

Municipal Considerations

At the local level, where the Municipal Land Use Law (MLUL) grants towns the power to enact a master plan to set land-use priorities and direction, as well as adopt a zoning ordinance to dictate where and in what form various types of development should happen, municipalities are entrusted with the responsibility to ensure that uses like warehousing are developed properly so that they can contribute to the economy and consumer welfare without harming local communities and the environment.

Update Master Plan and Zoning first

Many towns in New Jersey are finding that their communities are particularly vulnerable to poorly sited and scaled warehousing projects because they zoned large areas of their community, particularly farmland in rural areas, for broadly applied “light industrial” uses. As a result, many **land-use plans and zoning ordinances may be inadequate** in their present form, to address the pace and scale of new warehousing proposals and their impacts on neighborhoods, local roads, adjacent communities, and finite resources. Indeed, much of the current outcry from municipalities reviewing and approving warehouse proposals that they are unhappy with comes in cases where the projects largely conform to local zoning standards. Given the scale and intensity of new and emerging warehousing trends and building types, **zoning that simply permits generic warehousing may not be sufficient** to address the different types of warehousing uses, nor to give a municipality the performance standards it needs to adequately review an application or require developers to properly minimize and mitigate impacts.

To systematically address warehouse development, communities should proactively plan for warehouse projects to prevent land-use conflicts that harm residents, other communities, and the environment before they materialize, and guide sustainable development. **Proactive planning** ensures long-term benefits and provides a predictable business environment, with consistent expectations for developers and residents alike. At a minimum, communities should conduct a **Master Plan reexamination and update their zoning ordinances**, relevant redevelopment plans, and land development policies that comply with UCC building codes. In this way, local governing bodies can ensure that they clearly define and distinguish between more traditional industrial-commercial uses and the variety of warehouse types—from the smaller last-mile delivery facilities (50,000 and 150,000 sq. ft.) with limited truck trailer traffic to largescale distribution centers and high cube warehouses that generate much greater levels of heavy of truck traffic that are mobile sources of air pollution.

Zoning districts should likewise be **appropriately scaled** to match the type and intensity of land use in surrounding areas to minimize and avoid on-and-offsite impacts and offer the best outcome for all communities, including **sensitive receptors** such as schools, daycare centers, recreational parks, places of worship, and overburdened communities. While municipalities are understandably attracted to the tax revenue that comes from warehouses, it is imperative that as part of both the planning and development review process they analyze the potential for wider regional impacts, particularly to adjacent and nearby communities be adequately examined and addressed, **so that impacts and are not unfairly placed** on other municipalities and their residents.

Municipalities seeing greater pressure for larger and/or multiple projects should likewise consider undertaking **comprehensive updates** to their Master Plans and associated land use and circulation elements, with particular emphasis on appropriately accommodating warehousing and goods movement where it makes sense, and implementing a Complete & Green Streets Policy in areas where delivery trucks and vans will interact with passenger vehicles, pedestrians and bicyclists. Planners should examine **opportunities and constraints**, consider infrastructure needs, existing deficiencies, and capacity (e.g., water/sewer, truck parking and services, transportation facilities, levels of service, and access tolerance); ensure that permitted uses are compatible with planning goals (e.g., public health, safety, climate resilience, environmental justice, etc.) of the community, of adjacent communities and of the county, regional and state plans.

These efforts should also be informed by local and regional transportation plans and corridor studies undertaken and coordinated early in the planning process by municipalities, and their county, regional, and metropolitan planning partners. **Proactive transportation planning** will support zoning changes that will avoid and mitigate adverse impacts and restrict warehouse development where necessary. The most important consideration when planning a logistics facility is its location. Warehouses located in residential neighborhoods or near other sensitive receptors expose community residents and visitors to the air pollution, noise, traffic congestion, and other environmental impacts they generate. Once a property is zoned for warehousing, a local land use board has little authority to deny a compliant application based on off-site conditions such as traffic. Likewise, unless a project is accessed by a State roadway, the New Jersey Department of Transportation has little authority to review it under the NJ State Highway Access Management Code.

