureau of Tidelands Management

609 – 292-2573

<http://www.state.nj.us/dep/landuse/tideland.html>

Richard G. Castagna, Acting Manager



The Riparian Laws

- New Jersey Statute 12:3 1 to 28
- New Jersey Statute 13:1B-13.1 to 13.14



These statutes can be found online at:

<http://www.nileg.state.nj.us>

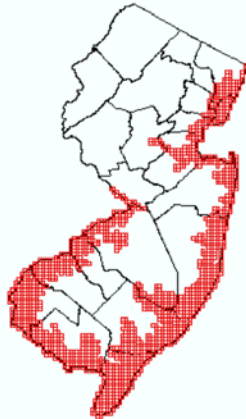


Click on statutes



This GIS image shows the Tidelands grid along the coast of the state.

Note: The continuation of the grid up into the river systems of the state.



Download GIS Coverage

<http://www.state.nj.us/dep/gis/tidelandsshp.html>



FAQ's about Tidelands:

What are riparian rights?

- Riparian rights are the rights of owners adjacent to tidelands to be the first person to request to use those areas. These lands are owned by the people of the State of New Jersey. You must first get permission from the State to use these lands, in the form of a tidelands license, lease or grant, and you must pay for this use.

What is a tidelands grant?

•A tidelands grant is a deed from the State of New Jersey selling its tidelands. Tidelands grants are generally only issued for lands already filled in and no longer flowed by the tide.

What is a tidelands license?

•A tidelands license is a short term revocable rental document to use tidelands, generally for structures such as docks, mooring piles and other temporary structures, as well as dredging projects. Licenses have a specific term, presently seven years.

What is a tidelands lease?

•A tidelands lease is a long term rental document to use tidelands, generally issued to marinas or homes over water. The term of a tidelands lease is generally 20 years.

What is a Statement of No Interest?

•A recordable document in which the State of New Jersey agrees that it has no tidelands ownership interest in your property. The reason may be that the State sold its tidelands, or that there is no ownership claim on your property.

FAQ's Online

<http://www.state.nj.us/dep/landuse/pamphlet.pdf>



**New Jersey's
Tidelands**

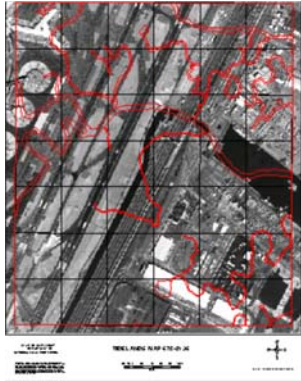
Frequently Asked Questions
and
Answers

State of New Jersey
Department of Environmental Protection
Bureau of Tidelands Management
P. O. Box 439
Trenton, NJ 08625-0439
Phone: 609-292-2779
FAX: 609-432-4483



* This is a very
valuable
document to
download!

Here is a typical Tidelands map showing Newark-Liberty Airport and Port Newark area...formerly flowed tidelands are indicated as red lines





Note again Tidelines map showing areas that are currently developed, but were once previously flowed by the tide. This is a very good example why many property owners do not know they are regulated under Tidelands.

Determining a Tidelands Claim

- Ask yourself, does the State have a Tidelands Title or have Tidelands interest on a property?
- To assist you in determining the status of Tidelands ownership – Send a fax or mail a request to the BUREAU OF TIDELANDS MANAGEMENT and ask for a “DETERMINATION OF TIDELANDS OWNERSHIP INTEREST”

(Must include tax lot and block numbers, municipality, county, nearest waterway, and a locator map (tax map, topo, survey, etc.) with the site clearly marked.)

FAX 609-633-6493

TO INVESTIGATE TIDELANDS CLAIMS

COPIES OF TIDELANDS MAPS ARE AVAILABLE IN
COUNTY AND MUNICIPAL OFFICES, THE SECRETARY
OF STATE, BUREAU OF TIDELANDS MANAGEMENT
AND COASTAL ENFORCEMENT OFFICE IN TOMS
RIVER

Tidelands: (609) 292-2573
Coastal Enforcement (Toms River): (732- 255-0787)

Or – Consult
this
document

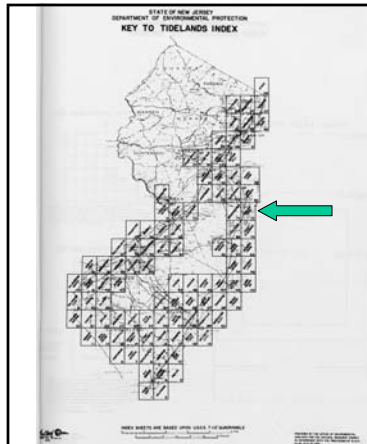


Available
through the
Bureau of
Tidelands
Management

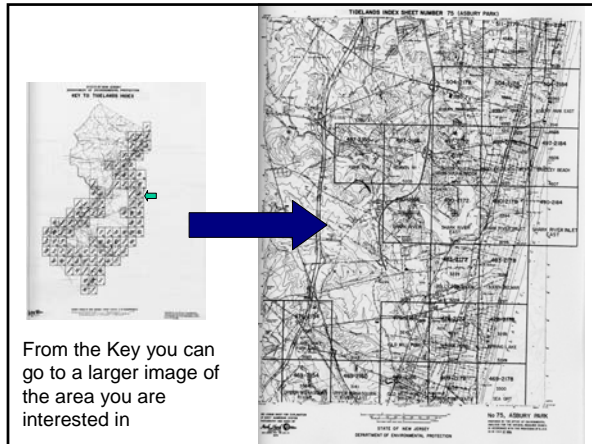
INDEX
LANDS SUBJECT TO INVESTIGATION
FOR
AREAS NOW OR FORMERLY
BELOW MEAN HIGH WATER

PREPARED FOR THE
TIDELANDS RESOURCE COUNCIL
BY
STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION





Use the key
within the
Index to locate
your specific
area (i.e. Area
75 – Asbury
Park)



To Request copies of Tidelands Maps or the Tidelands Map Index:

Write to:

The Division of Land Use Regulation
 Bureau of Tidelands Management
 PO Box 439
 Trenton, NJ 0862

- Or -

Call: 609- 292-2573

NATURAL EVENTS

In the case of erosion, the title to lands that slowly erode, shifts to the state.

