

**CHAPTER 23**  
**UNIFORM CONSTRUCTION CODE**

**Authority**

N.J.S.A. 40:55D-53.2a, 52:27D-123, 52:27D-123a, 52:27D-123.2, 52:27D-123.5, 52:27D-123.8, 52:27D-124, 52:27D-124f, 52:27D-133.4 and 52:27D-198.

**Source and Effective Date**

R.2003 d.70, effective January 15, 2003.  
See: 34 N.J.R. 351(a), 35 N.J.R. 1054(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 23, Uniform Construction Code, expires on July 13, 2008. See: 39 N.J.R. 2578(a).

**Chapter Historical Note**

Chapter 23, Uniform Construction Code, was adopted as R.1976 d.344, d.345, d.346 and d.347, effective January 1, 1977 and codified as Subchapter 1, General Provisions; Subchapter 2, Administration and Enforcement Process; Subchapter 3, Subcodes, and Subchapter 4, Enforcing Agencies: Duties, Powers, Procedures. See: 8 N.J.R. 216(b), 319(a), 370(d), 414(a); 8 N.J.R. 546(a). Chapter 23, Uniform Construction Code, superseded N.J.A.C. 5:16, Standard Building Code and N.J.A.C. 5:20, Safety Glazing Materials, which were repealed by R.1978 d.360, effective October 6, 1978. See: 10 N.J.R. 377(a), 10 N.J.R. 470(a). Chapter 23, Uniform Construction Code, also superseded N.J.A.C. 5:21, Uniform Standards Code for Mobile Homes, which was repealed by R.1982 d.7, effective February 1, 1982. See: 13 N.J.R. 717(a), 14 N.J.R. 142(a).

Subchapter 5, Licensing of Code Enforcement Officials, was adopted as R.1977 d.304, effective October 1, 1977. See: 9 N.J.R. 257(b), 9 N.J.R. 413(b). Subchapter 6, Tax Exemption for Solar Facilities, was adopted as R.1978 d.334, effective September 18, 1978. See: 10 N.J.R. 222(b), 10 N.J.R. 418(a).

Pursuant to Executive Order No. 66(1978), Subchapter 6, Tax Exemption for Solar Facilities, was readopted as R.1980 d.303, effective July 1, 1980. See: 12 N.J.R. 249(c), 12 N.J.R. 452(c).

Pursuant to Executive Order No. 66(1978), Chapter 23, Uniform Construction Code, was readopted as R.1983 d.144, effective April 26, 1983. See: 14 N.J.R. 1247(a), 15 N.J.R. 803(c).

Subchapter 7, Barrier Free Subcode, was adopted as R.1986 d.448, effective November 3, 1986. See: 18 N.J.R. 757(a), 18 N.J.R. 2194(a).

Subchapter 8, Asbestos Hazard Abatement Subcode, was adopted as Emergency New Rules R.1985 d.362, effective June 18, 1985 (expired August 17, 1985). See: 17 N.J.R. 1782(a).

Pursuant to Executive Order No. 66(1978), the provisions of R.1985 d.362 were readopted as R.1985 d.472, effective August 16, 1985. See: 17 N.J.R. 2249(a).

Pursuant to Executive Order No. 66(1978), Chapter 23, Uniform Construction Code, was readopted as R.1988 d.168, effective March 22, 1988. N.J.A.C. 5:23-6.1, 6.2 and 6.3, concerning tax exemption for solar facilities, were not readopted and expired on April 1, 1988. See: 20 N.J.R. 223(a), 20 N.J.R. 893(a).

Subchapter 9, Code Interpretations, was adopted as R.1988 d.195, effective May 2, 1988. See: 20 N.J.R. 224(a), 20 N.J.R. 977(a).

Subchapter 10, Radon Hazard Subcode, was adopted as R.1990 d.226, effective May 7, 1990. See: 21 N.J.R. 3696(a), 22 N.J.R. 1356(a).

Subchapter 4A, Industrialized/Modular Buildings and Building Components, was adopted as R.1990 d.313, effective June 18, 1990, (operative July 1, 1990). See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Subchapter 11, Indoor Air Quality Standards and Procedures for Buildings Occupied by Public Employees, was adopted as R.1992 d.33, effective January 21, 1992. See: 23 N.J.R. 1730(b), 24 N.J.R. 229(c).

Subchapter 12, Elevator Safety Subcode, was adopted as R.1991 d.325, effective July 1, 1991. See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Pursuant to Executive Order No. 66(1978), Chapter 23, Uniform Construction Code, was readopted as R.1993 d.106, effective February 3, 1993. See: 24 N.J.R. 1420(b), 25 N.J.R. 920(a).

Subchapter 4B, Manufactured Homes and Manufactured Home Add-On Units Not Subject to Federal Regulation, and Subchapter 4C, Enforcement of Federal Manufactured Home Standards, were adopted as R.1994 d.96, effective February 22, 1994. See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

N.J.A.C. 5:23-7.1 through 7.99 were repealed and 7.100 through 7.116 were recodified as 7.2 through 7.18 by R.1995 d.144, effective March 20, 1995 (operative July 1, 1995). See: 26 N.J.R. 2698(a), 26 N.J.R. 2524(a), 27 N.J.R. 1180(a).

Subchapter 11, Indoor Air Quality Standards and Procedures for Buildings Occupied by Public Employees, was repealed by R.1995 d.612, effective December 4, 1995 (operative July 1, 1995). See: 27 N.J.R. 3518(a), 27 N.J.R. 4885(a).

Pursuant to Executive Order No. 66(1978), Chapter 23, Uniform Construction Code, was readopted as R.1997 d.409, effective September 9, 1997. As a part of R.1997 d.409, effective October 6, 1997, Subchapter 6, Tax Exemption, was repealed. See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

Subchapter 6, Rehabilitation Subcode, was adopted as R.1998 d.28, effective January 5, 1998. See: 29 N.J.R. 3603(a), 30 N.J.R. 129(a).

Subchapter 12A, Optional Elevator Inspection Program, was adopted as R.1998 d.480, effective September 21, 1998. See: 30 N.J.R. 1119(b), 30 N.J.R. 3461(a).

Subchapter 11, Playground Safety Subcode, was adopted as R.1999 d.351, effective October 18, 1999. See: 31 N.J.R. 1838(a), 31 N.J.R. 3082(a).

Subchapter 3A, State-Jurisdiction Subcodes, was adopted as R.2001 d.303, effective September 4, 2001. See: 33 N.J.R. 1991(a), 33 N.J.R. 2989(a).

Chapter 23, Uniform Construction Code, was readopted as R.2003 d.70, effective January 15, 2003. See: Source and Effective Date.

**Cross References**

Child care center physical facility requirements, see N.J.A.C. 10:122-5.1 et seq.

Children's group home physical facility requirements, see N.J.A.C. 10:128-4.1 et seq.

Children's shelter physical facility requirements, see N.J.A.C. 10:124-5.1 et seq.

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may be cited throughout the regulations as N.J.A.C. 5:23-4B and when referred to in subchapter 4B may be cited as this subchapter.

7. "Enforcement of Federal Manufactured Home Standards" which may be cited throughout the regulations as N.J.A.C. 5:23-4C and when referred to in subchapter 4C may be cited as this subchapter.

8. "Licensing of Code Enforcement Officials" which may be cited throughout the regulations as N.J.A.C. 5:23-5 and when referred to in subchapter 5 of this chapter may be cited as this subchapter.

9. "Rehabilitation Subcode" which may be cited throughout the regulations as N.J.A.C. 5:23-6 and, when referred to in subchapter 6 of this chapter, may be cited as this subchapter.

10. "Barrier Free Subcode" which may be cited throughout the regulations as N.J.A.C. 5:23-7 and when referred to in subchapter 7 of this chapter may be cited as this subchapter.

11. "Asbestos Hazard Abatement Subcode" which may be cited throughout the regulations as N.J.A.C. 5:23-8 and when referred to in subchapter 8 of this chapter may be cited as this subchapter.

12. "Code Interpretations" which may be cited throughout the regulations as N.J.A.C. 5:23-9 and when referred to in subchapter 9 of this chapter may be cited as this subchapter.

13. "Radon Hazard Subcode" which may be cited throughout the regulations as N.J.A.C. 5:23-10 and when referred to in subchapter 10 of this chapter may be cited as this subchapter.

14. "Playground safety subcode" which may be cited throughout this chapter as N.J.A.C. 5:23-11 and, when referred to in subchapter 11 of this chapter, may be cited as "this subchapter."

15. "Elevator Safety Subcode" which may be cited throughout the rules as N.J.A.C. 5:23-12 and when referred to in subchapter 12 of this chapter may be cited as this subchapter.

16. "Optional elevator inspection program" which may be cited throughout the rules as N.J.A.C. 5:23-12A and, when referred to in subchapter 12A of this chapter, may be cited as "this subchapter."

Amended by R.1978 d.350, eff. October 1, 1978.

See: 10 N.J.R. 378(a), 10 N.J.R. 469(f).

Amended by R.1987 d.509, effective December 7, 1987.

See: 19 N.J.R. 1264(a), 19 N.J.R. 2270(a).

(b) substantially amended.

Amended by R.1990 d.226, effective May 7, 1990.

See: 21 N.J.R. 3696(a), 22 N.J.R. 1356(a).

Added 9 and 10 to (b).

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text added at (b)5.

Amended by R.1990 d.562, effective November 19, 1990.

See: 22 N.J.R. 2629(c), 22 N.J.R. 3482(d).

Added reference to N.J.A.C. 7:14B.

Amended by R.1991 d.325, effective July 1, 1991.

See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Text on elevators added at (b).

Amended by R.1992 d.183, effective April 20, 1992.

See: 24 N.J.R. 167(a), 24 N.J.R. 1475(b).

Reference to Indoor Air Quality Subcode added at (b)12.

Amended by R.1994 d.96, effective February 22, 1994.

See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

Amended by R.1997 d.409, effective October 6, 1997.

See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

Deleted (b)14.

Amended by R.1998 d.28, effective January 5, 1998.

See: 29 N.J.R. 3603(a), 30 N.J.R. 129(a).

In (b)9, substituted "Rehabilitation Subcode" for "Tax Exemptions".

Amended by R.1998 d.480, effective September 21, 1998.

See: 30 N.J.R. 1119(b), 30 N.J.R. 3461(a).

In (b), added 16.

Amended by R.1999 d.351, effective October 18, 1999.

See: 31 N.J.R. 1838(a), 31 N.J.R. 3082(a).

Rewrote (b)14.

#### Case Notes

Councilperson violated local ethics law; project manager for private construction company. *Bleeker v. Local Finance Board*, 94 N.J.A.R.2d (CAF) 122.

#### 5:23-1.2 Authority

These regulations are promulgated by the Commissioner of the Department of Community Affairs pursuant to the authority of the "State Uniform Construction Code Act" (P.L. 1975, c.217, as amended).

#### 5:23-1.3 Intent and purpose

(a) It is the intent and purpose of the regulations:

1. To encourage innovation and economy in construction and to provide requirements for construction and construction materials consistent with nationally recognized standards.

2. To formulate such requirements, to the extent practicable, in terms of performance objectives, so as to make adequate performance for the use intended as the test of acceptability.

3. To permit to the fullest extent feasible the use of modern technical methods, devices and improvements, including premanufactured systems, consistent with reasonable requirements for the health, safety and welfare of occupants or users of buildings and structures.

4. To eliminate restrictive, obsolete, conflicting and unnecessary construction regulations that tend to unnecessarily increase construction costs or retard the use of new materials, products or methods of construction, or provide preferential treatment to types or classes of materials or products or methods of construction.

5. To insure adequate maintenance of buildings and structures throughout the State and to adequately protect the health, safety and welfare of the people.

6. To eliminate unnecessary duplication of effort and fees in the review of construction plans and the inspection of construction.

#### Case Notes

Intent is elimination of construction regulations by local government units. *Home Builders League of South Jersey, Inc. v. Evesham Twp.*, 174 N.J. Super. 252, 416 A.2d 81 (Law Div. 1980).

Uniform Construction Code codified in regulations. *Bureau of Construction Code Enforcement v. Hasbrouck Heights*, 4 N.J.A.R. 282 (1983).

#### 5:23-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Alteration” means the rearrangement of any space by the construction of walls or partitions, the addition or elimination of any door or window, the extension or rearrangement of any system, the installation of any additional equipment or fixtures and any work which affects a primary structural component.

“Billboard” means any sign which exceeds 32 square feet in area on any face, except for signs which advertise or otherwise identify activities performed upon the property on which the sign is located.

“Building” means 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. When used herein, building and structure shall be interchangeable except where the context clearly indicates otherwise.

“Building subcode official” means a qualified person appointed by the municipal appointing authority or the commissioner pursuant to the act and the regulations to enforce the provisions of the building subcode within the jurisdiction of the enforcing agency.

“Business day” means any day of the year, exclusive of Saturdays, Sundays, and legal holidays.

“Certificate of approval” means a certificate issued pursuant to N.J.A.C. 5:23-2 upon completion of work that requires a construction permit but not a certificate of occupancy.

“Certificate of compliance” means the certificate provided for in N.J.A.C. 5:23-2 and 12, indicating that potentially hazardous equipment is being maintained in accordance with the Act and this chapter.

“Certificate of continued occupancy” means the certificate provided for in N.J.A.C. 5:23-2, indicating that as a result of a general inspection of the visible parts of the building, no violations of N.J.A.C. 5:23-2.14 have been determined to have occurred and no unsafe conditions violative of N.J.A.C.

5:23-2.32 have been found, and that the existing use of the building has heretofore lawfully existed.

“Certificate of occupancy” means the certificate provided for in N.J.A.C. 5:23-2, indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the act and the regulations.

“Change of use” means a change from one use to another use in a building or tenancy or portion thereof.

“Class I structure” means a structure not listed in N.J.A.C. 5:23-4.3A(d)1i through vii or 2ii through xxi.

“Class II structure” means a structure listed in N.J.A.C. 5:23-4.3A(d)2ii through xxi.

“Class III structure” means a structure listed in N.J.A.C. 5:23-4.3A(d)1i through vii.

“Commissioner” means the Commissioner of the Department of Community Affairs.

“Construction Board of Appeals” means the board provided for in N.J.A.C. 5:23A.

“Construction official” means a qualified person appointed by the municipal appointing authority or the commissioner pursuant to the act and the regulations to enforce and administer the regulations within the jurisdiction of the enforcing agency.

“Construction permit” means an authorization to begin work subject to the conditions established in subchapter 2 of this chapter.

“Department” means the Department of Community Affairs.

“Effective date” means, in the case of a new rule, amendment or repeal, the date of promulgation in the New Jersey Register. The effective date of a readoption is the date of filing with the Office of Administrative Law.

“Electrical subcode official” means a qualified person appointed by the municipal appointing authority or the commissioner pursuant to the act and the regulations to enforce and provisions of the electrical subcode within the jurisdiction of the enforcing agency.

“Elevator” or “elevator device” means a hoisting and lowering device equipped with a car or platform which moves in guides for the transportation of individuals or freight in a substantially vertical direction through successive floors or levels of a building or structure; or a power driven, inclined, continuous stairway used for raising or lowering passengers; or a type of passenger carrying device on which passengers stand or walk, and in which the passenger carrying surface remains parallel to its direction of motion and is uninterrupted. This includes, but it is not limited to, elevators, esca-

"Pylon sign" means an elevated sign supported either by a monopole or by multiple pole supports and having its bottom edge 15 feet or more above ground level, measured at the base of the longest pole if there is more than one, or an elevated sign mounted on the roof of another structure.

"Reconstruction" means any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied. Reconstruction may include repair, renovation, alteration or any combination thereof. Reconstruction shall not include projects comprised only of floor finish replacement, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

"Rehabilitation" means the repair, renovation, alteration or reconstruction of any building or structure.

"Renovation" means the removal and replacement or covering of existing interior or exterior finish, trim, doors, windows, or other materials with new materials that serve the same purpose and do not change the configuration of space. Renovation shall include the replacement of equipment or fixtures.

"Repair" means the restoration to a good or sound condition of materials, systems and/or components that are worn, deteriorated or broken using materials or components identical to or closely similar to the existing.

"Small job" means construction work requiring no prior approvals and the total cost of which is under \$5,000. A "small job" may involve more than one trade and may require plan review.

"State sponsored code change proposal" means any proposed amendment or code change adopted by the commissioner in accordance with subsection c. of section 6 of the act as amended for the purpose of presenting such proposed amendment or code change at any of the periodic code change hearings held by the National Model Code adoption agencies, the codes of which have been adopted as subcodes under the Act. For purposes of this definition a State sponsored code change proposal may also oppose any code change under consideration by a model code agency.

"Stop construction order" means the order provided for in N.J.S.A. 52:27D-132 of the act and N.J.A.C. 5:23-2.

"Structure" means 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; provided, the word "structure" shall be construed when used herein as though followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning.

"Subcode" means any of the national model codes, parts thereof or other codes or standards as adopted by reference in N.J.A.C. 5:23-3 or as set forth in N.J.A.C. 5:23-7, 8, 10 and 12.

"Tenancy" means an entire building, or that portion of a building or story, which is or is intended to be under the control of a single owner or tenant.

"The Code in effect at the time of permit application" means either the Code in effect on the date of submission of a complete permit application or the Code under which the original plans were reviewed and released pursuant to N.J.A.C. 5:23-1.6.

"Use" means that portion of a building or tenancy which is devoted to a single use group or special use or occupancy, as defined in the building subcode, or as established by the provisions of any other subcode for the purpose of specifying special requirements applicable to that portion of a building or tenancy.

"Use Group" means the classification of an occupancy (also see "Group").

"Wall sign" means a sign mounted on the wall of another structure in a manner such that it is exposed to wind loads from one side only.

"Work area" means any entire use, primary function space or tenancy comprising all or part of a reconstruction project as delineated on the approved permit application and/or plans.

As amended, R.1977 d.256, effective August 1, 1977.

See: 9 N.J.R. 164(a), 9 N.J.R. 358(a).

As amended, R.1978 d.162, effective June 1, 1978.

See: 10 N.J.R. 141(a), 10 N.J.R. 225(a).

As amended, R.1981 d.133, effective May 7, 1981.

See: 13 N.J.R. 119(a), 13 N.J.R. 258(c).

"Certificate of continued occupancy" and "prior approvals" redefined.

As amended, R.1982 d.7, effective February 1, 1982.

See: 13 N.J.R. 717(a), 14 N.J.R. 142(a).

"Manufactured home" was "mobile home", and definition substantially amended. Added "or premanufactured construction" to "premanufactured system", and added "The terms ... homes".

As amended, R.1983 d.611, eff. January 3, 1984.

See: 15 N.J.R. 1789(a), 16 N.J.R. 45(b).

Added definitions of "major work", "minor work", "municipal procedures manual", "ordinary repair" and "small job".

As amended, R.1984 d.120, effective April 16, 1984.

