

not apply to persons working as subcontractors for any such home improvement retailer.

9. Contractors who are not subject to State licensing, registration or certification shall be subject to any applicable licensing, registration or certification requirement established by municipal ordinance. Any municipal license, registration or certification number issued to any such contractor shall be included in any application for a construction permit for work to be done by such contractor.

10. In the event of any change of contractor or person in charge of work under (b)1 through 9 above, such change shall be filed as an amendment to the application.

(c) A separate application and permit shall be required for each building.

(d) Application for a permit shall be made by the owner, or his agent, a licensed engineer, architect or plumbing, electrical or other contractor employed in connection with the proposed work. If the application is by a person other than the owner in fee, it shall be accompanied by an affidavit of the owner or the authorized person making the application, that the proposed work is authorized by the owner in fee, and that the applicant is authorized to make such application. All issued permits shall remain the property of the owner even if the application was made by a contractor or authorized agent.

(e) Construction permits for individual tenant spaces in multi-tenant buildings shall be issued pursuant to N.J.A.C. 5:23-2.23A.

(f) Plans, plan review, plan release:

1. Plans and specifications: The application for the permit shall be accompanied by no fewer than two copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. Plans submitted shall be required to show only such detail and include only such information as shall be necessary to demonstrate compliance with the requirements of the code and these regulations or to facilitate inspections for code conformity. When quality of materials is essential for conformity to the regulations, specific information shall be given to establish such quality; and this code shall not be cited, or the term "legal" or its equivalent be used, as a substitute for specific information.

i. Site diagram: There shall also be filed a site plan showing to scale the size and location of all the new construction and all existing structures on the site, distances from lot lines and the established street grades; accessible route(s) for buildings required by N.J.A.C. 5:23-7.1 to be accessible; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing

structures and construction that are to remain on the site or plot.

(1) Where any of the conditions in (f)1i(1)(A) through (C) below are met, a plan shall be submitted to the Construction Official detailing the manner in which the adjoining property will be protected. The Construction Official is authorized to utilize special technical services as per N.J.A.C. 5:23-2.19. No permit shall be issued until such plan has been filed.

(A) The foundation for the new building is immediately adjacent to an existing foundation, such that the existing foundation may be impacted by the construction work being performed;

(B) The footing for the new building is higher or lower than the footing for an existing building and the distance between the edges of the footings is equal to or less than the distance between the bottoms of the footings; or

(C) The new building roof is higher than the building roof on the adjoining property and the building roof of the adjoining property is a flat, hip or gable roofs with a slope of less than 70 degrees and the roof of the adjoining property is located 20 or fewer feet from the face of the new building.

ii. Building plans and specifications shall contain the following information:

(1) Foundation, floor, roof and structural plans;

(A) For buildings with roof or other truss systems, a truss layout and permanent truss bracing plan shall be submitted. This plan shall show all the permanent lateral and other bracing locations for individual truss members as well as the connections between the truss system and other components of the structural system necessary for the permanent lateral bracing of the entire structural system.

(2) Door, window and finish schedules; and

(3) Sections, details, connections and material designations.

iii. Electrical plans and specifications shall contain: Floor and ceiling plans; lighting, receptacles, motors and equipment; service entry location, line diagram and wire, conduit and breaker sizes.

iv. Plumbing plans and specifications shall contain: Floor plan; fixtures, pipe sizes and other equipment and materials; isometric with pipe sizes, fixture schedule and sewage disposal.

v. Mechanical plans and specifications shall contain: Floor or ceiling plans; equipment, distribution location, size and flow; location of dampers and safeguards; and all materials.

vi. Energy calculations: Calculations showing compliance with the energy subcode shall be submitted for all new buildings and additions to existing buildings. As provided in (f)1vii below, these calculations shall be signed and sealed by the design professional, with the exception of calculations for class III structures which may be submitted by the mechanical contractor.

(1) For detached one-and two-family residential buildings and other residential buildings three stories or less in height, compliance may be demonstrated by the submission of Energy Star compliance documentation, the submission of printouts from software recognized by the Department, such as REScheck, or conforming with the prescriptive packages described in Bulletin 07-2. REScheck software is available from the Department of Community Affairs, Division of Codes and Standards at www.nj.gov/dca/codes or from the U.S. Department of Energy at www.energycodes.gov.

