

FREQUENTLY ASKED QUESTIONS – SINGLE-FAMILY EXEMPTION

Is Formal Soil Erosion & Sediment Control Plan Application Required?

1. What is threshold determination for applicability of the act?

See Administrative Bulletin

The threshold determination for applicability of the Act is whether the activity in question will disturb “more than 5,000 square feet of the surface area of land.” N.J.S.A. 4:24-41. If the disturbance threshold is met, the activity will be subject to the act if also falls within one of the six enumerated categories:

1. The accommodation of construction for which the State Uniform Construction Code (“UCC”) requires a construction permit;
2. Demolition of one or more structures;
3. Construction of a parking lot;
4. Construction of a public facility;
5. Operation of any mining or quarrying activity; or
6. Clearing or grading of any land for other than agricultural or horticultural purposes.

When considering whether the activity in question falls within the first enumerated category, the determining factor is the requirement of a UCC construction permit. The UCC requires a permit for the construction, extension, repair, removal, renovation, alteration or reconstruction of all buildings and structures, as defined therein. N.J.A.C. 5:23-22, -1.3, -2.1, -2.14. A structure is defined as “a combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above, or below the surface of a parcel of land.” N.J.A.C. 2:23-1.4. A building is defined as “a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing shelter, enclosure and support of individuals, animals or property of any kind.” Id. The UCC uses these terms interchangeably and their definitions evidence that UCC construction permits are generally required for those structures or buildings intended for occupancy. Id.

Relevant activities that would likely require a UCC permit would include reconstruction, addition or expansion to the single-family dwelling unit and construction of sheds, garages or similar structures suitable for occupancy. It is unlikely, however, that a septic system installation would require a UCC permit. Finally, with regard to pool construction, the UCC requires only for the plumbing and electrical components (which would presumably not meet the 5,000 square foot disturbance threshold) rather than the construction of the pool itself and must therefore be reviewed on a case-by-case basis.

See **“Single-Family Flow Chart” Notes #1, #6 & #7**

2. A lot owner claims that he is putting on an addition to a single-family dwelling unit. There is 100% removal of the superstructure and foundation with one original window and several old clap boards propped up on the new foundation. Total soil disturbance exceeds 5,000 square feet. **YES**

See **Memorandum "Demolition Projects" dated January 3, 2012**

"If the project will cause the disturbance of more than 5,000 square feet of soil, the partial demolition falls within the parameters of NJSA 4:24-41(g) and a soil conservation prior approval is required before a UCC permit can be issued."

See **"Single-Family Flow Chart" Notes #2 & #6**

3. A lot is subdivided into two lots. One lot has an existing home and no activity is planned. The other lot has plans for a single-family dwelling unit with soil disturbance of 5,000 square feet or greater. The lots were created after January 1, 1976. **YES**

See **"Administrative Bulletin"**

"For lots created by a subdivision approved after January 1, 1976: The construction of a single-family dwelling unit is not exempt from the Act if the subdivision created two or more single-family dwelling lots. The Act applies regardless of whether all the subdivided lots have been or are being built at the time of application."

See **"Single-Family Flow Chart" Note #3**

4. A lot is subdivided into two lots. One lot has an existing home and no activity is planned. The other lot has plans for a single-family dwelling unit with soil disturbance of 5,000 square feet or greater. The lots were created prior January 1, 1976. **NO**

See **"Administrative Bulletin"**

"For lots created prior to January 1, 1976: Construction of a single-family dwelling unit is exempt unless it is part of concurrent construction of two or more contiguous or non-contiguous single-family dwelling units by a common entity (applicant, owner, builder, developer).

In sum, the Single-Family Exemption is limited to those individual dwelling units on existing single-family dwelling lots created before the effective date of the Act, January 1, 1976, that are not part of a larger development by a common entity.

See **"Single-Family Flow Chart" Notes #4 & #5**

5. Two lots created in a subdivision after January 1, 1976 still remain vacant. Two different entities buy one lot a piece. Each lot may or may not be under construction at the same time and soil disturbance is over 5,000 square feet. **YES**

See **"Administrative Bulletin"**

"For lots created by a subdivision approved after January 1, 1976: The construction of a single-family dwelling unit is not exempt from the Act if the subdivision created two or more single-family dwelling lots. The Act applies regardless of whether all the subdivided lots have been or are being built at the time of application."