See: 16 N.J.R. 179(a), 16 N.J.R. 873(a).

"Certificate of occupancy" added "N.J.A.C. 5:23-1.4 have ... been found" to definitions.

Amended by R.1985 d.351, effective July 15, 1985.

See: 17 N.J.R. 1029(a), 17 N.J.R. 1756(b).

Definition for "Facility" added.

Amended by R.1990 d.57, effective February 5, 1990.

See: 21 N.J.R. 3345(b), 22 N.J.R. 350(b).

Reference to compliance with N.J. Underground Storage of Hazardous Substances Act, and deletion of language excluding "public school buildings" from definitions of "building" and "structure".

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Industrialized/modular buildings added to definition of premanufactured system.

Amended by R.1991 d.325, effective July 1, 1991.

See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Definitions of certificate of approval, elevator and elevator subcode official added.

Amended by R.1992 d.244, effective June 15, 1992.

See: 24 N.J.R. 1147(a), 24 N.J.R. 2243(a).

Definitions added for Class I, II and III structures.

Amended by R.1993 d.420, effective September 7, 1993.

See: 25 N.J.R. 2158(a), 25 N.J.R. 4072(a).

Amended by R.1993 d.580, effective November 15, 1993.

See: 25 N.J.R. 3692(a), 25 N.J.R. 5145(c).

Administrative correction.

See: 26 N.J.R. 2779(c).

Amended by R.1995 d.381, effective July 17, 1995.

See: 27 N.J.R. 970(a), 27 N.J.R. 2715(a).

Amended by R.1995 d.544, effective October 16, 1995.

See: 27 N.J.R. 2827(a), 27 N.J.R. 3933(a).

Amended by R.1996 d.190, effective April 15, 1996.

See: 28 N.J.R. 320(a), 28 N.J.R. 1981(a).

Added "construction documents".

Amended by R.1996 d.236, effective May 20, 1996 (operative January 1, 1997).

See: 27 N.J.R. 4050(a), 28 N.J.R. 2586(a).

Amended by R.1996 d.323, effective July 15, 1996 (operative January 1, 1997).

See: 28 N.J.R. 2112(a), 28 N.J.R. 3549(a).

Amended by R.1997 d.409, effective October 6, 1997.

See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

Amended "Prior approvals" and "Subcode".

Amended by R.1997 d.417, effective October 6, 1997.

See: 29 N.J.R. 3387(a), 29 N.J.R. 4285(a).

Amended "Prior approvals" and "Public school facility".

Amended by R.1998 d.28, effective January 5, 1998.

See: 29 N.J.R. 3603(a), 30 N.J.R. 129(a).

In list of definitions, added "Alteration", "Change of use", "Primary function space", "Reconstruction", "Rehabilitation", "Renovation", "Repair", "Tenancy", "Use", "Work area".

Amended by R.1999 d.424, effective December 6, 1999.

See: 31 N.J.R. 2428(a), 31 N.J.R. 4001(c).

Changed "Ordinary repair" definition to "Ordinary maintenance".

Administrative change.

See: 34 N.J.R. 1022(a).

Amended by R.2003 d.216, effective May 19, 2003.

See: 35 N.J.R. 16(a), 35 N.J.R. 2203(a).

Deleted "Construction documents"; added "Plans and specifications".

Amended by R.2003 d.473, effective December 15, 2003.

See: 35 N.J.R. 2421(a), 35 N.J.R. 5543(a).

Deleted "Major work".

Amended by R.2004 d.260, effective July 6, 2004.

See: 35 N.J.R. 3474(b), 36 N.J.R. 3274(a).

Added "Billboard", "Ground sign", "Pylon sign" and "Wall sign".

Amended by R.2004 d.393, effective October 18, 2004.

See: 36 N.J.R. 3003(a), 36 N.J.R. 4814(a).

Added "Group" and "Use Group".

Administrative Correction.

See: 38 N.J.R. 3024(a).

Amended by R.2006 d.355, effective October 2, 2006.

See: 38 N.J.R. 1789(a), 38 N.J.R. 4175(a).

Added definition "The Code in effect at the time of permit application".

Administrative correction.

See: 38 N.J.R. 5355(a).

### Case Notes

Citation to definitions of construction permit and certificate of occupancy. Home Builders League of South Jersey, Inc. v. Evesham Twp., 174 N.J.Super. 252, 416 A.2d 81 (Law Div.1980).

Citation to mobile home definition in former regulation (similar to present manufactured home definition); mobile homes acceptable form of moderate cost housing. Southern Burlington County N.A.A.C.P. v. Twp. of Mt. Laurel, 161 N.J.Super. 317, 391 A.2d 935 (Law Div.1978) affirmed in part, reversed in part 92 N.J. 158, 456 A.2d 390, on remand 207 N.J.Super 169, 504 A.2d 66.

Applicant for construction permit must provide assurances that necessary prior approvals obtained. Riggins v. Pinelands Commission, 8 N.J.A.R. 441 (1985).

### 5:23-1.5 Effective date

(a) The provisions of the regulations shall take effect on January 1, 1977. All construction regulations incorporated in any act of the State of New Jersey, or of any municipality presently in effect, or validly promulgated or enacted by any board, department, commission or agency thereof, shall continue in effect until January 1, 1977, and shall thereafter be superseded and of no further force and effect. Any law or regulation addressing areas for which the commissioner shall not have promulgated a subcode may continue in effect until such time as a subcode therefor is adopted.

(b) Exceptions include:

1. This section shall not apply to those aspects of the act which were capable of taking effect on the effective date of the act.

2. This section shall not apply to those parts of N.J.A.C. 5:23-4 which require the adoption of a resolution or other action prior to the effective date. Such section shall take effect upon adoption.

3. This section shall not apply to laws or regulations specifically saved by the act or the regulations.

### 5:23-1.6 Grace period

(a) For a period of six months following the operative date of a subcode revision, applicants may submit a complete permit application, including all prior approvals, to be reviewed under the code in force immediately preceding the subcode revision. Provided that the application is complete, the construction official and applicable subcode officials shall perform the plan review and issue construction permit(s) based on the code in force immediately prior to the operative date of the subcode revision. This grace period shall apply only to revisions of subcodes.

4. Rehabilitation subcode code change proposals shall be submitted to the Code Development Unit, Department of Community Affairs, Division of Codes and Standards, PO Box 802, Trenton, New Jersey 08625. Code change proposals may be faxed to the Code Development Unit at (609) 984-7717 or (609) 633-6729.

5. A public hearing for rehabilitation subcode code change proposals shall be held prior to a scheduled Code Advisory Board meeting. The date and time of the public hearing on rehabilitation subcode code change proposals may be obtained by contacting the Code Development Unit at (609) 984-7609.

(c) The following apply to code change proposals to other State-developed subcodes:

1. Proposals for code changes to other State-developed subcodes may be submitted to the Department at any time and shall include the information outlined in (b)2 above.

2. Code change proposals to other State-developed subcodes shall be submitted to the Code Development Unit in accordance with (b)4 above.

Amended by R.2004 d.261, effective July 6, 2004.

See: 36 N.J.R. 1267(a), 36 N.J.R. 3275(a).

Rewrote the section.

Amended by R.2005 d.342, effective October 17, 2005.

See: 37 N.J.R. 2325(a), 37 N.J.R. 3974(a).

In (a)1, added "private party," and substituted "240" for "90"; in (a)2, added "party or", "company," ", " following "agency", and "if applicable,"; added (c).

### 5:23-3.14 Building subcode

(a) Rules concerning the building subcode are as follows:

1. Pursuant to authority of P.L. 1975, c. 217, as modified by P.L. 1996, c. 53, the Commissioner hereby adopts the model code of the International Code Council, 2006 International Building Code, known as the "IBC/2006." This code is hereby adopted by reference as the building subcode for New Jersey subject to the modifications stated in (b) below.

i. Copies of this code may be obtained from the International Code Council at 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795.

ii. The IBC/2006, as amended, may be known and cited as the "building subcode."

2. Any references to the mechanical code, plumbing code, International Residential Code, ICC/ANSI A117.1 standard (including reference to Chapter 11) or the ICC Electrical Code listed in Chapter 35 shall be considered a reference to the appropriate adopted mechanical, plumbing, one- and two-family dwelling or electrical subcode referenced in N.J.A.C. 5:23-3 or to the barrier free subcode, N.J.A.C. 5:23-7, as appropriate.

(b) The following chapters of the building subcode are modified as follows:

1. Chapter 1, Administration, shall be deleted in its entirety. In addition, any referenced section of Chapter 1 shall be deleted throughout the code and "the administrative provisions of the Uniform Construction Code (N.J.A.C. 5:23)" shall be inserted.

i. In Section 308.2, Group I-1; Section 308.3, Group I-3; Section 308.5, Group I-4, daycare facilities; Section 310.1, Residential Group R; and Section 1704.1, General, in Exception 3, "as applicable in Section 101.2" shall be deleted.

2. Chapter 2, Definitions, shall be amended as follows:

i. The definition of "addition," shall be deleted.

ii. In the definition of agricultural buildings, "A structure qualifying under the Uniform Construction Code definition of a Commercial Farm Building may be built according to the regulations at N.J.A.C. 5:23-3.2(d)" shall be inserted after the last sentence.

iii. The definition of "alteration" shall be deleted.

iv. The definition of "building" shall be deleted and the following shall be inserted: "BUILDING. 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. When used herein, building and structure shall be interchangeable except where the context clearly indicates otherwise."

v. The definition of "building line" shall be deleted.

vi. The definition of "building official" shall be deleted and the following shall be inserted: "BUILDING SUBCODE OFFICIAL. A qualified person appointed by the municipal appointing authority or the commissioner pursuant to the act and the regulations to enforce the provisions of the building subcode within the jurisdiction of the enforcing agency."

vii. The definition of "existing structure" shall be deleted.

viii. In the definition of "Dwelling Unit," "living as a single housekeeping unit" shall be inserted after "persons."

ix. The definitions of "historic building" and "jurisdiction" shall be deleted.

x. A definition of "nightclub" shall be inserted as follows:

"NIGHTCLUB. All buildings and places of public assembly designed for use as dance halls, eating and/or drinking establishments, and similar occupancies, in which the established maximum permitted occupant load exceeds the number of seats provided by more than 30 percent or which affords less than 12 square feet net area per occupant. For purposes of determining the net area per occu-

pant, only the actual public assembly room or rooms shall be considered. For purposes of applying the requirements of this code, the nightclub shall include all rooms, lobbies and other spaces connected thereto with a common means of egress and entrance.”

xi. The definition of “owner” shall be deleted and the following shall be inserted: “OWNER. The owner or owners in fee of the property of a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person, firm or corporation, directly or indirectly in control of a building, structure or real property and shall include any subdivision thereof of the State.”

xii. The definitions of “permit,” “person,” and “repair” shall be deleted.

xiii. The definition of “structure” shall be deleted and the following shall be inserted: “STRUCTURE. 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; provided the word “structure” shall be construed when used herein as though followed by the phrase “or part or parts thereof and all equipment therein” unless the context clearly requires a different meaning.

3. Chapter 3, Use and Occupancy Classification, shall be amended as follows:

i. In Section 303.1, Delete “Dance halls” from Group A-3 and insert “Dance halls” into Group A-2.

ii. Section 308.2, Group I-1, shall be amended as follows: In the first sentence, “16” shall be deleted and “5” shall be inserted. In the second sentence, “responding to” shall be deleted and “slow evacuation in” shall be inserted. In addition, “For the purposes of applying this provision, slow evacuation shall mean the movement of all occupants, residents, and staff to an exit in more than three minutes, but not more than thirteen minutes.” shall be inserted as the third sentence. In the list of types of occupancies, “residential board and care facilities, assisted living facilities” shall be deleted and “boarding houses” shall be inserted. In the same list, “abuse” shall be inserted after “drug.” Also, “A facility such as above, housing at least six and not more than 16 persons shall be classified as a Group R-4” shall be deleted and the following definition of “boarding house” shall be inserted:

“Boarding House: A building arranged or used for single occupancy where meals or personal or financial services are provided to the residents.”

iii. In Section 308.3, Group I-2, “who are not capable of self-preservation” shall be deleted and “where evacuation is impractical” shall be inserted. For the purposes of applying this provision, impractical evacuation shall mean the movement of all occupants, resi-

dents, and staff to an exit in more than 13 minutes. In the list of types of occupancies, “assisted living facilities” shall be inserted.

iv. In Section 308.5, Group I-4, in the second sentence, “with” shall be deleted and “accessory to a dwelling unit and having” shall be inserted.

v. In Section 308.5.1, Adult Care Facility, “accommodations for less than 24 hours for more than five unrelated adults and provides” shall be deleted, “services” shall be deleted after “care,” and the following shall be inserted: “on less than a 24-hour basis where evacuation is slow or impractical, shall be classified as Group I-4. For the purposes of applying this provision, impractical evacuation shall mean the movement of all occupants, residents, and staff to an exit in more than thirteen minutes and slow evacuation shall mean the movement of all occupants, residents, and staff to an exit in more than three minutes, but not more than thirteen minutes.” In the exception, “of responding to an emergency situation” shall be deleted and “of prompt evacuation” shall be inserted. In addition, “For the purposes of applying this provision, prompt evacuation shall mean the movement of all occupants, residents, and staff to an exit in three minutes or less.” shall be inserted as the second sentence.

vi. Section 308.5.2, Child Care Facility, shall be deleted and the following shall be inserted: “A facility that provides supervision and personal care on less than a 24-hour basis for children 2½ years of age or less shall be classified as Group I-4.” In the same section, the exception shall be deleted.

vii. Section 310, Residential Group R, shall be deleted and the following definitions shall be inserted:

“(1) R-1 Residential occupancies containing sleeping units where the occupants are primarily transient (less than 30 days) including:

Hotels (including motels) having transient occupancy

Rooming houses, with more than five residents, having transient occupancy

Vacation timeshare properties

(2) R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

Apartment houses

Convents

Dormitories

Fraternity and sorority houses

Hotels (non transient)

Monasteries

Motels (non transient)

Rooming houses with more than five residents, not having transient occupancy

Therapeutic residences with more than 16 residents

(3) R-3 Detached one- and two-family dwellings greater than three stories in height, multiple single-family townhouses greater than three stories in height, attached two-family dwellings separated from adjacent units by firewalls, and other one- and two-family dwellings that are outside the scope of the one- and two-family dwelling subcode. Group R-3 includes:

Single residential occupancies, accessory to a dwelling unit, having no more than five roomers or lodgers (Single occupancies, accessory to a dwelling unit, having more than five roomers or lodgers shall be classified as Group R-2 or I-1, as appropriate.)

Adult and child day care facilities, accessory to a dwelling unit, serving five or fewer persons of any age for less than 24 hours.

Rooming houses with five or fewer residents.

Therapeutic residences with five or fewer residents.

(4) R-4 Therapeutic residences including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise provided in the code.

(5) R-5 Detached one- and two-family dwellings not more than three stories in height and multiple single-family townhouses not more than three stories in height designed and constructed in accordance with the one- and two-family dwelling subcode. Group R-5 also includes:

Single residential occupancies, accessory to a dwelling unit, having no more than five roomers or lodgers (Single occupancies, accessory to a dwelling unit, having more than five roomers or lodgers shall be classified as Group R-2 or I-1, as appropriate.)

Adult and child day care facilities, accessory to a dwelling unit, serving five or fewer persons of any age for less than 24 hours.

Rooming houses with five or fewer residents.

Therapeutic residences with five or fewer residents.”

4. Section 310.2, Definitions, shall be amended as follows:

i. The definition of “Boarding House” shall be deleted in its entirety.

ii. The definition of “Personal Care Service” shall be deleted in its entirety.

iii. The definition of “Residential Care/Assisted Living Facilities” shall be deleted in its entirety.

iv. The definition of “Rooming House” shall be inserted as follows: “Rooming House: A building arranged or used for single occupancy where no meals or personal or financial services are provided to the residents.”

v. The definition of “Single Residential Occupancy” shall be inserted as follows: “Single Residential Occupancy: A building arranged or used for individual non-transient residency by persons living independently of one another, regardless of whether the residents share the use of common facilities, such as kitchen or bathing facilities.”

vi. The definition of “Therapeutic Residence” shall be inserted as follows: “Therapeutic Residence: A residence for adults, each of whom is capable of prompt evacuation, and who live within a single dwelling unit for therapeutic purposes, without a resident landlord or operator, but with some government or private social service provider oversight. For the purposes of applying this provision, prompt evacuation shall mean the movement of all occupants, residents, and staff to an exit in three minutes or less.”

vii. The definition of “Transient Occupancy” shall be inserted as follows: “Transient Occupancy: A residential occupancy where no more than fifteen percent of the residents occupy the residency for more than 90 days.”

5. Chapter 4, Special Detailed Requirements Based on Use and Occupancy, shall be amended as follows:

i. In Section 402.4.2, Number of Means of Egress, “used by persons other than employees” shall be deleted.

ii. In Section 403.11, Emergency power systems, “Section 2702” shall be deleted and “the electrical subcode (N.J.A.C. 5:23-3.16)” shall be inserted.

iii. In Section 406.1.4, Separation, Item 1 shall be deleted and the following text from the 2000 International Building Code as amended by New Jersey shall be inserted:

“1. A private garage located beneath a room(s) shall have walls, partitions, floors, and ceilings separating the garage from the adjacent interior spaces constructed with not less than a one-hour fire resistance rating (See FTO 13). Attached private garages shall be completely separated from the adjacent interior spaces and the attic area by a means of 1/2-inch gypsum board or equivalent applied to the garage

side. Door openings between the garage and the residence shall be equipped with either solid wood doors not less than 13/8 inches (35 mm) thick, solid or honeycomb core steel doors not less than 13/8 inches (35 mm) thick or doors in compliance with Section 715.4.3. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted."

iv. In Section 411.4, Automatic sprinklers, the exception shall be deleted in its entirety.

v. In Section 412.1.5, Standby power, "Section 2702" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

vi. In Section 412.1.6, Accessibility, "Chapter 11" shall be deleted and "the barrier free subcode (N.J.A.C. 5:23-7)" shall be inserted.

vii. In Section 414.5.4, Standby or electrical power, "this code or the ICC Electrical Code" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

viii. In Section 417.1, General, "Chapter 28" shall be deleted and "the mechanical subcode (N.J.A.C. 5:23-3.20)" shall be inserted.

ix. In Section 420.8, Standby power, "Chapter 27" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

6. Chapter 5, General Building Heights and Areas, shall be amended as follows:

i. Table 503, Allowable Heights and Building Areas, shall be amended as follows:

(1) Under construction Type VA for Group A-1, "2" shall be deleted and "1" shall be inserted.

(2) Under construction Type IB for Group A-2, "11" shall be deleted and "3" shall be inserted. Under construction Types IIA and IIB for Group A-2, "3" and "2" shall be deleted and "2" and "1" shall be inserted, respectively. Under construction Types IIIA and IIIB for Group A-2, "3" and "2" shall be deleted and "2" and "1" shall be inserted, respectively. In addition, under construction Type IV for Group A-2, "3" shall be deleted and "2" shall be inserted. Finally, under construction Type VA for Group A-2, "2" shall be deleted and "1" shall be inserted.