(A) To document compliance using REScheck, users shall exceed the IECC/2003 by two percent or more. Please see Bulletin 07-2 for further guidance.

(2) For all other buildings, compliance may be shown with the COMcheck compliance software or equivalent, submission of the compliance forms found in the COMcheck user's manual or the ASHRAE 90.1 user's manual for the edition of ASHRAE adopted under the energy subcode. The COMcheck user's manual and software are available from the U.S. Department of Energy at www.energycodes.gov. The ASHRAE 90.1 user's manual is available from the American Society of Heating and Refrigerating and Air-conditioning Engineers Inc. at www.ashrae.org.

(A) To document compliance using COMcheck, users shall meet or exceed the ASHRAE/2004. Please see Bulletin 07-2 for further guidance.

vii. Engineering details and specifications: The construction official and appropriate subcode official may require adequate details of structural, mechanical, plumbing and electrical work, including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the seal and signature of the licensed engineer or registered architect responsible for the design. Plans for buildings shall indicate how required structural and fire-resistance rating will be maintained for penetrations made for electrical, mechanical, plumbing and communication conduits, pipes and systems.

(1) Plumbing plans for class III structures may be prepared by persons licensed pursuant to "The Master Plumber Licensing Act", N.J.S.A. 45:14C-1 et seq. Electrical plans for class III structures may be prepared by persons licensed pursuant to "The Electrical Contractors Licensing Act", N.J.S.A. 45:5A-1 et seq.;

(2) Whenever the licensing board pursuant to either of the above Acts shall provide for a seal evidencing that the holder is licensed, such shall be acceptable to the enforcing agency in lieu of affidavit;

(3) Mechanical plans for class III structures may be prepared by mechanical contractors.

viii. Work area: For reconstruction work in an existing structure, the work area shall be clearly delineated on the plans.

ix. Architect's or engineer's seal: The seal and signature of the registered architect or licensed engineer who prepared the plans shall be affixed to each sheet of each copy of the plans submitted and on the first or title sheet of the specifications and any additional supportive information submitted. The construction official shall waive the requirement for sealed plans in the case of a single family home owner who had prepared his or her own plans for the construction, addition, reconstruction, alteration, renovation or repair of a detached structure used or intended to be used exclusively as his or her private residence providing that the owner shall submit an affidavit attesting to the fact that he or she has personally prepared the plans and provided further that said plans are in the opinion of the construction official, and appropriate subcode official, legible and complete for purposes of ensuring compliance with the regulations.

x. The construction official upon the advice of the appropriate subcode official may waive the requirement for plans when the work is of a minor nature.

xi. Those portions of the plans that are required to be submitted and which are not included at the time of application shall be listed by the design professional as part of the application.

(1) All documents prepared by people other than the design professional shall be reviewed by the design professional and submitted with a letter indicating that they have been reviewed and found to be in conformance with the regulations for the design of the building.

xii. Building, electrical, plumbing and mechanical work required to be shown may be shown on a single set of plans or a single drawing so long as the drawings are clear and legible.

2. Prototype plan filing: Where a design is used repeatedly at different locations in a municipality or throughout the State, the plans and specifications may be submitted for "prototype" release and filed as follows:

i. Two complete sets of the plans and specifications for each prototype shall be submitted with a request for prototype plan release. The plans and specifications shall be signed and sealed by a licensed or registered design professional. The plans and specifications will be stamped as released and the plan number and date will

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

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

Rewrote the section.

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

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

Rewrote (e).

Amended by R.2006 d.32, effective January 17, 2006.

See: 37 N.J.R. 2918(a), 38 N.J.R. 484(a).

Added (b)5 through 7; recodified former (b)5 as (b)8 and rewrote the reference to (b)1, 2, 3, 4 as "(b)1 through 7."

Amended by R.2006 d.127, effective April 3, 2006.

See: 37 N.J.R. 4599(a), 38 N.J.R. 1572(a).

Recodified former (b)8 as (b)10 and rewrote the reference "(b)1 through 7" as "(b)1 through 9"; added (b)8 and (b)9.

Administrative correction.

See: 38 N.J.R. 3776(b).

Amended by R.2007 d.124, effective May 7, 2007.

See: 38 N.J.R. 3708(a), 39 N.J.R. 1669(a).

Rewrote (e)lix; in (e)4i(4), substituted "Department" for "department"; and added (e)4i(4)(A).

Amended by R.2007 d.125, effective May 7, 2007.