Impact Analysis

Subdivision and land development ordinances should include requirements for impact studies so communities can make more informed decisions on warehouse proposals and to help ensure that residents and neighboring communities do not bear the brunt of costs and adverse impacts associated with the proposed development. An analysis of project impacts should consider land use, traffic, the transportation network, supporting infrastructure, wetlands, flood plains, riparian lands, stormwater drainage, habitats, site remediation, cultural and historic resources, proximity/buffers to residential dwellings, as well as economic and employment factors and potential effects on public and emergency services and facilities, local businesses, workforce, residents, and overburdened communities. The analysis must also assess the proposed development for consistency with local and regional master plans.

Cost-Benefit Analysis

In addition to required impact studies, towns should request or conduct their own cost-benefit analysis to weigh projected revenues against costs (e.g., municipal services) and impacts, including wages, benefits, and employment demand. Asking these important questions will help ensure that a community doesn't mistakenly focus on projected job creation, wages, and tax revenue, without fully understanding whether such benefits justify the potential costs in terms of municipal services, facilities, infrastructure, local businesses, and potential loss of value in surrounding real estate, diminished community character, quality of life, public health and safety over the construction and lifetime of the project. Subdivision and land development ordinances should likewise be amended to include standards that consider the equipment and capital needs of emergency service operations, including the participation of such personnel in the application review process. Finally, towns should consult with their land use attorney to ensure that they are not requiring excessive reports.

Special Exceptions and Conditional Uses

Rather than allowing these uses by right as part of the local land-use regulations, municipalities can **exert greater control** over the site plan review process by alternatively permitting them as special exceptions and conditional uses, which may provide better outcomes, particularly for largescale warehouse projects, including high cube warehouse (e.g., above three stories in height). Usually reserved for those land uses that are almost certain to have a significant impact on the zoning district or the community and region as a whole, special exception areas and

conditional uses are for those uses that warrant additional safeguards, such as landfills, telecommunications towers, asphalt plants, and quarries.

Distribution warehouses are not benign uses and can have substantial health, air quality, noise, traffic, and inequitable impacts based on their intensity and siting. For example, under Conditional Use, an applicant could be required to meet certain criteria regarding the use of electric vehicles (e.g., pollution-free zero-emission trucks) in a manner consistent with meeting DEP's goals under the ACT Rule. Municipalities must take care, however, to ensure the zoning ordinance provision for conditional uses satisfies the State law and requires that the standards be specific and clear enough that applicants for conditional use permits know the "limit and extent" of the conditions, as many local ordinances with vague generalities have been declared invalid.

Overlay Zones

Municipalities can explore enacting an overlay zoning district, which **applies an alternate land development scenario and criteria** to all areas within a defined overlay boundary, regardless of the underlying base zone. Overlay zoning provides the ability to apply a unique set of standards, tailored to a specified area without having to amend all other relevant sections of the code, or to negotiate additional measures on a project-by-project basis that wouldn't otherwise be applicable or needed outside of the overlay zone. Similar to a redevelopment plan, overlay zoning allows existing zoning regulations to be superseded or complemented to solve a known problem, or to meet specific community goals.

Overlay zones are often used to **protect special features** within the defined area, such as cultural and natural resources, wetlands, steep slopes, flood hazard areas, beaches, etc. They can also be used to promote specific or anticipated development, such as warehouse developments while restricting or limiting polluting activities, development density, and intensity. Other potential standards or regulations in an overlay zone may include setbacks (building and vegetation buffers), lot sizes, building height and footprint, impervious surface reduction, enhanced standards or performance measures for landscaping, stormwater and green infrastructure, façade, green building, and resilience measures such as flood-proofing to high water levels, and greater setbacks and management along scenic roads, driveways, or highway access along a commercial corridor. Overlay zones should be used with caution and empirical conditions should be documented in the Master plan as quickly as possible after adoption to justify and support the overlay zone.