(3) Under construction Type IB for Group A-3, "11" shall be deleted and "5" shall be inserted. In addition, under construction Type VA for Group A-3, "2" shall be deleted and "1" shall be inserted.

(4) Under construction Type IB for Group A-4, "11" shall be deleted and "5" shall be inserted. In addition, under construction Type VA for Group A-4, "2" shall be deleted and "1" shall be inserted.

(5) The maximum number of stories and maximum allowable area for Group A-5, construction Types IIIB, IV, VA and VB shall be deleted.

(6) Under construction Type IB for Group B, "11" shall be deleted and "7" shall be inserted. In addition, under construction Type IIB for Group B, "4" shall be deleted and "3" shall be inserted. Finally, under construction Type IIIA and IIIB for Group B, "5" and "4" shall be deleted and "4" and "3" shall be inserted, respectively.

(7) Under construction Type IB for Group F-1, "11" shall be deleted and "6" shall be inserted.

(8) Under construction Type IB for Group F-2, "11" shall be deleted and "7" shall be inserted.

(9) Under construction Type IA for Group H-2, "UL" shall be deleted and "3" shall be inserted. In addition, the maximum number of stories and maximum allowable area for Group H-2, construction Type VB shall be deleted and "NP" shall be inserted.

(10) Under construction Type IA for Group H-3, "UL" shall be deleted and "7" shall be inserted. In addition, under construction Type IIIA for Group H-3, "4" shall be deleted and "3" shall be inserted.

(11) Under construction Type IA for Group H-4, "UL" shall be deleted and "7" shall be inserted. In addition, under construction Type IIIA for Group H-4, "5" shall be deleted and "4" shall be inserted.

(12) Under construction Type VA for Group I-3, "2" shall be deleted and "1" shall be inserted. In addition, the maximum number of stories and the maximum allowable area for Group I-3, construction Type VB shall be deleted and "NP" shall be inserted.

(13) Under construction Type IB for Group M, "11" shall be deleted and "6" shall be inserted. Under construction Type IIB for Group M, "4" shall be deleted and "2" shall be inserted. In addition, under construction Types IIIA and IIIB, "4" shall be deleted and "3" and "2" shall be inserted, respectively. Finally, under construction Type VA, "3" shall be deleted and "2" shall be inserted.

(14) Under construction Type IB for Group R-1, "11" shall be deleted and "9" shall be inserted. In addition, under construction Type IIB for Group R-1, "4" shall be deleted and "3" shall be inserted. Finally, under construction Type IIIB for Group R-1, "4" shall be deleted and "3" shall be inserted.

(15) Under construction Type IB for Group R-2, "11" shall be deleted and "9" shall be inserted. In addition, under construction Type IIB for R-2, "4" shall be deleted and "3" shall be inserted. Finally, under construction Type IIIB for Group R-2, "4" shall be deleted and "3" shall be inserted.

constructed in conformance with ANSI/NSPI-3 as listed in Chapter 35.

3110.4 Above-ground and on-ground residential swimming pools. Above-ground and on-ground residential swimming pools shall be designed and constructed in conformance with ANSI/NSPI-4 as listed in Chapter 35.

3110.5 Residential in-ground swimming pools. Residential in-ground swimming pools shall be designed and constructed in conformance with ANSI/NSPI-5 as listed in Chapter 35.

3110.6 Portable spas. Portable spas shall be designed and constructed in conformance with ANSI/NSPI-6 as listed in Chapter 35.

23. Chapter 32, Encroachments into the Public Rights of Way, shall be amended as follows:

i. In Section 3202.1.2, Vaults and other enclosed spaces, "authority or legislative body having jurisdiction" shall be deleted and "Uniform Construction Code (N.J.A.C. 5:23)" shall be inserted.

ii. In Section 3202.3.4, Pedestrian walkways, "authority having jurisdiction" shall be deleted and "the construction official" shall be inserted.

iii. In Section 3202.4, Temporary encroachments, "local authority having jurisdiction" shall be deleted and "municipality" shall be inserted.

24. Chapter 33, Safeguards During Construction, shall be amended as follows:

i. Sections 3303.1, Construction documents; 3303.2, Pedestrian protection; 3303.4, Vacant lot; 3303.5, Water accumulation; and 3303.6, Utility connections, shall be deleted in their entirety.

ii. In Section 3306.2, Walkways, "Chapter 11" shall be deleted and "the barrier free subcode, N.J.A.C. 5:23-7" shall be inserted.

iii. In the last sentence of Section 3309.1, Where required, "On construction sites," shall be inserted before "All." In addition, in the last sentence, "Section 906" shall be deleted and "the International Fire Code" shall be inserted.

25. Chapter 34, Existing Structures, shall be deleted in its entirety.

26. Chapter 35, Referenced Standards, shall be amended as follows:

i. New subheading "NSPI" shall be inserted as follows: "NSPI – National Spa and Pool Institute, 2111 Eisenhower Avenue, Alexandria, VA 22314. In addition, the following NSPI Standards shall be inserted: "ANSI/NSPI-1-03, Public Swimming Pools, ANSI/NSPI-2-99, Public Spas, ANSI/NSPI-3-99, Standard for Permanently Installed Residential Spas, ANSI/NSPI-4-99,

Standard for Above-Ground/On-Ground Residential Swimming Pools, ANSI/NSPI-5-03, Standard for Residential In-ground Swimming Pools, and ANSI/NSPI-6-99, Standard for Portable Spas."

ii. Under the subheading "ACI 318-05," "Section 1708.3" shall be deleted.

iii. Under the subheading "ACI 530-05," "Section 1708.1.1," "Section 1708.1.2," and "Section 1708.1.3" shall be deleted.

iv. Under the subheading "AISC 341-05," "Section 1708.4" shall be deleted.

v. Under the subheading "ASCE/SEI 5-05," "Section 1708.1.1," "Section 1708.1.2" and "Section 1708.1.3" shall be deleted.

vi. Under the subheading "ASTM A615/A A615M-04a," "Section 1708.3" shall be deleted.

vii. Under the subheading "ASTM A898/A 898M-91(2001)," "Section 1708.3" shall be deleted.

viii. Under the subheading "AWS D1.1-04," "Section 1708.4" shall be deleted.

ix. Under the subheading "TMS 402-05," "Section 1708.1.1," "Section 1708.1.2" and "Section 1708.1.3" shall be deleted.

27. The Appendices shall be amended as follows:

i. Appendix A, Employee Qualifications; Appendix B, Board of Appeals; Appendix C, Group U-Agricultural Buildings; Appendix D, Fire Districts; Appendix E, Supplementary Accessibility Requirements; Appendix F, Rodent Proofing; and Appendix G, Flood Resistant Construction, shall be deleted in their entirety.

ii. In Appendix H, at the beginning of the Appendix, the sentence, "The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance," shall be deleted in its entirety.

(1) In Appendix H, Section H101.2, Signs exempt from permits, shall be deleted in its entirety.

(2) In Appendix H, Section H105.2, Permits, drawings and specifications, "as provided in Chapter 1" shall be deleted and "as provided in N.J.A.C. 5:23-2.14" shall be inserted.

(3) In Appendix H, Section H106.1, Illumination, "ICC Electrical Code" shall be deleted and "electrical subcode" shall be inserted.

(4) In Appendix H, Section H106.2, Electrical service, "ICC Electrical Code" shall be deleted and "electrical subcode" shall be inserted.

iii. Appendix I, Patio Covers, and Appendix J, Grading, Appendix K, ICC Electrical Code, shall be deleted in their entirety.

Amended by R.1981 d.132, effective May 7, 1981.  
See: 13 N.J.R. 121(a), 13 N.J.R. 258(d).  
Amended by R.1983 d.12, eff. February 7, 1983, operative February 22, 1983.  
See: 14 N.J.R. 132(a), 15 N.J.R. 141(c).  
Added (a)2 and (c).  
Amended by R.1984 d.314, eff. August 6, 1984.  
See: 16 N.J.R. 1139(a), 16 N.J.R. 2084(b).  
This section was substantially amended.  
Amended by R.1985 d.154, effective April 1, 1985 (operative July 1, 1985.)  
See: 17 N.J.R. 239(a), 17 N.J.R. 810(a).  
(a)2 added; subsection (c) added.  
Correction: N.J.A.C. 5:23-3.14(c)5 was incorrect in adoption.  
See: 17 N.J.R. 1409(a).  
Amended by R.1985 d.324, effective July 1, 1985.  
See: 17 N.J.R. 861(c), 17 N.J.R. 1646(a).  
(b)3i: amended text.  
Amended by R.1986 d.380, effective September 22, 1986.  
See: 18 N.J.R. 1235(a), 18 N.J.R. 1931(a).  
Substantially amended.  
Amended by R.1987 d.374, effective September 21, 1987.  
See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).  
Model subcode revisions.  
Amended by R.1988 d.270, effective June 20, 1988.  
See: 20 N.J.R. 575(a), 20 N.J.R. 1344(a).  
Added (a)3 and (c).  
Amended by R.1990 d.253, effective May 21, 1990.  
See: 22 N.J.R. 909(b), 22 N.J.R. 1554(a).  
Text added at (c)2ii, 4, 5 and 7.  
Amended by R.1990 d.325, effective July 2, 1990.  
See: 21 N.J.R. 1654(a), 22 N.J.R. 2001(a).  
Text added at (b)5xii(1) to conform to Fire Code.  
Amended by R.1990 d.507, effective October 15, 1990.  
See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).  
Text conformed to BOCA National Code/1990.  
Amended by R.1990 d.558, effective November 19, 1990.  
See: 22 N.J.R. 1969(b), 22 N.J.R. 3483(a).  
Conditional exemption for hoopouses or polyhouses added.  
Amended by R.1991 d.325, effective July 1, 1991.  
See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).  
Article 26 amended at (b)14.  
Amended by R.1991 d.429, effective August 19, 1991.  
See: 23 N.J.R. 1487(a), 23 N.J.R. 2501(a).  
In (a), added 3. Added (c).  
Amended by R.1992 d.244, effective June 15, 1992.  
See: 24 N.J.R. 1147(a), 24 N.J.R. 2243(a).  
Text added at (b)10v through viii.  
Amended by R.1993 d.662, effective December 20, 1993.  
See: 25 N.J.R. 3891(a), 25 N.J.R. 5918(a).  
Amended by R.1995 d.144, effective March 20, 1995 (operative July 1, 1995).  
See: 26 N.J.R. 2698(a), 26 N.J.R. 3524(a), 27 N.J.R. 1180(a).  
Amended by R.1995 d.477, effective September 5, 1995.  
See: 27 N.J.R. 1717(a), 27 N.J.R. 3328(a).  
Added (b)2v.  
Amended by R.1998 d.332, effective July 6, 1998.  
See: 30 N.J.R. 1377(a), 30 N.J.R. 2421(b).  
Rewrote the section.  
Amended by R.2000 d.492, effective December 18, 2000.  
See: 32 N.J.R. 3219(a), 32 N.J.R. 4437(b).  
Rewrote (b)25.  
Amended by R.2001 d.127, effective April 16, 2001.  
See: 33 N.J.R. 392(a), 33 N.J.R. 1195(a).  
In (a)9, added new ix and recodified former ix through xiii as new x through xiv.  
Amended by R.2001 d.368, effective October 15, 2001.  
See: 33 N.J.R. 1990(a), 33 N.J.R. 3673(b).

In (b)9, inserted a new ix and recodified former ix through xiv as x through xv.  
Amended by R.2001 d.369, effective October 15, 2001.  
See: 33 N.J.R. 2365(a), 33 N.J.R. 3674(a).  
In (b), substituted "seven" for "7 1/3 (2335 mm)" in 2vi, rewrote 10, added a new 17, and recodified former 17 through 26 as 18 through 27.  
Amended by R.2002 d.215, effective July 1, 2002.  
See: 34 N.J.R. 1078(a), 34 N.J.R. 2312(a).  
In (b)22, inserted new ii and recodified existing ii through xvii as iii through xviii.  
Administrative correction.  
See: 34 N.J.R. 3771(b).  
Amended by R.2003 d.187, effective May 5, 2003.  
See: 34 N.J.R. 4248(a), 35 N.J.R. 1939(c).  
Rewrote the section.  
Administrative correction.  
See: 35 N.J.R. 2864(b).  
Amended by R.2003 d.351, effective September 2, 2003.  
See: 35 N.J.R. 1177(a), 35 N.J.R. 4051(a).  
In (b)9, added xi; recodified existing xi to xiii as xii to xiv.  
Amended by R.2003 d.420, effective November 3, 2003.  
See: 34 N.J.R. 4248(a), 35 N.J.R. 5073(a).  
Rewrote (b).  
Administrative correction.  
See: 36 N.J.R. 3525(c).  
Amended by R.2004 d.423, effective November 15, 2004.  
See: 36 N.J.R. 3004(a), 36 N.J.R. 5090(a).  
In (b)5, added ii.  
Amended by R.2005 d.4, effective January 3, 2005.  
See: 36 N.J.R. 4049(a), 37 N.J.R. 47(a).  
In (b)19, added new iv and recodified former iv and v as v and vi.  
Administrative correction.  
See: 37 N.J.R. 502(b), 674(a).  
Amended by R.2005 d.403, effective November 21, 2005.  
See: 37 N.J.R. 2753(a), 37 N.J.R. 4399(b).  
Added (b)14xi and recodified former (b)14xi-xiii as (b)14xii-xiv; added (b)18 and recodified former (b)18-25 as (b)19-26.  
Amended by R.2005 d.446, effective December 19, 2005.  
See: 37 N.J.R. 2747(a), 37 N.J.R. 4907(a).  
In (b)3viii(3), substituted "one- and two-family" for "single-family"; in (b)3viii(5), "Group R-5 also includes: ..."  
Amended by R.2006 d.28, effective January 17, 2006.  
See: 37 N.J.R. 2750(a), 38 N.J.R. 485(b).  
Rewrote (b)9, 20 and 21.  
Amended by R.2006 d.157, effective May 1, 2006.  
See: 37 N.J.R. 3108(a), 38 N.J.R. 1824(a).  
Rewrote (b)21ii.  
Administrative Correction.  
See: 38 N.J.R. 3024(a).  
Amended by R.2006 d.381, effective November 6, 2006.  
See: 38 N.J.R. 35(a), 38 N.J.R. 4691(a).  
In (b)15ii, added the last sentence; added new (b)15iv; and recodified former (b)15iv through (b)15xv as (b)15v through (b)15xvi.  
Amended by R.2007 d.51, effective February 5, 2007.  
See: 38 N.J.R. 375(a), 39 N.J.R. 371(a).  
Added new (b)2viii; recodified former (b)2viii through (b)2x as (b)2ix through (b)2xi; added new (b)3iii; recodified former (b)3iii through (b)3viii as (b)3iv through (b)3ix; added new (b)9i; recodified former (b)9i through (b)9xi as (b)9ii through (b)9xii; added new (b)9xiii; recodified former (b)9xii through (b)9xv as (b)9xiv through (b)9xvii; added new (b)10xxii and (b)10xxiii; and recodified former (b)10xxii as (b)10xxiv.  
Amended by R.2007 d.65, effective February 20, 2007.  
See: 38 N.J.R. 3348(a), 39 N.J.R. 633(a).  
Rewrote the section.  
Administrative correction.  
See: 39 N.J.R. 1249(a).

#### Case Notes

Set back provisions of borough zoning ordinance controlled conflicting state building code provisions. *Pfeuffer v. Sculco*, 242 N.J.Super. 181, 576 A.2d 309 (A.D.1990).

GPF set at 1.6; gravity water closets not permitted in commercial uses.

Amended by R.1991 d.571, effective November 18, 1991.

See: 23 N.J.R. 2619(a), 23 N.J.R. 3444(b).

Added new (c).

Amended by R.1992 d.67, effective February 3, 1992.

See: 23 N.J.R. 3602(a), 24 N.J.R. 404(b).

Low volume water closet exception added at (b)18i(1).

Amended by R.1993 d.662, effective December 20, 1993.

See: 25 N.J.R. 3891(a), 25 N.J.R. 5918(a).

Amended by R.1995 d.122, effective March 6, 1995 (operative July 1, 1995).

See: 26 N.J.R. 4874(a), 27 N.J.R. 894(a).

Amended by R.1998 d.136, effective March 16, 1998.

See: 30 N.J.R. 4(a), 30 N.J.R. 1038(a).

In (b)9, added xii.

Amended by R.1998 d.332, effective July 6, 1998.

See: 30 N.J.R. 1377(a), 30 N.J.R. 2421(b).

Rewrote the section.

Amended by R.2001 d.340, effective September 17, 2001.

See: 33 N.J.R. 1245(a), 33 N.J.R. 3308(b).

Rewrote the section.

Amended by R.2002 d.393, effective December 16, 2002.

See: 34 N.J.R. 2914(a), 34 N.J.R. 4428(a).

In (b)8, deleted former (ii) and recodified existing (iii) to (ix) as (ii) to (viii).

Amended by R.2005 d.35, effective January 18, 2005.

See: 36 N.J.R. 3329(b), 37 N.J.R. 267(a).

Rewrote the section.

Administrative correction.

See: 37 N.J.R. 885(a).

Amended by R.2005 d.341, effective October 17, 2005.

See: 37 N.J.R. 164(a), 37 N.J.R. 3974(b).

In (b)3iv, added "and add the following sentence at the end: 'Minimum earth cover for building sewers connected to a private sewage disposal system shall be 6 inches.'" at the end of the paragraph.

Amended by R.2007 d.65, effective February 20, 2007.

See: 38 N.J.R. 3348(a), 39 N.J.R. 633(a).

Rewrote the section.

#### Case Notes

Statute providing that only licensed master plumbers could be plumbing contractors was unconstitutional. *Mechanical Contractors Ass'n of New Jersey, Inc. v. State*, 255 N.J.Super. 488, 605 A.2d 743 (A.D.1992).

#### 5:23-3.16 Electrical subcode

(a) Rules concerning the subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c. 217, as modified by P.L. 1996, c.53, the Commissioner hereby adopts the model code of the National Fire Protection Association, known as "The National Electrical Code 2005" as the electrical subcode for New Jersey.

i. Copies of this code may be obtained from the sponsors at NFPA, One Batterymarch Park, Quincy, Massachusetts 02269.

2. The National Electrical Code 2005 may be known and cited as "the electrical subcode."

i. Codes and standards referenced in the Fine Print Notes (FPNs) of the electrical subcode (NEC 2005) shall be considered adopted by reference to the extent prescribed by each related section. These codes and standards also are printed in DCA Bulletin #06-2, which

contains a list of adopted codes and standards that are applicable to the enforcement of the electrical subcode.