See: 38 N.J.R. 3707(a), 39 N.J.R. 1671(a).

Added new (e); and recodified former (e) as (f).

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

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

In (f)1vi(1), substituted "07-2" for "03-2" and "at www.nj.gov/dca/codes" for "PO Box 802, Trenton, New Jersey 08625"; added (f)1vi(1)(A); in (f)1vi(2), deleted "EZ" following "Check" two times and "or from Pacific Northwest National Laboratory, PO Box 999, ATTN: K5-20, Richland, Washington 99352" following "www.energycodes.gov" and substituted "at www.ashrae.org" for "1791 Tullie Circle, NE, Atlanta, GA 30329"; and added (f)1vi(2)(A).

Administrative correction.

See: 39 N.J.R. 3914(a).

Administrative correction.

See: 39 N.J.R. 4571(a).

Amended by R.2008 d.39, effective March 3, 2008.

See: 39 N.J.R. 2175(a), 40 N.J.R. 1084(a).

Added (f)li(1).

Administrative correction.

See: 40 N.J.R. 1829(a).

Amended by R.2009 d.49, effective February 2, 2009.

See: 40 N.J.R. 5318(a), 41 N.J.R. 733(a).

In the introductory paragraph of (f)2i, inserted a comma following "option", inserted the fourth occurrence of "shall", and inserted "except for plans that are validated as identical to the original prototype, as provided in (f)2i(1) below"; and added (f)2i(1) and (f)4i(5).

Amended by R.2009 d.162, effective May 18, 2009.

See: 40 N.J.R. 4268(a), 41 N.J.R. 2094(a).

Added new (f)4ii(1); and recodified former (f)4ii(1) as (f)4ii(2).

Amended by R.2011 d.270, effective November 7, 2011.

See: 43 N.J.R. 1297(a), 43 N.J.R. 2999(a).

In (a)6, inserted "or any structure with a smoke control system".

Case Notes

Zoning permit may be required pursuant to Municipal Land Use Law but not Uniform Construction Code Act. *Acqua Development Corp. v. Township of Holmdel*, 287 N.J.Super. 578, 671 A.2d 636 (L.1995).

Compliance with former N.J.A.C. 5:23-2.5 requirements for permit to non-contractor owner to perform repairs. *Winn v. Margate City*, 204 N.J.Super. 114, 497 A.2d 928 (Law Div.1985).

Requirement of architect's or engineer's seal on plans does not broaden scope of engineering practice into architecture; engineer's plan limitations. *State Board of Architects v. North*, 197 N.J.Super. 349, 484 A.2d 1297 (Ch.Div.1984).

Prior-approval rule discussion; zoning matters involved in construction must be resolved before issuance of permits. *Bell v. Twp. of Bass River*, 196 N.J.Super. 304, 482 A.2d 208 (Law Div.1984).

Construction permit application and fee requirements under former N.J.A.C. 5:23-2.5; municipal requirement for payment of property taxes before issuance of permit invalid as preempted by legislation. *Home Builders League of South Jersey, Inc. v. Evesham Twp.*, 174 N.J.Super. 252, 416 A.2d 81 (Law Div.1980).

Construction permit applicant must provide assurances that prior approvals obtained. *Riggins v. Pinelands Commission*, 8 N.J.A.R. 441 (1985).

5:23-2.16 Construction permits—procedure

(a) Action on application: The construction official or the appropriate subcode official in the case of construction involving only one trade or subcode, shall examine or cause to be examined all applications for permits and amendments thereto, and approve or deny in whole or in part the application, within 20 business days. If the application is denied in whole or in part, the enforcing agency shall set forth the reasons therefore in writing. If an enforcing agency fails to grant, in whole or in part, or deny an application within 20 business days, such failure shall be deemed a denial of the application for purposes of an appeal to the Construction Board of Appeals, unless such period of time has been extended with the consent of the applicant. Whenever plans have been rejected and are thereafter revised and resubmitted, the revised plans shall be released if the deficiencies that were stated as grounds for rejection have been corrected and code compliance has been demonstrated. In that case, a written notice of release shall be given to the applicant not later than seven business days after the resubmission of the revised plans. When the grounds for rejection have not been corrected or when code compliance has not been demonstrated, a written notice of rejection stating the grounds for rejection shall be given to the applicant not later than seven business days after the resubmission of the revised plans.