See **"Single-Family Flow Chart" Note #3**

6. Two lots created in a subdivision prior January 1, 1976 still remain vacant. Two different entities buy one lot a piece. Each lot may or may not be under construction at the same time and soil disturbance is over 5,000 square feet. **NO**

See **“Administrative Bulletin”**

“For lots created prior to January 1, 1976: Construction of a single-family dwelling unit is exempt unless it is part of concurrent construction of two or more contiguous or non-contiguous single-family dwelling units by a common entity (applicant, owner, builder, developer).

In sum, the Single-Family Exemption is limited to those individual dwelling units on existing single-family dwelling lots created before the effective date of the Act, January 1, 1976, that are not part of a larger development by a common entity.

See **“Single-Family Flow Chart” Notes #4 & #5**

7. A lot is subdivided prior to January 1, 1976 has been vacant and now is scheduled for a single-family dwelling unit the soil disturbance is 5,000 square feet or greater. However, the lot owner wants the home to be larger than allowed in the municipality. A recent variance was granted. **NO**

See **“Administrative Bulletin”**

“For lots created prior to January 1, 1976: Construction of a single-family dwelling unit is exempt unless it is part of concurrent construction of two or more contiguous or non-contiguous single-family dwelling units by a common entity (applicant, owner, builder, developer).

In sum, the Single-Family Exemption is limited to those individual dwelling units on existing single-family dwelling lots created before the effective date of the Act, January 1, 1976, that are not part of a larger development by a common entity.

See **“Single-Family Flow Chart” Notes #4 & #5**

8. A lot is subdivided after January 1, 1976 has been vacant and now is scheduled for a single-family dwelling unit with soil disturbance 5,000 square feet or greater. However, the lot owner wants the home to be larger than allowed in the municipality. A recent variance was granted. **YES**

See **“Administrative Bulletin”**

“For lots created by a subdivision approved after January 1, 1976: The construction of a single-family dwelling unit is not exempt from the Act if the subdivision created two or more single-family dwelling lots. The Act applies regardless of whether all the subdivided lots have been or are being built at the time of application.”

See **“Single-Family Flow Chart” Note #3**

9. An existing home, could be prior or after January 1, 1976, on a lot is receiving clean fill from a nearby project. Upon inspection it is obvious dozens of tandems have dumped clean fill on the lot in excess of 5,000 square feet. **YES**

The determination of whether the Act applies to activities not considered construction of the single-family dwelling unit on a lot that contains an exempt unit requires an examination of the threshold questions: (1) is there a disturbance of more than 5,000 square feet; and (2) does the activity fall within one of the six enumerated categories? In these cases, the date of subdivision of the lot is not relevant.

See **“Single-Family Flow Chart” Note #6**

10. Two lots are created prior to January 1, 1976. Both lots are having single-family dwelling units built by different entities and soil disturbance is over 5,000 square feet. **NO**

See **“Administrative Bulletin”**

“For lots created prior to January 1, 1976: Construction of a single-family dwelling unit is exempt unless it is part of concurrent construction of two or more contiguous or non-contiguous single-family dwelling units by a common entity (applicant, owner, builder, developer).

In sum, the Single-Family Exemption is limited to those individual dwelling units on existing single-family dwelling lots created before the effective date of the Act, January 1, 1976, that are not part of a larger development by a common entity.

See **“Single-Family Flow Chart” Notes #4 & #5**

11. Two lots are created prior to January 1, 1976. Both lots are having single-family dwelling units built by the same entity and soil disturbance is over 5,000 square feet. **YES**

See **“Administrative Bulletin”**

“For lots created prior to January 1, 1976: Construction of a single-family dwelling unit is exempt unless it is part of concurrent construction of two or more contiguous or non-contiguous single-family dwelling units by a common entity (applicant, owner, builder, developer).

In sum, the Single-Family Exemption is limited to those individual dwelling units on existing single-family dwelling lots created before the effective date of the Act, January 1, 1976, that are not part of a larger development by a common entity.

See **“Single-Family Flow Chart” Notes #4 & #5**

12. A homeowner wants to build an addition to the existing house or several free standing structures around their lot (i.e. tennis courts, putting range, pool, patio, pool house, new septic, etc.) the area may be of an environmental concern and/or requires substantial grading (cut & fill). The original home may or may not have activity. Total soil disturbance is greater than 5,000 square feet. **YES/District may choose to utilize statewide adopted SE & SC plan & fee (on a case by case basis)**

See **Question #1 Answer**

See **“Single-Family Flow Chart” Notes #1, #6 & #7**

Effective 1/1/2015