3. The Commissioner hereby adopts the National Electrical Safety Code (ANSI C2-2002) for the installation of area lighting facilities by an electric utility on private property on metal poles with an underground electric feed.

i. Copies of the National Electrical Safety Code may be obtained from the Institute of Electrical and Electronic Engineers, Inc., PO Box 1331, 445 Hoes Lane, Piscataway, New Jersey 08855-1331.

(b) The following chapters or articles of the electrical subcode are amended as follows:

1. Article 90 of the electrical subcode, entitled "Introduction," is amended as follows:

i. Section 90.4, entitled "Enforcement," is amended to delete in the first paragraph the phrase, "authority having jurisdiction for enforcement of the code" and substitute in lieu thereof, the term "electrical subcode official." And add a new last sentence in the first paragraph: "Approval shall be in accordance with N.J.A.C. 5:23-2.9." Delete in the second paragraph the phrase "authority having jurisdiction" and substitute in lieu thereof the term "electrical subcode official" and add after "effective safety" the phrase "as provided in N.J.A.C. 5:23-2.9." Delete in the third paragraph the phrase "authority having jurisdiction" and substitute in lieu thereof the term "electrical subcode official" and delete the phrase "by the jurisdiction" after the word "adopted."

ii. Section 90.5, entitled "Mandatory Rules, Permissive Rules, and Explanatory Material," is amended to add "except as outlined under N.J.A.C. 5:23-3.16(a)2i" after the word "Code" in line 6 under paragraph (C).

2. Chapter 1 of the electrical subcode, Article 100, entitled "Definitions," is amended as follows:

i. The definition of the term "approved" is amended to delete the phrase "the authority having jurisdiction" and substitute in lieu thereof, the phrase "electrical subcode official. Approval shall be in accordance with N.J.A.C. 5:23-3.7, 3.8 and 3.8A."

ii. The definition of "Authority having jurisdiction" is replaced with "Unless otherwise specifically noted, the authority having jurisdiction for the Electrical Subcode shall be the Electrical Subcode Official."

iii. The definition of the term "building" is deleted and in lieu thereof, substitute the definition of the term "building" found in N.J.A.C. 5:23-1.4".

3. Chapter 2 of the electrical subcode, entitled "Wiring and Protection," is amended as follows:

i. Section 210.12(B) of Article 210, entitled "Branch Circuits," is amended to insert the following

sentence at the end of the section, "This requirement shall be considered optional."

4. Chapter 3 of the electrical subcode, entitled "Wiring Methods and Materials," is amended as follows:

i. Section 300.4(A)(1) is amended to delete the words from "so that the edge..." on line four through "... cannot be maintained" on line six and in lieu thereof substitute "as required by the building subcode. Where the distance from the edge of the hole to the nearest edge of the wood member is less than 32 mm (1¼ inches)."

ii. Section 334.12(A)(2) is deleted in its entirety.

5. Chapter 5 of the electrical subcode, entitled "Special Occupancies," is amended as follows:

i. Sections 514.11(B) and 514.11(C) are amended to delete the phrase "authority having jurisdiction" and substitute in lieu thereof the phrase "fire protection subcode official."

ii. Part II of Article 550, entitled "Mobile Homes, Manufactured Homes, and Mobile Home Parks" comprising sections 550.11 through 550.25 is deleted. Section 550.10 shall be retained.

(1) Exception—Part II is retained in its entirety in the case of mobile/manufactured homes undergoing repair, renovation, or alteration.

(A) Section 550.25 is amended to add the following sentence at the end of the section: "This requirement shall be considered optional."

iii. In Article 551, entitled "Recreation Vehicles and Recreation Vehicle Parks," delete from the title the words "Recreational Vehicles and."

(1) Section 551.1 is amended to delete the phrase "within or on recreational vehicles" on line 4.

(2) Parts II, III, IV, and V, comprising sections 551.20 through 551.60, are deleted in their entirety, with the exception of Figure 551.46(C), which shall be retained.

iv. The following amendments are made to Article 552, entitled "Park Trailers":

(1) Parts II and III comprising sections 552.10 through 552.20 are deleted in their entirety.

(2) Part IV comprising sections 552.40 through 552.59 is deleted with the exception of sections 552.43, 552.44 and 552.47 which shall be retained.

(3) Part V is deleted in its entirety.

6. Annex G of the electrical subcode, entitled "Administration and Enforcement," is deleted in its entirety.

7. Chapter 6 of the electrical subcode, entitled "Special Equipment," is amended as follows:

i. Section 680.26(C), entitled "Equipotential Bonding Grid," is amended to add the phrase "conform to the contours of the pool and shall" before the word "extend" and to add the words "within or" after the word "extend" in the first paragraph. Insert the following paragraph immediately following the first paragraph: "Exception: The equipotential bonding grid shall not be required to be installed under the bottom of or vertically along the walls of vinyl lined polymer wall, fiberglass composite, or other pools constructed of nonconductive materials. Any metal parts of the pool, including metal structural supports, shall be bonded in accordance with 680.26(B). For the purposes of this section, poured concrete, pneumatically applied (sprayed) concrete, and concrete block, with painted or plastered coatings, shall be considered conductive material."

ii. Section 680.26(C)(1), is amended to add the phrase "or deck" after the word "pool". Add a new last sentence as follows: "Where deck reinforcing steel is not an integral part of the pool, the deck reinforcing steel shall be bonded to other parts of the bonding grid using a minimum 8 AWG solid copper conductor. Connection shall be per 680.26(D)."

(c) A newly installed automatic lawn sprinkler system, where such systems are not prohibited by local ordinance, shall be equipped with an automatic rain sensor device or switch that will override the irrigation cycle of the automatic lawn sprinkler system when rainfall of more than one-half inch has occurred.

Amended by R.1981 d.132, effective May 7, 1981.

See: 13 N.J.R. 121(a), 13 N.J.R. 258(d).

Amended by R.1984 d.314, effective August 6, 1984.

See: 16 N.J.R. 1139(a), 16 N.J.R. 2084(b).

Section substantially amended.

Amended by R.1987 d.374, effective September 21, 1987.

See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).

Model subcode revisions.

Amended by R.1990 d.253, effective May 21, 1990.

See: 22 N.J.R. 909(b), 22 N.J.R. 1554(a).

Amendments to (b)4i(2), ii(2).

Administrative Correction to (b)4i(2).

See: 22 N.J.R. 2503(b).

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.

Amended by R.1993 d.662, effective December 20, 1993.

See: 25 N.J.R. 3891(a), 25 N.J.R. 5918(a).

Amended by R.1998 d.332, effective July 6, 1998.

See: 30 N.J.R. 1377(a), 30 N.J.R. 2421(b).

Rewrote the section.

Amended by R.1998 d.362, effective July 20, 1998.

See: 30 N.J.R. 1122(a), 30 N.J.R. 2644(b).

In (a), inserted a new 3.

Amended by R.2000 d.48, effective February 7, 2000.

See: 31 N.J.R. 2317(a), 32 N.J.R. 445(a).

In (a), substituted references to 1999 for references to 1996 throughout, substituted a reference to One Batterymarch Park for a reference to Batterymarch Park in 1i, and inserted 2i; and in (b), inserted 1ii, inserted a new 3, recodified former 3 and 4 as 4 and 5, substituted a reference to line four for a reference to line three and substituted a reference to line six for a reference to line five in the new 4i, and substituted a reference to section 500-5(a)(4) for a reference to section 500-3(a)4 in the new 5i.

Amended by R.2003 d.187, effective May 5, 2003.

See: 34 N.J.R. 4248(a), 35 N.J.R. 1939(c).

Rewrote the section.

Amended by R.2003 d.240, effective June 16, 2003.

See: 34 N.J.R. 3045(a), 35 N.J.R. 2637(c).

Added (c).

Amended by R.2006 d.158, effective May 1, 2006.

See: 37 N.J.R. 4105(a), 38 N.J.R. 1827(a).

In (a)1, (a)2 and (a)2.i, substituted "2005" for "2002"; also in (a)2.i, substituted "#06-2" for "#03-1"; in (a)3, substituted "C2-2002" for "C2-1997"; deleted (b)1 and recodified (b)2 through (b)6 as (b)1 through (b)5; in (b)4.ii, substituted "(2)" for "(1)", in (b)5iii(1), substituted "4" for "2"; in (b)5iii(2), substituted "V" for "VI" and "551.20" for "551.10"; and inserted (b)6.

Amended by R.2007 d.310, effective October 1, 2007.

See: 39 N.J.R. 135(a), 39 N.J.R. 4113(b).

Added (b)7.

#### Case Notes

Former N.J.A.C. 5:23-3.6 designated "National Electrical code of 1975" as controlling code; statute of limitations. *Brown v. Jersey Central Power and Light Co.*, 163 N.J.Super. 179 394 A.2d 397 (App.Div.1978) certification denied 79 N.J. 489 401 A.2d 244.

#### 5:23-3.17 Fire protection subcode

(a) Rules concerning the subcode adopted are as follows:

1. Pursuant to the authority of P.L. 1975, c. 217 as modified by P.L. 1996, c. 53, the Commissioner hereby adopts the following portions of the building, electrical, mechanical and fuel gas subcodes, to the extent delineated in N.J.A.C. 5:23-3.4, as the fire protection subcode for New Jersey.

i. Section M1202, Existing mechanical systems, shall be deleted in its entirety.

12. Chapter 13, General Mechanical System Requirements, shall be amended as follows:

i. In Section M1305.1.3.1, Electrical requirements, "Chapter 38" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

ii. In Section M1305.1.4.3, Electrical requirements, "Chapter 38" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

iii. Section M1307.4, Hydrogen generating and refueling operations, shall be deleted in its entirety and the following shall be inserted:

M1307.4 Hydrogen generating and refueling operations. The installation of hydrogen fuel cell systems shall be installed in accordance with the applicable requirements of the International Fire Code, the International Building Code, the International Mechanical Code and the International Fuel Gas Code.

iv. In Section 1307.5, Electrical appliances, "Chapters 33 through 42" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted at the end of the sentence.

v. Add new Section M1307.6 as follows:

M1307.6 Safety devices and controls. Oil burners, other than oil stoves with integral tanks, shall be provided with means for manually stopping the flow of oil to the burner. Such device or devices shall be placed in a readily accessible location a minimum of 10 feet from the burner. For electrically driven equipment, an identified switch in the burner supply circuit shall be provided at the entrance to the room or area where the appliance is located or, for equipment located in basements, the switch is required to be located at the top of stairs leading to the basement. An identifiable valve in the oil supply line, operable from a location a minimum of 10 feet from the burner, shall be used for other than electrically driven or controlled equipment.

13. Chapter 14, Heating and Cooling Equipment, shall be amended as follows:

i. Chapter M1401.3, Sizing, "When provided," shall be inserted at the beginning of the sentence.

ii. In Section M1405.1, General, "Chapters 33 through 42" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

iii. In Section M1406.1, General, "Chapters 33 through 42" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

iv. In Section M1406.2, Clearances, "Chapters 33 through 42" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

v. In Section M1407.1, General, "Chapters 33 through 42" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

vi. In Section M1411.3, Condensate disposal, in the first sentence, "in accordance with the plumbing subcode (N.J.A.C. 5:23-3.15)" shall be inserted after "disposal."

vii. Section M1411.3.2, Drain pipe materials and sizes, shall be deleted in its entirety.

viii. In Section M1413.2, Protection of potable water, "Section P2902" shall be deleted and "the plumbing subcode (N.J.A.C. 5:23-3.15)" shall be inserted.

14. Chapter 18, Chimney and Vents, shall be amended as follows:

i. In Section M1801.3.2, Flue passageways, in the first sentence, "free of obstructions and combustible deposits" shall be deleted and "inspected in accordance with the chimney certification program as provided for in N.J.A.C. 5:23-2.20(d)" shall be inserted.

15. Chapter 20, Boilers/Water Heaters, shall be amended as follows:

i. In Section M2004.1, General, "Chapter 28" shall be deleted and "the plumbing subcode (N.J.A.C. 5:23-3.15)" shall be inserted.

ii. In Section M2005.3, Electric water heaters, "Chapters 33 through 42" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

16. Chapter 21, Hydronic Piping, shall be amended as follows:

i. In Section M2101.2, System drain down, "Chapters 25 through 32" shall be deleted and "the plumbing subcode (N.J.A.C. 5:23-3.15)" shall be inserted.

ii. In Section M2101.3, Protection of potable water, "Section P2902" shall be deleted and "the plumbing subcode (N.J.A.C. 5:23-3.15)" shall be inserted.

17. Chapter 23, Solar Systems, shall be amended as follows:

i. In Section M2301.5, Backflow protection, "Section P2902" shall be deleted and "the plumbing subcode (N.J.A.C. 5:23-3.15)" shall be inserted.

18. Chapter 24, Fuel Gas, shall be amended as follows:

i. In Section G2402.3, Terms defined in other codes, "ICC Electrical Code, International Building Code, International Fire Code, and International Plumbing Code" shall be deleted and "electrical, building, fire protection, and plumbing subcodes" shall be inserted.

ii. Section G2403, entitled "General Definitions" shall be amended as follows:

(1) The definition of "approved" shall be deleted.

(2) The definition of "code" shall be deleted.

(3) The definition of "code official" shall be deleted and the following shall be inserted: "For the purpose of this subcode, the term 'code official' shall mean the appropriate subcode official as required by N.J.A.C. 5:23-3.4."

iii. In Section G2404.3, Listed and labeled, in the first sentence, "Section R104.11" shall be deleted and "N.J.A.C. 5:23-3.7" shall be inserted. In addition, the last sentence shall be deleted.

iv. Section G2404.5, Repair, shall be deleted in its entirety.

v. In Section G2408.1, General, the second paragraph shall be deleted in its entirety.

vi. In Section G2410.2, Connections, "Chapters 33 through 42" shall be deleted and "the Electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

vii. Section G2412.2, Liquefied petroleum gas storage, shall be amended as follows: Notwithstanding the provisions contained in NFPA 58, the installation of LP-Gas containers on roofs of buildings shall be strictly prohibited.

viii. Section G2412.3, Modifications to existing system, shall be deleted in its entirety.

ix. Section G2414.3, Other materials, shall be deleted in its entirety.

x. In Section G2425.15.2, Flue passageways, in the first sentence, "free of obstructions and combustible deposits" shall be deleted and "inspected in accordance with the chimney certification program as provided for in N.J.A.C. 5:23-2.20(d)" shall be inserted.

xi. In Section G2427.5.5, Inspection of chimneys, "examined to ascertain that it is clear and free of obstructions" shall be deleted and "inspected in accordance with the chimney certification program as provided for in N.J.A.C. 5:23-2.20(d)" shall be inserted.

xii. In Section G2448.1.1, Installation requirements, "this code" shall be deleted and "the plumbing subcode (N.J.A.C. 5:23-3.15)" shall be inserted.

xiii. In Section G2448.2, Water heaters utilized for space heating, "this code" shall be deleted and "the plumbing subcode (N.J.A.C. 5:23-3.15)" shall be inserted.

19. Chapters 25 through 32 shall be deleted in their entirety. Plumbing requirements under the scope of this subcode shall be regulated by the plumbing subcode.

20. Chapters 33 through 42 shall be deleted in their entirety. Electrical requirements under the scope of this subcode shall be regulated by the electrical subcode.

21. Chapter 43, Referenced standards, shall be amended as follows:

i. Under the subheading, NFPA, "NFPA 13D-02, Installation of Sprinkler Systems in One-and Two-Family Dwellings and Manufactured Homes; and NFPA 13R-02, Installation of Sprinkler Systems in Residential Occupancies Up To and Including Four Stories in Height" shall be inserted.

22. The Appendices shall be amended as follows:

i. Appendix A, Sizing and Capacities of Gas Piping; Appendix B, Sizing of Venting Systems Serving Appliances Equipped with Draft Hoods, Category I Appliances, and Appliances Listed for Use with Type B Vents; and Appendix C, Exit Terminals of Mechanical Draft and Direct-Vent Venting Systems are informative and are not part of the one- and two-family dwelling subcode.

ii. Appendix D, Recommended Procedure for Safety Inspection of an Existing Appliance Installation; Appendix E, Manufactured Housing Used as Dwellings; and Appendix F, Radon Control Methods, are deleted in their entirety.

iii. In Appendix G, Section AG105.1, Application, "subject to this code" shall be inserted at the end of the first sentence.

iv. Appendix G, Swimming pools, Spas and hot tubs, shall be adopted as part of this subcode and Section AG105.2, Outdoor swimming pool, Provision 9 shall be deleted in its entirety. In the same section, under Provision 10, Item 10.1 shall be deleted. In addition, Item 10.2 shall be renumbered as 10.1 and the last sentence shall be deleted. In addition, Section AG106, Entrapment protection for swimming pool and spa suction outlets, shall be deleted.

v. Appendix H, Patio Covers, and Appendix K, Sound Transmission, shall be adopted as part of this subcode.

vi. Appendix I, Private Sewage Disposal; Appendix J, Existing Buildings and Structures; Appendix L, Permit Fees; Appendix M, Home Day Care – R-3 Occupancy; Appendix N, Venting Methods; Appendix O, Gray Water Recycling Systems; Appendix P, Sprinkling; and Appendix Q, ICC International Residential Code Electrical Provisions/National Electrical Code Cross-Reference shall be deleted in their entirety.

New Rule, R.1985 d.324, effective July 1, 1985.

See: 17 N.J.R. 861(c), 17 N.J.R. 1646(a).

Amended by R.1987 d.374, effective September 21, 1987.

See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).

Model subcode revisions.

Amended by R.1988 d.388, effective August 1, 1988.

See: 20 N.J.R. 1130(a), 20 N.J.R. 2073(b).

Added (c).

Amended by R.1990 d.253, effective May 21, 1990.

See: 22 N.J.R. 909(b), 22 N.J.R. 1554(a).

References to 1989 Supplement added; (b)1ii(5), 2, 4, 8 and 9 amended; (b)5, 6 and 7 added; (c) deleted; Table R-201.2 added. Amended by R.1991 d.571, effective November 18, 1991. See: 23 N.J.R. 2619(a), 23 N.J.R. 3444(b).

Added new (c).

Amended by R.1992 d.208, effective May 18, 1992. See: 24 N.J.R. 680(a), 24 N.J.R. 1879(a).

Code provisions applicable to flood hazard zones clarified.

Amended by R.1993 d.662, effective December 20, 1993.

See: 25 N.J.R. 3891(a), 25 N.J.R. 5918(a).

Amended by R.1998 d.332, effective July 6, 1998.

See: 30 N.J.R. 1377(a), 30 N.J.R. 2421(b).

Rewrote the section.

Amended by R.2000 d.166, effective April 17, 2000.

See: 31 N.J.R. 4151(a), 32 N.J.R. 1376(a).

In (c)4, substituted "more pressure than would be exerted by backfill" for "lateral pressure from soils" following "subject to" in ii, and substituted "drainage" for "designated disposal" preceding "system" and added "according to the Unified Soil Classification System, Group I Soils" at the end of iii; and inserted (c)9iv.