1. Exception: For a building designed in conformance with the one-and two-family dwelling subcode, where the Department or local enforcing agency has released a prototype plan which is to be used for the work covered by the permit application, the construction official shall act on the application within three business days.

i. Where the prototype release did not include the foundation detail, the construction official shall act on the application within seven business days.

2. Exception: For a building designed in conformance with the building subcode, where the Department or local enforcing agency has released a plan which is to be used for the work covered by the permit application, provided that the permit is complete, the construction official shall act on the application within five business days.

(b) Suspension of permit: Any permit issued shall become invalid if the authorized work is not commenced within 12 months after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six months after the time of commencing the work.

(c) Previous approvals: The rules shall not require changes in the plans, construction or designated use of a building for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which shall have been actively prosecuted within six months after the operative date of the rules and completed with dispatch. This six months provision shall also apply to subsequent amendments.

(d) Signature to permit: The construction official shall attach his signature to every permit; or he may authorize a subordinate to affix such signature thereto. By doing so he shall certify that each responsible subcode official shall have reviewed and approved the application for permit.

(e) Released plans: The construction official shall stamp or endorse in writing both sets of plans released, and one set of such released plans shall be retained and the other set shall be kept at the building site, open to inspection of the construction official or the construction official's authorized representative at all reasonable times.

(f) Revocation of permits:

1. The construction official may revoke a permit or approval issued under the provisions of this code in the following cases:

i. If the applicant has submitted any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based; or

ii. If the project for which the permit was obtained is not completed by the third anniversary of the date of the issuance of the permit. If a project is not completed by such date, the permit holder may apply to the enforcing agency for a one-year extension of time for completion of the project. The enforcing agency shall not unreasonably withhold approval of any such extension request. If the project is not completed within the time allowed, the enforcing agency shall take such action under the code as may be appropriate, including, without limitation, demolition of the structure, in which case the legal authority of the jurisdiction shall institute appropriate action against the owner of the property for recovery of the costs incurred. The provisions of this subparagraph shall not apply to:

(1) Improvements to the interior of a building in which the permit holder is currently residing, if such improvements are not visible from outside of the property;

(2) Any building in which all exterior work and all required site improvements have been completed; or

(3) Any project currently under the control of a mortgagee in possession.

(g) Approval of part: The construction official shall issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifica-

tions for the whole building or structure have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of this code. The holder of such permit for the foundations or other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

(h) Posting of permit: A true copy of the construction permit shall be kept on the site of operations open to inspection during the entire time of prosecution of the work and until the completion of the same.

(i) Notice of start: At least 24 hours notice of start of work under a construction permit shall be given to the construction official.

(j) Conditions of permit: The issuance of the construction permit shall be conditioned upon the following:

1. The payment of appropriate fees;

2. That work will conform to the requirements of the code applicable to the work for which the permit has been issued including prior approvals and any approved amendments thereto;

3. That the permit is a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of the regulations;

4. That the owner, his agent, contractor or other employees will assist the enforcing agency in its inspection work, if requested; and

5. That all escrows required to be paid by the applicant, pursuant to N.J.A.C. 5:23-4.17(d), in connection with work done under permits issued for development-wide violation correction, pursuant to N.J.A.C. 5:23-2.35(a)1, have been paid unless there is an appeal pending. For purposes of applying this paragraph, any escrow due from any person or entity affiliated with the applicant by way of having any common officers, directors, or shareholders with at least a ten percent interest shall be deemed to be due from the applicant.

(k) Upon request of the local health department, the construction official shall supply copies of permits issued for lead abatement work.

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.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.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.36, effective January 5, 1998.

See: 29 N.J.R. 4214(a), 30 N.J.R. 193(a).

Deleted (k); recodified existing (l) as (k).

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

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

Rewrote the section.

- i. The installation of any fire detection or suppression device in any one-or two-family dwelling;
- ii. The installation of a radon mitigation system in an existing one-or two-family dwelling;
- iii. The installation of a burglar alarm or security system in any structure;
- iv. The installation of communications wiring in any Class 1 or Class 2 structure or any Class 3 structure involving the penetration of a fire-resistance rated assembly.

(1) For the purposes of applying this provision, communications wiring shall mean any wiring covered by Chapter 8 of the electrical subcode. Communications wiring shall also include data circuits between computers/information technology equipment, which may be classified as "communications circuits," in accordance with Article 725 of the electrical subcode;

6. Minor work shall not include lead abatement.

7. Minor work on elevator devices shall also mean and include work as outlined in N.J.A.C. 5:23-12.8(b) and not involving any structural modification to a building.