NATURAL EVENTS

In the case of accretion, the title to lands that slowly builds up, shifts to the upland owner.

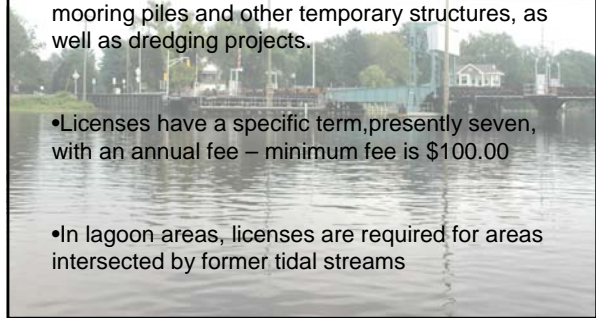


Tidelands License

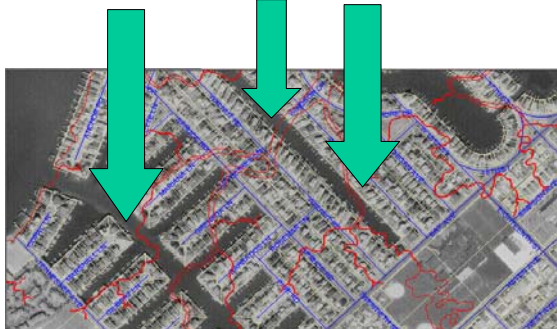
- A short term revocable rental document to use tidelands, generally for structures such as docks, mooring piles and other temporary structures, as well as dredging projects.

- Licenses have a specific term, presently seven, with an annual fee – minimum fee is \$100.00

- In lagoon areas, licenses are required for areas intersected by former tidal streams



These are lagoons with former tidal streams



Tidelands License Assignments

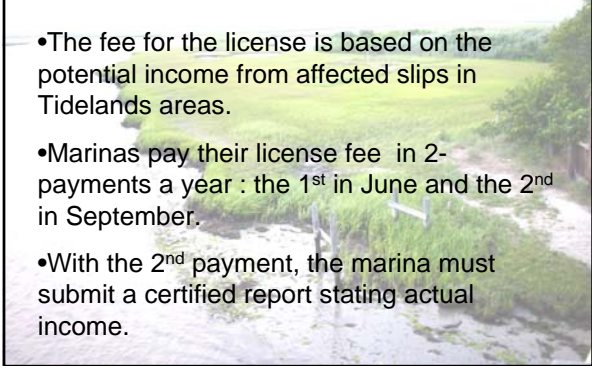
When property ownership changes, the current license can be re-assigned.....

Unless:

1. A license is delinquent
2. If a license is about to expire or renew

Tidelands Licenses and Marinas

- The fee for the license is based on the potential income from affected slips in Tidelands areas.
- Marinas pay their license fee in 2-payments a year : the 1st in June and the 2nd in September.
- With the 2nd payment, the marina must submit a certified report stating actual income.



MARINA OWNERS/RENTAL SLIP PROPERTY OWNERS' CERTIFICATION

<http://www.state.nj.us/dep/landuse/mipform.pdf>

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
LAND USE DIVISION
BUREAU OF TIDELANDS MANAGEMENT
P.O. BOX 278
TRENTON, NEW JERSEY 08646-0278

MARINA OWNERS/RENTAL SLIP PROPERTY OWNERS' CERTIFICATION

This form is to be signed, executed and attached to the last page of each license report submitted to the Bureau of Tidelands Management. All forms must be signed by the marina owner or the property owner personally.

Tidelands Fee Number: _____

I certify that the foregoing information and information provided by me are truthful. Also, I am aware that if any of the foregoing information and information provided by me are not truthful, then I am subject to penalties. I am further aware that the State will take such measures and actions as may be necessary to enforce compliance with the provisions of this act. I understand that the State of New Jersey will enforce any license or permit that I have provided on this certificate and will take such measures as may be necessary to enforce compliance with the provisions of this act. I understand that the State of New Jersey will enforce any license or permit that I have provided on this certificate and will take such measures as may be necessary to enforce compliance with the provisions of this act. I understand that the State of New Jersey will enforce any license or permit that I have provided on this certificate and will take such measures as may be necessary to enforce compliance with the provisions of this act.

DATE: _____ SIGNATURE: _____

(Please print name below each signature)

Subscribed and sworn to before me this _____ day of _____, 20__.

Tidelands and other
Division of Land Use
Regulation Permits

NOTE: WHEN APPLYING FOR ANY
CAFRA OR WATERFRONT
DEVELOPMENT RELATED PERMIT,
MAKE SURE TO INCLUDE EVIDENCE
OF STATE TIDELANDS OWNERSHIP
INTEREST.