Amended by R.2001 d.369, effective October 15, 2001.

See: 33 N.J.R. 2365(a), 33 N.J.R. 3674(a).

In (b), inserted "that are" following "type 5B construction", "no more" preceding "than 4,800 square feet", and substituted "seven feet" for "7 1/3 feet (2,235 mm.)".

Amended by R.2003 d.187, effective May 5, 2003.

See: 34 N.J.R. 4248(a), 35 N.J.R. 1939(c).

Rewrote the section.

Amended by R.2003 d.420, effective November 3, 2003.

See: 34 N.J.R. 4248(a), 35 N.J.R. 5073(a).

Rewrote (c).

Amended by R.2005 d.403, effective November 21, 2005.

See: 37 N.J.R. 2753(a), 37 N.J.R. 4399(b).

Rewrote (c).

Amended by R.2006 d.28, effective January 17, 2006.

See: 37 N.J.R. 2750(a), 38 N.J.R. 485(b).

Rewrote (c)15.

Administrative correction.

See: 38 N.J.R. 926(a).

Amended by R.2006 d.75, effective February 21, 2006.

See: 37 N.J.R. 3110(a), 38 N.J.R. 1183(a).

Added (c)10; recodified former (c)10-15 as (c)11-16.

Administrative correction.

See: 38 N.J.R. 1827(b).

Amended by R.2007 d.65, effective February 20, 2007.

See: 38 N.J.R. 3348(a), 39 N.J.R. 633(a).

Rewrote (a) and (c).

### 5:23-3.22 Fuel gas subcode

(a) Rules concerning the subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c. 217, the Commissioner hereby adopts the model code of the International Code Council, Inc., known as the International Fuel Gas Code/2006. This code is hereby adopted by reference as the fuel gas subcode for the State of New Jersey subject to the modifications in (b) below.

i. Copies of this code may be obtained from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795.

ii. The International Fuel Gas Code/2006 may be known and cited as the "fuel gas subcode."

2. Any references to the International Plumbing Code, ICC Electrical Code, International Energy Conservation Code or the International Existing Building Code listed in Chapter 8 shall be considered a reference to the appropriate

adopted plumbing, electrical, or energy subcode in N.J.A.C. 5:23-3 or rehabilitation subcode in N.J.A.C. 5:23-6.

3. Anywhere the term "code" appears, shall be a reference to "subcode" as defined in N.J.A.C. 5:23-1.4 for any of the adopted national model codes as appropriate.

(b) The following chapters, sections or pages of the International Fuel Gas Code/2006 shall be amended as follows:

1. Chapter 1 of the fuel gas subcode, entitled "Administration" is deleted in its entirety.

2. Chapter 2 of the fuel gas subcode, entitled "Definitions," is amended as follows:

i. In Section 201.3 delete "ICC Electrical Code, and International Plumbing Code," and insert "electrical subcode and plumbing subcode."

ii. The definition of the term "alteration" is deleted and the definition found in N.J.A.C. 5:23-1.4 is substituted;

iii. The definition of the term "approved" is deleted;

iv. The definition of the term "code" is deleted;

v. The definition of the term "code official" is deleted, and the following language is substituted: "For the purpose of the fuel gas subcode, the term "code official" shall mean the appropriate subcode official as designated in N.J.A.C. 5:23-3.4."

vi. The definition of the term "unlisted boiler" is deleted.

3. Chapter 3 of the fuel gas subcode, entitled "General Regulations," shall be amended as follows:

i. Section 301.1 is amended to delete the words "in accordance with Section 101.2."

ii. In Section 301.3, Listed and labeled, "in accordance with Section 105," shall be deleted. In addition, the second sentence shall be deleted in its entirety.

iii. Section 301.9 is deleted.

iv. Section 305.1. Delete the second paragraph in its entirety.

v. Section 307.2, Fuel-burning appliances, shall be amended to insert "drywell, sump pump, floor drain, or drainage system below floor" after "fixture."

vi. Section 307.3, Drain pipe materials and sizes, shall be deleted.

4. Chapter 4 of the fuel gas subcode, entitled "Gas Piping Installation," shall be amended as follows:

i. Section 401.2, Liquefied petroleum gas storage, shall be amended to add the following: Notwithstanding the provisions contained in NFPA 58, the installation of

LP-Gas containers on roofs of buildings shall be strictly prohibited.

ii. Add new Section 401.9 as follows:

401.9 Protection from vehicle impact. Gas meters, related regulators and piping that are installed indoors or outdoors and are subject to vehicle impact shall be protected by barriers meeting the requirements of Section 312 of the International Fire Code. For the purpose of applying this provision, "subject to vehicle impact" shall mean located within three feet of any garage door opening, driveway or designated parking area and not separated by a building wall from the space where a vehicle may be operated.

(1) Exception: If verification of the installation of an excess flow valve is provided by the gas utility, vehicle impact barriers shall not be required.

iii. Section 403.3 is deleted.

5. Chapter 5 of the fuel gas code, entitled "Chimneys and vents," shall be amended as follows:

i. In Section 501.15.2, Flue passageways, in the first sentence, "free of obstructions and combustible deposits" shall be deleted and "inspected in accordance with the chimney certification program as provided for in N.J.A.C. 5:23-2.20(d)" shall be inserted.

ii. In Section 503.5.6, Inspection of chimneys, "examined to ascertain that it is clear and free of obstructions" shall be deleted and "inspected in accordance with the chimney certification program as provided for in N.J.A.C. 5:23-2.20(d)" shall be inserted.

iii. In Section 503.5.6.1, Chimney lining, the exception shall be deleted in its entirety.

6. Chapter 6 of the fuel gas code, entitled "Specific Appliances," shall be amended as follows:

i. Section 627.10, Switches in electrical supply line, shall be deleted.

7. Chapter 8 of the fuel gas code, entitled "Referenced Standards," shall be amended as follows:

i. Under the heading "ICC," amend the following titles:

(1) Delete "ICC EC—06, ICC Electrical Code."

(2) Delete "IEBC—06, International Existing Building Code."

(3) Delete "IPC—06, International Plumbing Code."

8. Appendices A, B, and C of the fuel gas subcode are informative and are not part of the subcode itself.

9. Appendix D of the fuel gas subcode, entitled "Recommended Procedure for Safety Inspection of an Existing Appliance Installation," is deleted in its entirety.

New Rule, R.2001 d.196, effective June 18, 2001.

See: 33 N.J.R. 6(a), 33 N.J.R. 2090(a).

Administrative correction.

See: 33 N.J.R. 3310(a).

Amended by R.2004 d.468, effective December 20, 2004.

See: 36 N.J.R. 1858(b), 36 N.J.R. 5711(a).

In (b), added a new 4i and recodified existing i through ii as ii through iii.

Amended by R.2005 d.35, effective January 18, 2005.

See: 36 N.J.R. 3329(b), 37 N.J.R. 267(a).

Rewrote the section.

Administrative correction.

See: 37 N.J.R. 885(a).

Amended by R.2007 d.65, effective February 20, 2007.

See: 38 N.J.R. 3348(a), 39 N.J.R. 633(a).

Rewrote the section.

### APPENDIX 3-A

#### APPENDIX

#### NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS

#### DIVISION OF CODES AND STANDARDS

#### CODE CHANGE PROPOSAL

#### REHABILITATION SUBCODE (N.J.A.C. 5:23-6)

Proposals must be presented with language proposed for deletion in brackets [ ].

Proposals must be presented with language proposed for addition underlined:

Mail code change proposals to:	Fax code change proposals to:
Code Development Unit	Code Development Unit
Department of Community Affairs	(609) 984-7717 or
Division of Codes and Standards	(609) 633-6729
PO Box 802	
Trenton, New Jersey 08625	

Direct questions to the Code Development or Code Assistance Units at (609) 984-7609.

Section (citation) proposed for change: \_\_\_\_\_

Sections (companion changes) that might also need to be changed:

NAME: \_\_\_\_\_

ORGANIZATION (if any): \_\_\_\_\_

(g) The commissioner may, upon written application by the governing body of a municipality, temporarily waive any administrative requirement of the regulations which because of special circumstances impedes a municipality in the enforcement of the code. Any municipality seeking such a temporary waiver, shall in its written request state the nature of the problem, the relief sought and alternative measures, if any, which might meet the intent of the requirement for which such temporary waiver is sought. The commissioner may grant a hearing pursuant to the Administrative Procedures Act, if a more complete record of the case is deemed necessary.

Amended by R.1989 d.435, effective August 21, 1989.

See: 20 N.J.R. 1764(a), 21 N.J.R. 2474(a).

Deleted (e), which was "Interim Procedures" and recodified (f) "Personnel" as new (e), with no change in text. Deleted (g) "Failure to perform" and reserved subsection as (f). Recodified old (h) as (g).

Amended by R.1989 d.551, effective November 6, 1989.

See: 21 N.J.R. 2436(a), 21 N.J.R. 3460(b).

New subsection (f) added regarding departmental intervention.

Administrative Correction to (d)4.

See: 22 N.J.R. 2503(b).

Amended by R.1991 d.325, effective July 1, 1991.

See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Elevator plan review provisions added at (a)3.

Amended by R.1992 d.245, effective June 15, 1992.

See: 24 N.J.R. 1148(a), 24 N.J.R. 2244(a).

Exception for elevator safety subcode added to (a)3.

Administrative change.

See: 26 N.J.R. 5007(a).

Amended by R.1996 d.236, effective May 20, 1996 (operative January 1, 1997).

See: 27 N.J.R. 4050(a), 28 N.J.R. 2586(a).

Amended by R.1997 d.409, effective October 6, 1997.

See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

In (f)iv, changed Division for appeals.

#### Case Notes

Township of Edison v. Coleman, 239 N.J.Super. 301, 571 A.2d 312 (A.D.1990).

Citation to former N.J.A.C. 5:23-4.3 for construction official's duties; Township manager without authority over matters of code enforcement and official discipline due to State legislative preemption. J.P. Properties, Inc. v. Macy, 183 N.J.Super. 572, 444 A.2d 1131 (Law Div.1982).

Regulation required for Commissioner to order refund by municipal enforcement agencies of charges in excess of operating costs; no refund without regulation adoption. Bureau of Construction Code Enforcement v. Hasbrouck Heights, 4 N.J.A.R. 282 (1983).

Regulations govern municipal enforcement agencies. Bureau of Construction Code Enforcement v. Hasbrouck Heights, 4 N.J.A.R. 282 (1983).

#### 5:23-4.3A Enforcing agency classification

(a) Local enforcing agencies shall be classified as RCS (specialty in residential and small commercial structures), ICS (specialty in industrial and commercial structures) or HHS (specialty in high-rise/hazardous structures). The classification of the enforcing agency shall be determined by the highest class of structures for which the construction official and each subcode official in a municipality is licensed to do plan review.

(b) The classification of an enforcing agency is determined by the lowest level of inspector license held by any of the subcode officials appointed to establish such agency and by the highest level of inspector license held by the appointed construction official. In the case of subcode officials, the inspector license used to determine the classification of the agency must be in the subcode area for which that individual is appointed. Enforcing agencies shall be classified as follows:

1. Class 1 agency: The lowest level of inspector license held in accordance with N.J.A.C. 5:23-5 by the construction official or any of the subcode officials appointed to constitute the enforcing agency is an HHS inspector license.

2. Class 2 agency: The lowest level of inspector license held in accordance with N.J.A.C. 5:23-5 by the construction official or any of the subcode officials appointed to constitute the enforcing agency is an ICS inspector license.

3. Class 3 agency: The lowest level of inspector license held in accordance with N.J.A.C. 5:23-5 by the construction official or any of the subcode officials appointed to constitute the enforcing agency is an RCS inspector license.

(c) Any change in the classification of an enforcing agency shall be effective immediately upon a change in the level of licensure of any of the officials appointed to constitute the enforcement agency as described in (a) above. The ability of a municipality to accept an application for plan review shall be determined by the classification of that municipality as of the date of application. Nothing contained herein, however, shall be construed to permit any enforcement agency to continue to review plans submitted if the classification of the agency has changed so as to render the agency no longer eligible to review the plans in question.

(d) Enforcing agencies shall be permitted to perform plan review activities in accordance with the agency classification for the use groups listed in the following schedule (keyed to section 302.1 of the building subcode):

1. Class 3 agencies:

i. Group B less than 7,200 square feet, two stories, 40 feet high;

ii. Group M less than 4,800 square feet, one story, 40 feet high;

iii. Group S-1 less than 4,200 square feet, one story, 40 feet high;

iv. Group S-2 less than 7,200 square feet, two stories, 40 feet high;

v. Group R-3 as permitted in the building subcode and including accessory private garages, radio and television antennae and swimming pools;

vi. Group R-4 as permitted in the building subcode and including accessory private garages, radio and television antennae and swimming pools;

vii. Group R-5 as permitted in the building subcode and including accessory private garages, radio and television antennae and swimming pools.

2. Class 2 agencies:

i. All plan review activities permitted to class 3 officials;

ii. Group A-1 less than 4,200 square feet, one story, 40 feet high;

iii. Group A-2 less than 2,400 square feet, one story, 55 feet high;

iv. Group A-3 less than 8,400 square feet, two story, 55 feet high;

v. Group A-4 less than 9,500 square feet, two story, 55 feet high;

vi. Group A-5 less than 5,000 square feet, one story, 55 feet high;

vii. Group B less than 37,500 square feet, five story, 65 feet high;

viii. Group E less than 14,400 square feet, two story, 55 feet high;

ix. Group F-1 less than 25,000 square feet, four story, 65 feet high;

x. Group F-2 less than 37,500 square feet, five story, 65 feet high;

xi. Paint Spray Booths, section 416;

xii. Group I-1 less than 8,400 square feet, three story, 55 feet high;

xiii. Group I-2 less than 7,200 square feet, one story, 55 feet high;

xiv. Group I-3 less than 6,000 square feet, one story, 55 feet high;

xv. Group I-4 less than 13,000 square feet, three story, 55 feet high;

xvi. Group M less than 21,500 square feet, four story, 65 feet high;

xvii. Group R-1 less than 9,600 square feet, three story, 55 feet high;

xviii. Group R-2 less than 9,600 square feet, three story, 55 feet high;

xix. Group S-1 less than 26,000 square feet, four story, 65 feet high;

xx. Group S-2 less than 39,000 square feet, five story, 65 feet high;

xxi. Group U as permitted by the building subcode.

3. Class 1 agencies:

i. All plan review activities permitted to class 2 and class 3 officials;

ii. All remaining use groups and categories not reserved to the State.

4. Square foot area listed in (d)1, 2 and 3 above are per floor.

(e) Departmental plan review shall not be required for class 3 work. Departmental plan reviews prior to the issuance of a permit shall be required for class 2 work, unless the construction official and each subcode official in the municipal enforcing agency are certified at the class 2 level of certification at a minimum. Departmental plan review prior to the issuance of a permit shall be required for class 1 work until the construction official and each subcode official in the municipal enforcing agency are certified at the class 1 level of certification.

1. Reconstruction, changes of use, additions to, or the installation or alteration of fire protection systems in class 1 or class 2 buildings shall be submitted to the Department when the municipal enforcing agency is not appropriately classified as per (e) above. The Department may, at its discretion, review such plans, or may return such plans to the municipality for review.

2. If an addition would cause a building not previously classified as class 1 or class 2 to be reclassified as class 1 or 2, and the municipal enforcing agency is not appropriately classified as per (e) above, then Departmental plan review shall be required.

(f) The Department shall issue a roster of enforcing agencies and their classification upon request. Copies may be obtained by contacting the Licensing Section, Bureau of Code Services, PO Box 816, Trenton, New Jersey 08625-0816.

Amended by R.1992 d.272, effective July 6, 1992.

See: 24 N.J.R. 1446(a), 24 N.J.R. 2424(a).

Text on enforcing agency classification recodified from 3.10; new (a) added.

Amended by R.1993 d.662, effective December 20, 1993.

See: 25 N.J.R. 3891(a), 25 N.J.R. 5918(a).

Amended by R.1997 d.409, effective October 6, 1997.

See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

Amended by R.1999 d.424, effective December 6, 1999.

See: 31 N.J.R. 2428(a), 31 N.J.R. 4001(c).

Rewrote (e).

Amended by R.2001 d.127, effective April 16, 2001.

See: 33 N.J.R. 392(a), 33 N.J.R. 1195(a).

In (e), deleted "after January 1, 1981" and "as of January 1, 1977 and" in the introductory paragraph, and rewrote 1 and 2.

Amended by R.2003 d.217, effective May 19, 2003.

See: 35 N.J.R. 28(a), 35 N.J.R. 2208(a).

Rewrote (d).

Administrative correction.

See: 38 N.J.R. 4178(a).

2. The plan review fee for renovations, alterations, repairs, site construction associated with pre-engineered systems of commercial farm buildings, premanufactured construction and external utility connections for premanufactured construction shall be based upon the estimated cost of work.

i. For health care facilities in Use Groups B or I, the fee shall be \$14.00 per \$1,000 or part thereof for estimated cost not exceeding \$50,000, \$11.00 per \$1,000 or part thereof for estimated cost in excess of the first \$50,000 and not exceeding \$100,000, and \$9.00 per \$1,000 or part thereof for estimated cost in excess of the first \$100,000; and

ii. For all other buildings or structures, the fee shall be \$10.00 per \$1,000 or part thereof for estimated cost not exceeding \$50,000, \$8.00 per \$1,000 or part thereof for estimated cost in excess of the first \$50,000 and not exceeding \$100,000, and \$7.00 per \$1,000 or part thereof for estimated cost in excess of the first \$100,000.

3. The elevator device plan review fee shall be as set forth in (c)6 and 7 below.

4. There shall be an additional fee of \$45.00 per hour for review of any amendment or change to a plan that has already been released.

5. In any case where the Department conducts plan review for a local enforcing agency, the fee charged by the local enforcing agency for inspection services shall be 80 percent of the fee that would otherwise be determined under the local fee schedule.

(c) Departmental (enforcing agency) fees shall be as follows:

1. The fee for plan review shall be 20 percent of the amount to be charged for a construction permit.

i. The elevator device plan review fee shall be as in (c)6 and 7 below.

ii. The fee for plan review for Statewide prototype plans released by the Department or for other prototype plans where the prototype did not include the foundation detail shall be five percent of the amount to be charged for a construction permit.

2. The basic construction permit fee shall be the sum of the parts computed on the basis of the volume or cost of construction, the number of plumbing fixtures and pieces of equipment, the number of electrical fixtures and rating of electrical devices, the number of sprinklers, standpipes and detectors (smoke and heat) at the unit rates and/or the applicable flat fees as provided herein plus any special fees.

i. Building volume or cost: The fees for new construction or alteration are as follows:

(1) Fees for new construction shall be based upon the volume of the structure. Volume shall be computed in accordance with N.J.A.C. 5:23-2.28. The new construction fee shall be in the amount of \$0.027 per cubic foot of volume for buildings and structures of all use groups and types of construction as classified and defined in articles 3 and 4 of the building subcode; except that the fee shall be \$0.015 per cubic foot of volume for use groups A-1, A-2, A-3, A-4, A-5, F-1, F-2, S-1 and S-2, and the fee shall be \$0.0008 per cubic foot for structures on farms, including commercial farm building under N.J.A.C. 5:23-3.2(d), with the maximum fee for such structures on farms not to exceed \$1,145.