(d) Inspection of minor work:

1. Inspections shall be required for minor work and the enforcing agency shall inspect any such work within 30 days of the request for inspection;

2. The construction official shall issue a certificate of approval stating that the work performed under a Minor Work Permit substantially complies with the UCC. The inspection shall be based upon what is visible at the time of said inspection and the certificate of approval shall so indicate.

Amended by R.1991 d.509, effective October 7, 1991.
See: 23 N.J.R. 2236(a), 23 N.J.R. 3001(a).

Stylistic changes.

Amended by R.1993 d.580, effective November 15, 1993.
See: 25 N.J.R. 3692(a), 25 N.J.R. 5145(c).

Amended by R.1993 d.663, effective December 20, 1993.
See: 25 N.J.R. 4546(a), 25 N.J.R. 5927(a).

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.476, effective September 5, 1995 (operative January 1, 1996).

See: 27 N.J.R. 1846(a), 27 N.J.R. 3325(b).

Rewrote (d).

Amended by R.1995 d.564, effective November 6, 1995 (operative March 1, 1996).

See: 27 N.J.R. 2829(a), 27 N.J.R. 4281(b).

N.J.A.C. 5:23-2.17A(c)6xxv through xxvii, as added by R.1995 d.564, operative May 1, 1996.

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

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

Amended (c)li through (c)liii.

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)6, inserted a reference to 2508 in vii, inserted a new xxv, and recodified former xxv through xxvii as xxvi through xxviii.

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

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

In (c)6, substituted "modification" for "alteration".

Amended by R.2004 d.467, effective December 20, 2004.

See: 36 N.J.R. 2122(a), 36 N.J.R. 5709(b).

In (c), rewrote 4.

Amended by R.2008 d.369, effective December 15, 2008.

See: 40 N.J.R. 4651(a), 40 N.J.R. 6958(a).

In the introductory paragraph of (c)6, substituted "in N.J.A.C. 5:23-12.8(b)" for "below" and deleted "and as scoped within the applicable sections of Part XII of ASME A17.1 referenced in the building subcode:" from the end; and deleted (c)6i through (c)6xxviii.

Amended by R.2011 d.269, effective November 7, 2011.

See: 43 N.J.R. 904(a), 43 N.J.R. 3008(a).

In (c)2, deleted "hot" preceding "water heaters"; substituted "bath-tubs" for "tubs"; and inserted "clothes"; added new (c)3; and recodified former (c)3 through (c)6 as (c)4 through (c)7.

Amended by R.2011 d.270, effective November 7, 2011.

See: 43 N.J.R. 1297(a), 43 N.J.R. 2999(a).

Incorporated the amendment by R.2011 d.269; and in (c)4, substituted "fewer 125 or 250" for "less 110 or 220".

5:23-2.18 Inspections

(a) Preliminary inspection: Before issuing a permit, the construction official and appropriate subcode official shall, where necessary, examine or cause to be examined all buildings, structures and sites for which an application has been filed for a construction permit.

(b) Inspections during the progress of work: The construction official and appropriate subcode officials shall carry out periodic inspections during the progress of work to ensure that work inspected conforms to the requirements of the code.

1. Inspections of one- and two-family dwellings for which construction must cease until the inspection is made shall be limited to the following:

i. The bottom of footing trenches before placement of footings, except that in the case of pile foundations, inspections shall be made in accordance with the requirements of the building subcode;

ii. Foundations and all walls up to grade level prior to covering or back filling;

(1) For new construction, a foundation location survey showing all building corners of the foundation and the elevation of the top of the foundation wall shall be submitted to the construction official as soon as possible after the installation of the foundation wall. It is not necessary for work to cease for the preparation and submission of this survey. A land surveyor licensed in the State of New Jersey shall prepare the survey. The proposed foundation location and elevation as shown on the original plot plan shall also be shown on the foundation location survey.

(A) Exception: A foundation location survey shall not be required for additions, decks, swimming pools, sheds or similar structures.

(2) For new construction and additions, the foundation location survey for a building that is located in a flood plain shall include flood hazard certificates as required by section 1612.5 of the building subcode or

section R301.2.4 of the one-and two-family dwelling subcode.