(2) Fees for renovations, alterations and repairs or site construction associated with pre-engineered systems of commercial farm buildings, premanufactured construction, and the external utility connection for premanufactured construction shall be based upon the estimated cost of work. The fee shall be in the amount of \$24.00 per \$1,000. From \$50,001 to and including \$100,000, the additional fee shall be in the amount of \$18.00 per \$1,000 of estimated cost above \$50,000. Above \$100,000, the additional fee shall be in the amount of \$15.00 per \$1,000 of estimated cost above \$100,000. For the purpose of determining estimated cost, the applicant shall submit to the Department such cost data as may be available produced by the architect or engineer of record, or by a recognized estimating firm, or by the contractor. A bona fide contractor's bid, if available, shall be submitted. The Department shall make the final decision regarding estimated cost.

(3) Fees for additions shall be computed on the same basis as for new construction for the added portion.

(4) Fees for combination renovations and additions shall be computed as the sum of the fees computed separately in accordance with items (2) and (3) above.

(5) The fee for tents, in excess of 900 square feet or more than 30 feet in any dimension, shall be \$92.00.

(6) The fee for roofing and siding work completed on structures of Group R-3 or R-5 shall be \$46.00.

(7) The fee for an above-ground swimming pool shall be \$100.00 for a pool with a surface area greater than 550 square feet; the fee in all other cases shall be \$50.00. The fee for an in-ground swimming pool shall be \$150.00 for a pool with a surface area greater than 550 square feet; the fee in all other cases shall be \$75.00.

(8) Fees for retaining walls shall be as follows:

(A) The fee for a retaining wall with a surface area greater than 550 square feet that is associated with a Class 3 residential structure shall be \$150.00;

(B) The fee for a retaining wall with a surface area of 550 square feet or less that is associated with a Class 3 residential structure shall be \$75.00;

(C) The fee for a newly constructed retaining wall of any size at other than a Class 3 residential structure shall be based on the cost of the construction.

ii. Plumbing fixtures and equipment: The fees shall be as follows:

(1) The fee shall be in the amount of \$10.00 per fixture, piece of equipment or appliance connected to the plumbing system, and for each appliance connected to the gas piping or oil piping system, except as indicated in (c)2ii(2) below.

(2) The fee shall be \$65.00 per special device for the following: grease traps, oil separators, refrigeration units, utility service connections, backflow preventers equipped with test ports (double check valve assembly, reduced pressure zone and pressure vacuum breaker backflow preventers), steam boilers, hot water boilers (excluding those for domestic water heating), active solar systems, sewer pumps and interceptors. There shall be no inspection fee charged for gas service entrances.

iii. Electrical fixtures and devices: The fee shall be as follows:

(1) For the first block consisting of one to 50 receptacles, fixtures or devices, the fee shall be \$36.00; for each additional block consisting of up to 25 receptacles, fixtures or devices, the fee shall be \$6.00. For the purpose of computing this fee, receptacles, fixtures or devices shall include lighting fixtures, wall switches, convenience receptacles, sensors, dimmers, alarm devices, smoke and heat detectors, communications outlets, light-standards eight feet or less in height including luminaries, emergency lights, electric signs, exit lights or similar electric fixtures and devices rated 20 amperes or less including motors or equipment rated less than one horsepower (hp) or one kilowatt (kw).

(2) For each motor or electrical device rated from one hp or one kw to 10 hp or 10 kw; for each transformer or generator rated from one kw or one kva to 10 kw or 10 kva; for each replacement of wiring involving one branch circuit or part thereof; for each storable pool or hydro massage bath tub; for each under-water lighting fixture; for household electric cooking equipment rated up to 16 kw; for each fire, security or burglar alarm control unit; for each recep-

tacle rated from 30 amperes to 50 amperes; for each light-standard greater than eight feet in height including luminaries; and for each communications closet, the fee shall be \$10.00.

(3) For each motor or electrical device rated from greater than 10 hp or 10 kw to 50 hp or 50 kw; for each service equipment, panel board, switch board, switch gear, motor-control-center, or disconnecting means rated 225 amperes or less; for each transformer or generator rated from greater than 10 kw or 10 kva to 45 kw or 45 kva; for each electric sign rated from greater than 20 amperes to 225 amperes including associated disconnecting means; for each receptacle rated greater than 50 amperes; and for each utility load management device, the fee shall be \$46.00.

(4) For each motor or electrical device rated from greater than 50 hp or 50 kw to 100 hp or 100 kw; for each service equipment, panel board, switch board, switch gear, motor-control-center or disconnecting means rated from greater than 225 amperes to 1,000 amperes; and for each transformer or generator rated from greater than 45 kw or 45 kva to 112.5 kw or 112.5 kva, the fee shall be \$92.00.

(5) For each motor or electrical device rated greater than 100 hp or 100 kw; for each service equipment, panel board, switch board, switch gear, motor-control-center or disconnecting means rated greater than 1,000 amperes; and for each transformer or generator rated greater than 112.5 kw or 112.5 kva, the fee shall be \$457.00.

(6) The fee charged for electrical work for each permanently installed private swimming pool as defined in the building subcode, spa, hot tub or fountain shall be a flat fee of \$46.00 which shall include any required bonding, and associated equipment such as filter pumps, motors, disconnecting means, switches, required receptacles, and heaters, etc., excepting panelboards and under-water lighting fixtures. For public swimming pools, the fee shall be charged on the basis of number of electrical fixtures and rating of electrical devices involved in accordance with (c)2iii(1) through (5) above.

(7) The fee charged for the installation of single and multiple station smoke or heat detectors and fire, burglar or security alarm systems in any one or two-family dwelling shall be a flat fee of \$23.00 per dwelling unit. For fire, burglar and security alarm systems and detectors in buildings other than one or two-family dwellings, the fee shall be charged in accordance with (c)2iii(1) and (2) above.

(8) For installations consisting of multimeter stacks, the fee shall be based on the ampere rating of the main bus and not upon the number of meters or rating of disconnects on the meter stack. Individual

Substantial changes in section.  
Correction: 16 N.J.R. 2267(a).  
Amended by R.1985 d.351, effective July 15, 1985.  
See: 17 N.J.R. 1029(a), 17 N.J.R. 1756(b).  
(c)11 and 12 added.  
Amended by R.1986 d.213, effective June 16, 1986.  
See: 17 N.J.R. 2490(a), 18 N.J.R. 1266(a).  
Added text to (a)12 "Prior to the issuance of the annual permit" and "Bureau of Construction Code Enforcement".  
Amended by R.1987 d.490, effective November 16, 1987.  
See: 19 N.J.R. 1684(a), 19 N.J.R. 2134(a).  
Fees raised.  
Emergency amendment, R.1989 d.405, effective July 3, 1989 (expires September 1, 1989).  
See: 21 N.J.R. 2127(b).  
Amended extensively based on an overall increase of approximately 30 percent in fees for code enforcement and planned real estate development, and an increase in the State training fee per cubic foot volume of new construction. Changed fee amounts throughout.  
Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989.  
See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).  
Provisions of emergency amendment R.1989 d.405 readopted with change.  
Restructured section.  
In (a): added new 5.  
In (c): deleted (c)2i(5) regarding minor construction work fees.  
In (c)2ii(2): added text to specify equipment fees and deleted (c)2ii(3) regarding fixtures.  
In (c)2iii: deleted (3)-(5) and added new (3)-(6).  
Deleted (c)3-6 regarding fees, and added (c)2iv, with new (3)-(7) on new fee structure.  
Added (c)3 and 4 and renumbered (c)7-12 as (c)3-6ii.  
Amended by R.1990 d.61, effective February 5, 1990.  
See: 21 N.J.R. 3346(b), 22 N.J.R. 351(b).  
Technical change of Form number in (c)6ii.  
Amended by R.1991 d.181, effective April 1, 1991.  
See: 23 N.J.R. 257(b), 23 N.J.R. 1029(a).  
In (b), plan review surcharge increased from 30 to 40 percent; plan review only increased from 20 to 25 percent; minimum fee increased from \$33.00 to \$43.00.  
In (c)2, basic construction fee permit increased from \$33.00 to \$43.00.  
In (c)2i(1), new construction fee increased from \$0.019 to \$0.025; for use groups A-1, A-2, A-3, A-4, F-1, F-2, S-1, S-2 increased from \$0.011 to \$0.014; farm structures increased from \$0.0005 to \$0.0007; maximum farm structures fee increased from \$815.00 to \$1,060.  
In (c)2i(2), fees increased from \$17.00 to \$22.00; from \$13.00 to \$17.00 above \$50,000; from \$11.00 to \$14.00 above \$100,000.  
In (c)2ii(1), fee increased from \$7.00 to \$9.00 per fixture.  
In (c)2ii(2), fee increased from \$46.00 to \$60.00 per special device.  
In (c)2iii(1), fee increased from \$25.00 to \$33.00 for one to 50 receptacles or fixtures; each 25 additional increased from \$4.00 to \$5.00.  
In (c)2iii(2), fee increased from \$7.00 to \$9.00.  
In (c)2iii(3), fee increased from \$33.00 to \$43.00.  
In (c)2iii(4), fee increased from \$65.00 to \$85.00.  
In (c)2iii(5), fee increased from \$325.00 to \$423.00.  
In (c)2iv(1), fee increased from \$46.00 to \$60.00 for 20 or fewer heads; from \$85.00 to \$111.00 for 21 to 100 heads; from \$163.00 to \$212.00 for 101 to 200 heads; from \$423.00 to \$550.00 for 201 to 400 heads; from \$585.00 to \$761.00 for 401 to 1,000 heads; from \$748.00 to \$972.00 for over 1,000 heads.  
In (c)2iv(2), fee increased from \$163.00 to \$212.00.  
In (c)2iv(3), fee increased from \$65.00 to \$85.00.  
In (c)2iv(4) and (5), fee increased from \$33.00 to \$43.00.  
In (c)2iv(6) and (7), fee increased from \$260.00 to \$338.00.  
In (c)4i, demolition and removal permit increased from \$46.00 to \$60.00 and for form structure removal from \$85.00 to \$111.00.  
In (c)4ii, fee for permit to construct a sign increased from \$0.85 to \$1.11 per square foot; minimum fee increased from \$33.00 to \$43.00.  
In (c)4iii, certificate of occupancy fee increased from \$85.00 to \$111.00; minimum fee for form structures increased from \$46.00 to \$60.00.  
In (c)4iv, fee increased from \$124.00 to \$161.00.

In (c)4v, fee increased from \$85.00 to \$111.00.  
In (c)4vii, fee increased from \$20.00 to \$26.00.  
In (c)4viii, fees increased from \$195.00 to \$254.00 for one and two-family homes and from \$975.00 to \$41,268 for light commercial structures.  
In (c)4ix, fees increased from \$423.00 to \$550.00 for class I structures and from \$85.00 to \$111.00 for class II and III structures. Resubmission of applications increased from \$163.00 to \$212.00 for class I structures and from \$46.00 to \$60.00 for class II and III structures.  
In (c)5iii, fees increased from \$33.00 to \$43.00 for thrice annual testing and from \$85.00 to \$111.00 for annual testing.  
In (c)6ii(1), fees increased from \$475.00 to \$618.00 for one to 25 workers and from \$165.00 to \$215.00 per worker over 25.  
In (c)6ii(2), fee increased from \$100.00 to \$130.00.  
Amended by R.1991 d.325, effective July 1, 1991.  
See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).  
Departmental fees set at (c).  
Amended by R.1992 d.147, effective April 6, 1992.  
See: 24 N.J.R. 170(a), 24 N.J.R. 1397(a).  
Elevators wholly within R-2 residences exempt.  
Notice of correction, effective May 18, 1992.  
See: 24 N.J.R. 1879(b).  
Amended by R.1992 d.230, effective June 1, 1992.  
See: 24 N.J.R. 168(a), 24 N.J.R. 2052(a).  
Form numbers changed in (c).  
Amended by R.1992 d.313, effective August 3, 1992.  
See: 24 N.J.R. 1846(a), 24 N.J.R. 2712(b).  
No inspection fee for gas service entrances.  
Amended by R.1992 d.390, effective October 5, 1992.  
See: 24 N.J.R. 1844(a), 24 N.J.R. 3515(b).  
Fee for indirect apportionment systems set at (d).  
Amended by R.1992 d.392, effective October 5, 1992.  
See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).  
Fees increased throughout.  
Amended by R.1993 d.187, effective May 3, 1993.  
See: 25 N.J.R. 624(a), 25 N.J.R. 1875(a).  
Added (c)9.  
Amended by R.1994 d.28, effective January 18, 1994.  
See: 25 N.J.R. 4546(b), 26 N.J.R. 352(a).  
Administrative correction.  
See: 26 N.J.R. 796(a).  
Amended by R.1994 d.96, effective February 22, 1994.  
See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).  
Amended by R.1994 d.323, effective July 5, 1994 (operative January 1, 1995).  
See: 25 N.J.R. 2162(a), 26 N.J.R. 2780(a).  
Amended by R.1994 d.434, effective September 6, 1994 (operative January 1, 1995).  
See: 26 N.J.R. 1911(a), 26 N.J.R. 3706(b).  
Amended by R.1995 d.381, effective July 17, 1995.  
See: 27 N.J.R. 970(a), 27 N.J.R. 2715(a).  
Amended by R.1995 d.475, effective September 5, 1995 (operative January 1, 1996).  
See: 27 N.J.R. 1716(a), 27 N.J.R. 3325(a).  
In (c)5ii(2) added individuals to be trained and registered.  
Amended by R.1995 d.476, effective September 5, 1995 (operative January 1, 1996).  
See: 27 N.J.R. 1846(a), 27 N.J.R. 3325(b).  
Eliminated minimum fee in (b) and rewrote (c).  
Amended by R.1995 d.603, effective November 20, 1995 (operative March 20, 1996).  
See: 27 N.J.R. 2655(a), 27 N.J.R. 4699(a).  
Amended by R.1995 d.647, effective December 18, 1995 (operative March 18, 1996).  
See: 27 N.J.R. 3517(a), 27 N.J.R. 5012(a).  
Amended by R.1997 d.409, effective October 6, 1997.  
See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).  
Amended by R.1998 d.35, effective January 5, 1998.  
See: 29 N.J.R. 4215(a), 30 N.J.R. 194(a).  
In (c)2.i.(1), added A-5 structures to the fee schedule.  
Amended by R.2000 d.47, effective February 7, 2000.  
See: 31 N.J.R. 2314(a), 32 N.J.R. 443(a).  
Rewrote (c).  
Amended by R.2000 d.166, effective April 17, 2000.

See: 31 N.J.R. 4151(a), 32 N.J.R. 1376(a).

In (c)3i, inserted a reference to group R-4.

Amended by R.2001 d.194, effective June 18, 2001.

See: 33 N.J.R. 1041(a), 33 N.J.R. 2097(a).

In (a)5, substituted "The construction or rehabilitation of" for "Newly constructed".

Amended by R.2001 d.347, effective October 1, 2001.

See: 32 N.J.R. 3218(a), 33 N.J.R. 3430(a).

In (c)3, inserted new vi, and recodified former vi through viii as vii through ix.

Amended by R.2002 d.6, effective January 7, 2002.

See: 33 N.J.R. 2570(a), 33 N.J.R. 3883(a), 34 N.J.R. 268(a).

In (c)5ii(2), substituted "Education Unit" for "Training Section".

Amended by R.2002 d.42, effective February 4, 2002.

See: 33 N.J.R. 3713(a), 34 N.J.R. 732(a).

In (a), added 6.

Amended by R.2002 d.260, effective August 5, 2002.

See: 34 N.J.R. 1572(a), 34 N.J.R. 2781(c).

Rewrote (b) and (c)1.

Amended by R.2004 d.67, effective February 17, 2004.

See: 35 N.J.R. 4627(a), 36 N.J.R. 949(b).

Added references to Group R-5 throughout.

Amended by R.2004 d.144, effective April 5, 2004.

See: 35 N.J.R. 4944(a), 36 N.J.R. 1753(a).

Rewrote (c)1.

Amended by R.2004 d.260, effective July 6, 2004.

See: 35 N.J.R. 3474(b), 36 N.J.R. 3274(a).

In (c)3, rewrote ii.

Amended by R.2005 d.446, effective December 19, 2005.

See: 37 N.J.R. 2747(a), 37 N.J.R. 4907(a).

In (c), added 2i(8).

Amended by R.2006 d.355, effective October 2, 2006.

See: 38 N.J.R. 1789(a), 38 N.J.R. 4175(a).

Added (e).

Amended by R.2007 d.231, effective August 6, 2007.

See: 39 N.J.R. 722(a), 39 N.J.R. 3295(a).

In (c)2iii(10), deleted "in accordance with (c)2iii(2) through 5 above" and inserted "as follows:"; and added (c)2iii(10)(A) through (c)2iii(10)(C) and (c)2iii(13).

#### **5:23-4.21 Private enforcing agency authorization and reauthorization fees**

(a) Authorization fee: Any onsite inspection agency submitting an application to the Department under N.J.A.C. 5:23-4.12 for approval as an inspection agency shall pay a fee of \$2,800 for each subcode for which authorization is sought.

(b) Reauthorization fee:

1. Any onsite inspection agency submitting an application to the Department under N.J.A.C. 5:23-4.12 for re-approval as an inspection agency shall pay a fee of \$1,400 for each subcode for which authorization is sought plus an amount equal to two percent of the gross revenue earned from State Uniform Construction Code enforcement activities during the previous 12-month period.

i. The fee of \$1,400 per subcode plus two percent of gross revenue earned from State Uniform Construction Code enforcement activities shall be applicable to all applications for authorization or reauthorization required to be filed on or after November 1, 2005.

2. The fee shall be paid to the Department in 12 equal installments, beginning with the month immediately following the end of the 12-month period for which the fee is

calculated. Payment shall be made prior to the last business day of each month.

Amended by R.1984 d.260, effective July 2, 1984.

See: 16 N.J.R. 3(a), 16 N.J.R. 1714(e).

Section substantially amended.

Amended by R.1985 d.353, effective July 15, 1985.

See: 17 N.J.R. 1032(a), 17 N.J.R. 1758(b).

(b)1: substantially amended.

Public Notice: Notice of Petition to amend section.

See: 17 N.J.R. 2688(a).

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text on inplant inspection agencies deleted.

Amended by R.1991 d.181, effective April 1, 1991.

See: 23 N.J.R. 257(b), 23 N.J.R. 1029(a).

In (a), authorization fee increased from \$2,000 to \$2,600. In (b), reauthorization fee increased from \$1,000 to \$1,300.

Amended by R.1992 d.392, effective October 5, 1992.

See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).

Fees increased.

Amended by R.2006 d.207, effective June 5, 2006.

See: 38 N.J.R. 1121(a), 38 N.J.R. 2418(a).

In (b), added the designations for 1 and 2; in (b)1, substituted "two" for "five" and inserted (i).

#### **5:23-4.22 (Reserved)**

Amended by R.1984 d.481, effective November 5, 1984.

See: 16 N.J.R. 2031(a), 16 N.J.R. 3006(a).

Amended by R.1986 d.142, effective May 5, 1986.

See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

Substantially amended.

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Modular unit fee of \$100.00 deleted; title changed.

Amended by R.1991 d.181, effective April 1, 1991.

See: 23 N.J.R. 257(b), 23 N.J.R. 1029(a).

In (a) and (b), insignia fee increased from \$50.00 to \$65.00.

Amended by R.1992 d.392, effective October 5, 1992.

See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).

Fees increased.

Repealed by R.1994 d.96, effective February 22, 1994.

See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

Section was "Building element and manufactured home add-on unit insignia of certification fees".

#### **5:23-4.23 Payment of fees**

(a) All fees paid to the Department under the regulations shall be nonrefundable except as otherwise specifically set forth in the regulations. All fees shall be paid by check or money order, payable to the "Treasurer, State of New Jersey".

#### **5:23-4.24 Plan review by the Department of Community Affairs**

(a) There is established in the Department of Community Affairs, Division of Codes and Standards, a Bureau of Construction Projects Review, hereinafter "the plan review bureau." The plan review bureau shall review plans, applications and specifications submitted to the Department in its enforcing agency capacity, and as further required or permitted by this section.

(b) Plan review:

1. Plan review shall be required for all uses except as may be otherwise provided in the regulations whenever the

department acts as an enforcing agency in any municipality.

2. Special or hazardous uses and types of construction:

i. N.J.A.C. 5:23-3 divides all construction into three classes according to its 'complexity and potential hazard to the public health and safety. N.J.A.C. 5:23-5 provides for three levels of subcode official certification which correspond to the three classes in N.J.A.C. 5:23-5.

ii. For class 1, department plan review and release shall be required on the effective date of the regulations prior to the issuance of a construction permit unless the construction official and each appropriate subcode official in the municipal enforcing agency is certified by the commissioner as a class one construction official or subcode official.

iii. For class two, department plan review and release shall be required after January 1, 1981, prior to the issuance of a construction permit unless the construction official and each appropriate subcode official in the municipal enforcing agency is certified by the commissioner as a class one or class two construction official or subcode official.

iv. For class three, departmental plan review shall not be required except when the department acts as the enforcing agency.

v. Installations of elevators, escalators, and moving walks, except devices in structures of Group R-3, R-4, or R-5 and those devices in structures of Group R-2 that are

otherwise exempted in N.J.A.C. 5:23-3.11(b), shall require Departmental plan review and release.

3. Premanufactured construction: Department plan review and release shall be required for all modular construction other than those authorized to be approved by an inplant inspection agency as provided in N.J.A.C. 5:23-4A.10.

(c) The plan review bureau shall review all applications, plans and specifications for conformance to the regulations.

(d) Plans reviewed by the Department that are judged to be in conformance with the regulations shall be stamped with the word "released" and signed and dated by the reviewing official of the Department.

(e) All plans submitted, and any amendments thereto, accompanied by the required fee, shall be numbered, docketed, and examined promptly after their submission for compliance with the regulations. In the case of plans submitted by an architect or engineer bearing his or her signature, registration number, and seal, plan examination may, except for compliance with exit requirements, be limited to a supervisory check.

(f) If the Department judges a plan not to be in conformance with the regulations, it shall notify the applicant in writing of the reason for rejection.

(g) The Department shall provide such technical assistance to the applicant as may be appropriate pursuant to the regulations.

(h) The municipal enforcing agency shall perform all field inspections required by the regulations, except that the Department shall have the right to perform partial or complete field inspection services for any project for which it has released plans.

Amended by R.1986 d.142, effective May 5, 1986.  
See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

(a)iii added.

Amended by R.1990 d.313, effective June 18, 1990.  
See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Reference to subchapter 4A added at (a)2iii.

Amended by R.1991 d.325, effective July 1, 1991.  
See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Text added at (a)2i(5).

Amended by R.1992 d.147, effective April 6, 1992.  
See: 24 N.J.R. 170(a), 24 N.J.R. 1397(a).

Elevators wholly within R-2 residences exempt.

Amended by R.1994 d.96, effective February 22, 1994.  
See: 26 N.J.R. 1073(a).

Amended by R.1997 d.409, effective October 6, 1997.  
See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

Deleted (a) and (b); recodified (a)1 as (a), (a)2 as (b), and (b)1 through 6 as (c) through (h); in (a), amended agencies referenced, in (a) through (h), deleted titling of subsections; and in (h), substituted "Department shall have the right" for "department deserves the right".

Amended by R.2004 d.67, effective February 17, 2004.  
See: 35 N.J.R. 4627(a), 36 N.J.R. 949(b).

In (b)2v, added R-5 to the list of groups.

#### 5:23-4.25 (Reserved)

Amended by R.1986 d.142, effective May 5, 1986.  
See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

Subsections (b) and (r) recodified as 4.26 through 4.38.

Repealed by R.1990 d.313, effective June 18, 1990.  
See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

#### 5:23-4.26 Certification of building elements

(a) Building elements shall be certified in accordance with the following provisions:

1. Building elements, such as fire walls, fire separation walls, wall panels, pre-stressed/prefabricated floor or roof panels and pre-engineered structural frames, built in accordance with the New Jersey Uniform Construction Code, may be approved by any of the following options:

i. Approval for both design and construction by a nationally recognized laboratory or a product certification agency. The local municipal subcode official has the authority to accept such approvals based on the evidence, test and/or documentation presented to him or her.

ii. Approval for both design and construction by a professional engineer licensed either in the State of New Jersey or in the state of manufacture. The local municipal subcode official has the authority to accept such approvals based on the evidence, of test and/or documentation presented to him or her.

Amended by R.1986 d.142, effective May 5, 1986.  
See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

Recodified from 4.25(b) and substantially amended.  
Amended by R.1990 d.313, effective June 18, 1990.  
See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text at (a), (a)1, (a)2, (b) and (c) deleted; stylistic revisions.  
Amended by R.1994 d.96, effective February 22, 1994.

See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

Amended by R.2005 d.403, effective November 21, 2005.

See: 37 N.J.R. 2753(a), 37 N.J.R. 4399(b).

In (a)1, deleted "trusses," preceding "fire walls."

#### 5:23-4.27 (Reserved)

Amended by R.1986 d.142, effective May 5, 1986.  
See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

Recodified from 4.25(c) and substantially amended.  
Repealed by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

#### 5:23-4.28 (Reserved)

Amended by R.1986 d.142, effective May 5, 1986.  
See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

Recodified from 4.25(d) and substantially amended.  
Repealed by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

#### 5:23-4.29 (Reserved)

Amended by R.1986 d.142, effective May 5, 1986.  
See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

Recodified from 4.25(e) and substantially amended.  
Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text at (a)1, 2, 3, 5, (b)1, and (c) through (g) deleted; references to premanufactured system deleted and references to manufactured home add-on units and building elements added.

Repealed by R.1994 d.96, effective February 22, 1994.

See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

Section was "Approval of premanufactured systems documentation".

#### 5:23-4.30 (Reserved)

Amended by R.1986 d.142, effective May 5, 1986.  
See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

Recodified from 4.25(h)-(j) and substantially amended.  
Repealed by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

#### 5:23-4.31 (Reserved)

Amended by R.1986 d.142, effective May 5, 1986.  
See: 17 N.J.R. 1169(a), 17 N.J.R. 945(a).

Recodified from 4.25(k) and substantially amended.  
Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text at (a) through (e) and (f)1, 2 and 4 deleted.

Repealed by R.1994 d.96, effective February 22, 1994.

See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

Section was "Insignia of certification for manufactured home add-on unit and building element".

#### 5:23-4.32 (Reserved)

Amended by R.1986 d.142, effective May 5, 1986.  
See: 17 N.J.R. 1169(a), 17 N.J.R. 945(a).

Recodified from 4.25(l) and substantially amended.  
Repealed by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

**5:23-4.33 (Reserved)**

Amended by R.1986 d.142, effective May 5, 1986.  
See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

Recodified from 4.25(m) and substantially amended.  
Repealed by R.1990 d.313, effective June 18, 1990.  
See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

agency intern positions while registered with the Department may use the intern experience toward satisfying the experience requirement for licensure.

iii. The period of intern experience begins at the time a person is hired as a registered intern by an authorized agency.

4. The following conditions apply to work performed by interns:

i. Interns may perform all inspections allowed for a trainee as described in (d)5i and ii above.

ii. In addition, with the written approval of an intern's supervisor, the intern may perform the following types of inspections without the supervisor being present during the inspection:

(1) Reinspections of previously failed documented inspections for one and two family dwellings;

(2) Footing inspections as described in N.J.A.C. 5:23-2.18(b)1i(1) for one and two family dwellings (building inspector interns with written approval of their supervisors only).

iii. An intern shall not act as a subcode or construction official nor sign any permits, stickers, approved plans or inspection reports, except as permitted in (e)4i and ii above.

5. The supervisor of the intern must possess a valid code enforcement license in the same subcode as the registered intern working under his or her supervision.

i. A qualified licensed inspector shall not supervise more than one intern.

ii. Failure of a supervisor to properly oversee a registered intern in accordance with the provisions of this subsection may result in disciplinary action against the supervisor.

iii. The supervisor must complete the quarterly reports and keep a written file on the progress of the intern. This file must include written authorization to perform inspections as listed in N.J.A.C. 5:23-5.4(e) 4. At the end of one year of full time internship, the supervisor shall forward notice to the Department of Community Affairs, Bureau of Code Services, Licensing Unit of successful completion of the internship. If the internship is not for a full year, or is part time, that time may also be documented.

6. To remain employed by an enforcing agency, an intern must pass the appropriate module(s) of the National Certification Test in his or her specific code area within one year of the effective date of employment.

(f) Effective November 6, 2008, special inspectors shall be certified in accordance with the administrative provisions of the Uniform Construction Code. No person shall act as a

special inspector to enforce any provision of the building subcode for which this chapter has established a certification requirement unless that person has received the certification required by these rules for that specialty.

(g) Violations:

1. It shall be a violation of these regulations for any construction or subcode official or technical inspector to represent himself or herself to be qualified for a position that the person does not currently hold, or to use a title or otherwise represent himself to be qualified for a position that the person does not currently hold, or to use a title or otherwise represent himself as licensed or authorized to act under the code if that person does not possess the required license. In addition to any other remedy available under law, such shall be deemed a violation of this section subject to penalty of not more than \$500.00 for each offense.

2. It shall be a violation of these rules for any person to hold or perform the duties of an office for which a license is required herein, or for any person to represent himself or herself as qualified for such position, or to use any title or otherwise represent himself or herself as licensed or authorized to act under the code if the person does not possess that license. In addition to any other remedy available under law, such action shall be deemed a violation of this section and subject to a penalty of not more than \$500.00 for each offense.

3. It shall be a violation of these rules in the case of construction and subcode officials and technical inspectors for any enforcing agency, including private on-site inspection and plan review agencies, to offer employment to or to retain for employment any person who is not licensed in accordance with these rules if such person has not been previously and continuously employed by such agency. Further, it shall be a violation of these rules for an enforcing agency to continue an individual in employment in a position for which a license is required pursuant to these rules, or to hire an individual for such a position, if such person is not licensed in accordance with this subchapter. Violation of this section shall be deemed a failure to perform within the meaning of N.J.A.C. 5:23-4.3(f), and the Department may exercise the remedies provided therein.

4. It shall be a violation of the State Uniform Construction Code Act for any agency of the State of New Jersey, which is charged with enforcing agency responsibilities pursuant to the act or these rules, to fail to comply with paragraphs 1, 2 and 3 of this subsection.

Amended by R.1984 d.494, effective November 5, 1984.  
See: 16 N.J.R. 1643(a), 16 N.J.R. 3007(a).

(d) substantially amended.

Amended by R.1985 d.85, effective March 4, 1985.

See: 16 N.J.R. 3372(a), 17 N.J.R. 579(a).

(d) amended.

Amended by R.1985 d.231, effective May 20, 1985.

See: 17 N.J.R. 341(a), 17 N.J.R. 1258(a).

(d)1i added.

Amended by R.1985 d.353, effective July 15, 1985.

See: 17 N.J.R. 1032(a), 17 N.J.R. 1758(b).

Subsection (d) substantially amended.

Amended by R.1985 d.612, effective January 6, 1986.

See: 17 N.J.R. 1821(a), 18 N.J.R. 80(a).

(d)3 substantially amended.

Amended by R.1987 d.509, effective December 7, 1987.

See: 19 N.J.R. 1264(a), 19 N.J.R. 2270(a).

Substantially amended.

Administrative Corrections to (c), (d)2 and (d)2ii.

See: 22 N.J.R. 2503(b).

Amended by R.1992 d.272, effective July 6, 1992.

See: 24 N.J.R. 1446(a), 24 N.J.R. 2424(a).

Trainee registration required; processing fee raised to \$20.00; "directly" broadened to "significant".

Amended by R.1992 d.292, effective July 20, 1992.

See: 24 N.J.R. 1669(b), 24 N.J.R. 2557(a).

Provision to license interns added.

Amended by R.1993 d.105, effective March 1, 1993.

See: 24 N.J.R. 4309(a), 25 N.J.R. 920(b).

Added subsection (g).

Amended by R.1997 d.409, effective October 6, 1997.

See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

Amended internal citations throughout; in (a) and (b), deleted October 1, 1978 trigger date; in (f)3, inserted ", or to hire an individual for such a position."; and deleted (g), relating to interim rules.

Amended by R.2006 d.381, effective November 6, 2006.

See: 38 N.J.R. 35(a), 38 N.J.R. 4691(a).

Added new (f); and recodified former (f) as (g).

Emergency amendment, R.2007 d.362, effective October 25, 2007 (to expire December 24, 2007).

See: 39 N.J.R. 4958(a).

In (f), substituted "2008" for "2007".

### 5:23-5.5 General license requirements

(a) A candidate for a license of any type issued pursuant to this subchapter shall submit an application to the Licensing Unit, Bureau of Code Services, accompanied by the required nonrefundable application fee established in N.J.A.C. 5:23-5.22. The application shall include such information and documentation as the Commissioner may require pursuant to this subchapter.

(b) After receipt of the required nonrefundable fee, the Department shall determine, by examination of the application and review of supporting documents, including substantial evidence of acceptable experience, successful test results, training and/or education submitted, whether an applicant is qualified for a license of the type and specialty for which the application has been made. If the application is satisfactory, the Commissioner shall issue a license to the applicant. This license will show that the person has met the established requirements and is eligible to be employed in this State in accordance with the provisions of this chapter.

1. The Commissioner may deny or refuse to issue a license to an applicant if the application is incomplete or upon proof that there has been any act or omission which would constitute grounds for revocation under this subchapter.

2. Upon receipt of an incomplete application, the non-refundable application fee shall be collected and a letter of

acknowledgment forwarded to the applicant setting forth the manner in which the application is incomplete.

3. The applicant shall submit a complete application within 18 months of receipt of the letter of acknowledgment. If a complete application is not submitted within the 18 month period, the application shall be deemed abandoned, no further action shall be taken on it by the Department and a new application and non-refundable fee shall be required if the applicant desires to reapply.

4. Only test results for test modules passed within three years prior to, or at the time of, application shall be accepted toward fulfilling the requirement for the license sought.

5. Only those approved courses completed within a five-year period immediately preceding the time of application for a license shall be considered acceptable toward fulfilling the requirements for the technical or administrative license sought.

i. Persons who have completed an approved course shall be eligible for tuition reimbursement when funds for such reimbursement are available; provided, however, that persons who repeat a course for any reason, and have previously received tuition reimbursement for the course, shall not again be eligible for reimbursement for that course.

6. No credit shall be given by the Department for any experience not involving the construction or alteration of buildings, or its equivalent, as determined by the Department.

7. No credit shall be given by the Department for any journeyman experience unless documentation of the completion of a formal or informal apprenticeship program, or its equivalent, as determined by the Department, is provided. In general, the Department makes reference to the U.S. Department of Labor's National Apprenticeship Program for assigning the length of time required to complete an apprenticeship program in a given trade.

8. Credit for part-time work experience shall be given by the Department on a proportional basis. The Department has established a 35-hour work-week as the standard full time equivalent. No additional credit will be given for hours in excess of 35 per week, regardless of any amount of overtime which an applicant claims to have worked.

(c) A person licensed by the Department on the basis of having had a license, tenure or permanent civil service status prior to January 1, 1978 who subsequently loses his or her license as a result of revocation or of failure to renew within three years of lapsing must reapply for licensure under the requirements in effect at the time of reapplication.

## (d) Special provisions:

1. An applicant who is licensed as a building inspector, electrical inspector, fire protection inspector or plumbing inspector shall be eligible for licensure as an inspector at the same level or lower in any other subcode, other than the elevator safety subcode or a State-jurisdiction subcode, upon satisfactory completion of the approved educational program, if applicable, and the examination for licensure as an inspector in that other subcode, provided that the applicant has at least the number of years experience required for that other subcode inspector's license.

2. An applicant licensed as an inspector may apply for a mechanical inspector's license to perform mechanical inspections in structures of Group R-3 or R-5.

3. An applicant who is licensed as an elevator inspector and who holds valid certification by the National Association of Amusement Ride Safety Officials (NAARSO) as a Level I (Basic) Inspector shall be eligible to be licensed as an amusement ride inspector I.C.S.

Amended by R.1981 d.462, effective December 7, 1981.

See: 13 N.J.R. 390(a), 13 N.J.R. 885(d).

(b)9 through 9ii added.

Amended by R.1981 d.463, effective December 7, 1981.

See: 13 N.J.R. 635(a), 13 N.J.R. 886(c).

(c) added "no credit shall be given ... building".

Amended by R.1982 d.8, effective February 1, 1982.

See: 13 N.J.R. 799(b), 14 N.J.R. 143(a).

(b)liii and v: "such" added after "provided that"; "24" was "12"; and deleted "and further provided that's"; (b)5iii(3) deleted.

Amended by R.1982 d.19, effective February 1, 1982.

See: 13 N.J.R. 801(a), 14 N.J.R. 143(b).

(b) Substantially amended.

(c) "and" added between "application" and "review"; "alternative" deleted before "experience"; "pursuant to ... N.J.A.C. 5:23-5.9" deleted.

Amended by R.1982 d.56, effective March 1, 1982.

See: 14 N.J.R. 8(a), 14 N.J.R. 237(a).

(b)li: added "provided ... 52:27D-126(b);".

Amended by R.1983 d.641, effective January 17, 1984.

See: 15 N.J.R. 1911(a), 16 N.J.R. 129(b).

Substantially amended.

Amended by R.1984 d.425, effective October 1, 1984.

See: 16 N.J.R. 1644(a), 16 N.J.R. 2520(b).

Section substantially amended.

Amended by R.1985 d. 612, effective January 6, 1986.

See: 17 N.J.R. 1821(a), 18 N.J.R. 80(a).

Substantially amended.

Amended by R.1986 d.255, effective July 7, 1986.

See: 18 N.J.R. 594(a), 18 N.J.R. 1373(a).

Deleted "satisfies the experience requirements for licensure" and substituted "is licensed" in (d)5.

Amended by R.1987 d.509, effective December 7, 1987.

See: 19 N.J.R. 1264(a), 19 N.J.R. 2270(a).

Substantially amended.

Administrative Correction to (a).

See: 22 N.J.R. 2503(b).

Amended by R.1991 d.325, effective July 1, 1991.

See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Test result and licensure requirements specified further at (b)4 and (c)3.

Amended by R.1992 d.272, effective July 6, 1992.

See: 24 N.J.R. 1446(a), 24 N.J.R. 2424(a).

Work week set at 35 hours; (d)1-4 deleted.

Amended by R.1993 d.105, effective March 1, 1993.

See: 24 N.J.R. 4309(a), 25 N.J.R. 920(b).

Persons serving as elevator inspectors when licensing rules proposed have an opportunity to qualify for licenses.

Amended by R.1993 d.187, effective May 3, 1993.

See: 25 N.J.R. 624(a), 25 N.J.R. 1875(a).

Added (d)2.

Administrative correction.

See: 26 N.J.R. 1495(a).

Amended by R.1996 d.53, effective February 5, 1996.

See: 27 N.J.R. 4056(a), 28 N.J.R. 815(b).

Amended by R.1996 d.544, effective December 2, 1996 (operative February 1, 1997).

See: 28 N.J.R. 3996(a), 28 N.J.R. 5071(a).

Amended by R.1997 d.409, effective October 6, 1997.

See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

In (b)4, deleted exception for tests taken prior to July 1, 1991; and substantially amended (c).

Amended by R.2001 d.303, effective September 4, 2001.

See: 33 N.J.R. 1991(a), 33 N.J.R. 2989(a).

In (d)1, inserted "or a State-jurisdiction subcode" following "safety subcode"; added (d)3.

Amended by R.2004 d.67, effective February 17, 2004.

See: 35 N.J.R. 4627(a), 36 N.J.R. 949(b).

In (d)2, substituted "mechanical inspections in structures of Group R-3 or R-5" for "mechanical inspections of Use Group R-3 or R-4 structures".

**5:23-5.6 Construction official requirements**

(a) A candidate for a license as a construction official shall meet the following qualifications:

1. Possession of the qualifications established for at least one of the following subcode official licenses: building, fire protection, electrical, plumbing or elevator; provided, however, that any person qualified as a fire protection subcode official must also have experience for the applicable period of time specified by N.J.S.A. 52:27D-126b; and

Total Parking Spaces	Required Accessible Parking Spaces	Capacity of Seating	Accessible Seating
101-150	5	4-25	1
151-200	6	26-50	2
201-300	7	51-300	4
301-400	8	301-500	6
401-500	9	over 500	6 plus 1 for each 100 over 500
501-1,000	Two percent of total		
1,001+	20 plus 1 for each 100 over 1,000		

(d) For buildings of Group R-2, R-3, R-4, or R-5 that contain adaptable or accessible dwelling units, two percent of the parking spaces serving the units shall be accessible.

1. Where additional parking spaces or parking lots are provided for visitors, the number of required accessible parking spaces shall comply with the table at (c) above.

(e) For medical outpatient facilities, 10 percent of the parking spaces shall be accessible.

1. Exception: For medical facilities that specialize in the treatment of or services for people with mobility impairments, 20 percent of the parking spaces shall be accessible.

New Rule, R.2007 d.144, effective May 7, 2007.  
See: 38 N.J.R. 4962(a), 39 N.J.R. 1683(a).

Former N.J.A.C. 5:23-7.10, Requirements applicable to specific non-residential Groups and Group R-1, recodified to N.J.A.C. 5:23-7.11.

**5:23-7.11 Requirements applicable to specific nonresidential Groups and Group R-1**

(a) Occupancies of Group A shall be accessible as follows:

1. Where services and facilities are provided in areas that are not required to be accessible, the same services and facilities shall be provided in an accessible area and shall be accessible.

2. In dining areas of occupancies of Use Groups A-2 and A-3, the total floor area allotted for seating and tables shall be accessible, except as follows:

i. Where fixed or built-in seats and tables are provided, at least five percent, but not fewer than one, of the seats and tables shall be accessible. Where more than one accessible seat and table is provided, they shall be dispersed.

ii. In buildings without elevators, an accessible route to a raised or lowered dining area of less than 3,000 square feet is not required provided that the raised or lowered dining area contains less than 25 percent of the total dining area and the same services are available on the accessible level.

3. Accessible spaces for wheelchairs shall be provided in each assembly area in accordance with the following table.

4. In buildings or portions of buildings of Use Group A-1, Use Group A-3, or Use Group A-5, where fixed seats are provided on more than one viewing level, accessible spaces for wheelchairs shall be provided on more than one viewing level.

i. The accessible seating shall be integrated with inaccessible seats.

ii. Where five or more accessible seats are required, the accessible seating shall be integrated and dispersed throughout all classes of seats.

5. In buildings or portions of buildings of Use Group A-1 or Use Group A-5, including stadiums, sports arenas, or other facilities where fixed seating is provided and spectators are likely to stand in place, a line of sight shall be provided over standing spectators.

6. Pursuant to N.J.A.C. 5:23-7.9(b)1, when necessary to provide a line of sight, a platform lift may be part of an accessible route.

7. Four percent of the seats, but not fewer than two seats, in stadiums, in theaters, auditoriums, or lecture halls that have fixed seating and audio-amplification systems or that have an occupant load of 50 or more persons shall have permanently installed assistive listening system.

8. Assembly areas that are not equipped with audio-amplification devices or that have an occupant load of fewer than 50 persons shall have either a permanently installed assistive listening system or an adequate number of electrical outlets or other supplementary wiring to support a portable assistive listening system, which shall be available to patrons.

i. Where this alternative is selected, signage shall be provided to notify patrons of the availability of a listening system.

(b) Occupancies of Group I shall be accessible as follows:

1. All public or common use facilities, including employee areas, shall be accessible.

2. Accessible bedrooms shall be distributed among all types of patient care areas and all types and classes of bedrooms.

3. In residential health care facilities of Group I-1 that are licensed by the Department of Health and Senior Services, and in buildings or portions thereof of Group I-1 used as boarding homes, four percent or fraction thereof

(rounded to the next higher whole number) of the resident bedrooms, including toilet or bathing facilities that serve these bedrooms, shall be accessible.

4. In buildings or portions thereof of Use Group I-2, including hospitals licensed by the Department of Health and Senior Services, 10 percent or fraction thereof (rounded to the next higher whole number), of the patient bedrooms, including toilet and bathing facilities that serve a patient bedroom, shall be accessible.

i. In nursing homes or portions thereof of Use Group I-2 licensed by the Department of Health and Senior Services, 50 percent or fraction thereof (rounded to the next higher whole number) of patient bedrooms, including toilet and bathing facilities that serve a patient bedroom, shall be accessible.

5. In hospital or rehabilitation facilities or portions thereof of Use Group I-2 licensed by the Department of Health and Senior Services that specialize in treating conditions that affect mobility, 100 percent of the patient bedrooms, including toilet and bathing facilities that serve a patient bedroom shall be accessible.

6. Assisted living facilities that are licensed by the Department of Health and Senior Services are Group I-2 for the purposes of building subcode, fire protection subcode compliance, and compliance with the other subcodes of the Uniform Construction Code, shall be Group R-2 for the purposes of accessibility, where those dwelling units or rooms are available for occupancy only for 30 or more consecutive days.

i. When dwelling units or rooms are available for occupancy for less than 30 consecutive days, 50 percent of those dwelling units or rooms shall be fully accessible and shall include one fully accessible bathroom and, where a kitchen is provided, a fully accessible kitchen.

ii. In dwelling units in an assisted living facility that are designated Group R-2 for the purposes of accessibility, the following may be adaptable:

(1) The threshold for an accessible transfer shower may be adaptable as long as the shower threshold can be adapted with minimal expense and effort to be accessible; and

(2) A transfer-type shower of 36 inches by 48 inches that includes an accessible seat may be provided in individual dwelling units. The threshold of this shower shall not exceed four inches;

7. In occupancies of Use Group I-2, there shall be at least one accessible passenger loading zone.

8. Buildings or portions thereof of Use Group I-3 shall have at least one accessible inmate confinement area or room per institution and at least one accessible inmate toilet and bathing facility per institution. All public or common areas and all employee areas shall be accessible.

(c) In Group R-1 accessible guestrooms shall be provided in accordance with Table C-1 below.

Table C-1  
Accessible Guestrooms and Roll-In Showers

Number of Rooms	Accessible Rooms	Roll-In Showers
1-25	1	N/A
26-50	2	N/A
51-75	3	1
76-100	4	1
101-150	5	2
151-200	6	2
201-300	7	3
301-400	8	4
401-500	9	4 plus 1 for each additional 100 over 400
501-1,000	2 percent of total	
1,001 and up	20 plus 1 for each 100 over 1,000	

1. Each accessible guestroom shall provide an accessible bed, as follows. To allow for the use of a transfer device, the accessible bed shall be a minimum of six and one-half inches clear from the floor to the lowest level of the bed frame. Adjacent to the bed there shall be clear floor space that meets the requirements of ICC/ANSI A117.1, Section 305. A platform bed shall not be allowed.

2. A building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor shall be exempt from the provisions of this subchapter.

3. Visible and audible alarms and notification devices shall be provided in the accessible guestrooms required by Table C-1 above and shall be provided in additional rooms in compliance with Table C-2 below.

Table C-2  
Visible and Audible Alarms and Notification Devices

Number of Guestrooms	Rooms With Accessible Alarms
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2 percent of total
1,001 and up	20 plus 1 for each 100 over 1,000

4. Accessible guestrooms shall be provided throughout all classes and types of rooms.

- i. When determining dispersal of accessible guestrooms, factors shall include room size, room cost, amenities provided, and the number of beds provided.

New Rule, R.1999 d.105, effective April 5, 1999.

See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).

Former N.J.A.C. 5:32-7.10, Recreation: court games, recodified to N.J.A.C. 5:23-7.23.

Amended by R.2002 d.350, effective November 4, 2002.

See: 34 N.J.R. 626(a), 34 N.J.R. 3772(a).

Rewrote the section.

Amended by R.2004 d.67, effective February 17, 2004.

See: 35 N.J.R. 4627(a), 36 N.J.R. 949(b).

In (c)2, added R-5 to the list of groups.

Amended by R.2005 d.184, effective June 20, 2005.

See: 36 N.J.R. 5283(a), 37 N.J.R. 2201(b).

Rewrote (b) and (c).

Recodified from N.J.A.C. 5:23-7.10 and amended by R.2007 d.144, effective May 7, 2007.

See: 38 N.J.R. 4962(a), 39 N.J.R. 1683(a).

In the introductory paragraph of (a), deleted "Use" preceding "Group"; in (a)6, updated the N.J.A.C. reference; and rewrote the introductory paragraph of (c) and (c)2.

Former N.J.A.C. 5:23-7.11, Requirements applicable to all nonresidential use groups, including spaces other than guestrooms in Use Group R-1, recodified to N.J.A.C. 5:23-7.12.

**5:23-7.12 Requirements applicable to all nonresidential use groups, including spaces other than guestrooms in Use Group R-1**

- (a) All toilet and bathing facilities shall be accessible.

- 1. At least one of each type of fixture or element in each accessible toilet room or bathing facility shall be accessible.

- i. Exception: Where multiple individual toilet rooms are clustered and serve a common medical office area or suite(s), five percent of the individual toilet rooms shall be accessible.

- 2. Where water closet compartments are provided in a toilet room or bathing facility, at least one wheelchair accessible compartment shall be provided.

- 3. Where six or more water closet compartments are provided in a toilet room or bathing facility, at least one ambulatory accessible compartment, designed and constructed in accordance with Section 604.9 of ICC/ANSI A117.1-03, shall be provided in addition to the wheelchair accessible toilet compartment.

- (b) All passenger elevators on an accessible route shall be accessible and shall comply with the dimensional requirements of an accessible elevator.

- 1. An elevator that provides an accessible route within an individual dwelling unit shall not be required to comply with the dimensional requirements of an accessible elevator.

- 2. Platform lifts shall not be part of an accessible route to bridge level differentials in new construction, except as provided by N.J.A.C. 5:23-7.9(b).

- (c) At least 50 percent of the drinking fountains provided on each floor, but not fewer than one, shall be accessible.

- 1. When only one drinking fountain is provided on a floor, it shall be accessible to wheelchair users and to people who have trouble stooping or bending.

- (d) Where storage facilities, such as, but not limited to, cabinets, shelves, closets, drawers, or lockers are provided in spaces required to be accessible, at least one of each type be accessible.

- (e) Where fixed or built-in seats or tables are provided, at least five percent, but not fewer than one, shall be accessible.

- 1. Where more than one built-in seat or table is provided, the accessible seats and tables shall be dispersed throughout the area.

- (f) Customer service facilities shall be accessible as follows:

- 1. Where dressing or fitting rooms are provided, at least five percent, but not fewer than one, in each distinct area or function on a site shall be accessible.

- 2. Where service counters or windows are provided, one of the following accessible options shall be provided:

- i. A portion of the counter which is a minimum of 36 inches in length and a maximum of 36 inches in height;
- ii. An auxiliary counter with a maximum height of 36 inches in close proximity to the main counter; or
- iii. Equivalent facilitation, such as a folding shelf attached to the main counter or space at the side of the counter.

- 3. Where check-out aisles are provided, accessible check-out aisles shall be installed in accordance with the table below:

Number of Check-Out Aisles	Accessible Check-Out Aisles
1-4	1
5-8	2
9-15	3
over 15	3 plus 1 for each additional 5 over 15

- i. Where check-out aisles of different types, such as, but not limited to, express lanes, are provided, at least one of each type shall be accessible.

- ii. Traffic control devices, security devices, or turnstiles located in accessible check-out lanes or aisles shall be accessible.

- (g) Where public telephones are provided, one telephone per floor or one telephone in each bank of public telephones shall be accessible.

1. Each accessible telephone and 25 percent of other public telephones in each bank shall be equipped with volume control.

2. At each accessible telephone, clear floor space for either a forward or a parallel approach shall be provided.

(h) Where automatic teller machines (ATM) are provided, clear floor space shall be provided at each ATM as follows:

1. Where only a forward approach is provided, all operations and controls shall be accessible.

2. Where only a parallel approach is provided, reach ranges shall comply with the following:

i. Where the reach depth to the controls is 10 inches or less, the maximum height for the controls shall be 54 inches.

ii. For each increase in reach depth of one inch, the maximum height for the controls shall be reduced one-half inch.

iii. The reach depth shall not exceed 24 inches with a corresponding maximum height of 46 inches.

3. Where both a parallel and a forward approach are provided, the reach ranges shall comply with both the parallel and forward approach reach ranges in the adopted technical standard or with the parallel reach ranges in (h)2 above.

(i) In buildings and portions of buildings required by this subchapter to be accessible, controls, operating mechanisms, and hardware, including electrical outlets and switches that control lighting, ventilation, or electrical outlets shall be accessible.

(j) Accessible signage shall be provided at the following locations in buildings and portions of buildings required by this subchapter to be accessible:

1. Areas of refuge required by the building subcode to be accessible;

2. Accessible toilet and bathing facilities;

3. Accessible parking spaces shall have signage that complies with N.J.A.C. 5:23-7.10.

4. Where one or more building entrances are not accessible, accessible signage shall be provided giving directions to the closest accessible building entrance; and

5. Where an elevator does not provide a vertical accessible route, accessible signage shall be provided giving directions to the closest accessible elevator.

i. Detectable warnings shall be provided at the edges of passenger transit platforms that border a drop-off and that are not otherwise protected by platform screens or guards.

(k) Braille shall be included on building signage designating permanent rooms and spaces.

1. Directional signage within a building shall not be required to include braille.

2. Building directories and other temporary signage are exempt from the provisions of this subchapter.

(l) Spaces required to be accessible in buildings covered by this subchapter shall be provided with an accessible means of egress that complies with the building subcode.

New Rule, R.1999 d.105, effective April 5, 1999.

See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).

Former N.J.A.C. 5:32-7.11, Recreation: ice rinks and roller rinks, recodified to N.J.A.C. 5:23-7.24.

Amended by R.2002 d.350, effective November 4, 2002.

See: 34 N.J.R. 626(a), 34 N.J.R. 3772(a).

Rewrote (a), (b) and (h); in (j)3, amended the N.J.A.C. reference.

Recodified from N.J.A.C. 5:23-7.10 and amended by R.2007 d.144, effective May 7, 2007.

See: 38 N.J.R. 4962(a), 39 N.J.R. 1683(a).

Deleted (a)2; recodified (a)3 and (a)4 as (a)2 and (a)3; in (a)3, inserted “, designed and constructed in accordance with Section 604.9 of ICC/ANSI A117.1-03,”; and in (b)2 and (j)3, updated the N.J.A.C. references.

Former N.J.A.C. 5:23-7.12, Existing facilities, recodified to N.J.A.C. 5:23-7.13.

### 5:23-7.13 Existing facilities

(a) Construction projects in existing buildings or facilities shall comply with the Rehabilitation Subcode, N.J.A.C. 5:23-6.

(b) Any building or portion of a building constructed or altered to be accessible shall be maintained accessible.

(c) A limited use/limited application elevator that complies with ANSI/ASME A17.1b-1995, Part 25 shall be allowed to provide a vertical accessible route in the following buildings or tenancies, provided that the travel distance of the device does not exceed 25 feet:

1. In small buildings as defined in this subchapter;

2. In individual tenancies of less than 10,000 square feet in buildings of 10,000 square feet or more;

3. To serve floors or mezzanines of less than 3,000 square feet; or

4. In Use Groups A-4 or E of any size.

New Rule, R.1999 d.105, effective April 5, 1999.

See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).

Former N.J.A.C. 5:32-7.12, Recreation: playing fields, recodified to N.J.A.C. 5:23-7.25.

Recodified from N.J.A.C. 5:23-7.12 by R.2007 d.144, effective May 7, 2007.

See: 38 N.J.R. 4962(a), 39 N.J.R. 1683(a).

Former N.J.A.C. 5:23-7.13, Variations, recodified to N.J.A.C. 5:23-7.14.