- iii. Utility services, including septic;
- iv. Mid-point inspections shall include the following:

(1) Building Subcode: All structural framing, connections, wall and roof sheathing, and insulation.

(A) The framing inspection shall take place after the rough electrical and plumbing inspections and after the installation of the heating, ventilation and/or air conditioning duct system.

(B) For buildings containing roof or other truss systems, a truss system and permanent truss bracing inspection shall be performed prior to the installation of any interior roof truss covering material. Where the truss design utilizes the interior finish as bracing for the bottom cord, that portion of the bracing shall be part of the final inspection and shall be in addition to the components of the final inspection in (d) below.

(C) The insulation inspection shall be performed after all other subcode rough inspections and prior to the installation of any interior finish material.

(D) Prior to inspection, the responsible person in charge of work shall provide to the building inspector a signed framing checklist (Form F390) to be verified and initialed by the inspector and then made part of the permit file for buildings of Type V construction.

(2) Electrical Subcode: Rough wiring, panel and service installation.

(3) Plumbing Subcode: Rough piping.

2. Inspections for all subcodes of construction, other than one- and two-family dwellings, shall be limited to those required for one- and two-family dwellings and the following: fire suppression systems; heat producing devices; any special inspections required by any subcode of the regulations;

i. The mid-point inspection shall include a review for compliance with N.J.A.C. 5:23-7, the Barrier Free Subcode, for buildings required by N.J.A.C. 5:23-7.1 to be accessible.

ii. The requirement for a framing checklist, established at (b)iv(D) above, shall apply to buildings of Type V construction of Groups R-2, R-3 and R-4 only.

3. Any additional inspections, as permitted by this chapter and as may be required by the municipality, shall be of the type and nature that construction may continue without interruption;

4. Additional inspection schedule: Where buildings proposed for construction exceed two stories in height or by their nature pose complex or unusual inspection problems, the construction official or appropriate subcode official may specify additional inspections to the applicant in writing prior to the issuance of a permit and during construction in the case of unforeseeable circumstances.

(c) Notice for inspection:

1. The owner or other responsible person in charge of work shall notify the enforcing agency when the work is ready for any required inspection specified herein or required by the construction official or appropriate subcode official. This notice shall be given at least 24 hours prior to the time the inspection is desired. This notice shall represent an attestation on the part of the owner, other than single-family owner-occupants performing their own work, or other responsible person in charge of work, that the work has been completed in conformance with the code and is ready for inspection.

2. Inspections shall be performed within three business days of the time for which it was requested. The work shall not proceed in a manner which will preclude the inspection until it has been made.

(d) Final inspection: Upon completion of the building or structure, and before the issuance of a certificate of use and occupancy required herein, a final inspection shall be made, and any violations of the code shall be noted and the holder of the permit shall be notified of any discrepancies by the construction official. The final inspection shall include:

1. Building and Fire Subcode: Installation of all interior and exterior finish materials, sealing of exterior joints, mechanical system and any other required equipment.

2. Electrical Subcode: Wiring, devices and fixtures.

3. Plumbing Subcode: Piping, trim and fixtures.

4. Tests required by any provision of the adopted subcodes.

5. A review for compliance with N.J.A.C. 5:23-7, the Barrier Free Subcode, for all buildings required by N.J.A.C. 5:23-7.1 to be accessible.

6. Verification of compliance with N.J.A.C. 5:23-3.5, Posting structures.

(e) Inspections records: The enforcing agency shall make a written record of all inspections, including any discrepancies or violations noted and shall maintain those reports as a public record which shall be available for public inspection during normal business hours.

(f) Department inspections: At the request of an enforcing agency, the Department may assist the enforcing agency in the inspection of any construction, provided that the enforcing

5:23-4.4 Municipal enforcing agencies—organization

(a) The municipality shall organize its enforcing agency in accordance with the ordinance adopted pursuant to N.J.A.C. 5:23-4.3 and to meet the following additional requirements:

1. Construction official: The construction official shall serve as the chief administrator of the enforcing agency. He shall establish the day to day operating routines of the agency and shall coordinate the activities of the subcode officials. He shall be qualified in accordance with subchapter 5 of this chapter in at least one subcode.

2. Subcode officials: Subcode officials shall enforce the provisions of those subcodes for which they are responsible in accordance with N.J.A.C. 5:23-3 and qualified in accordance with N.J.A.C. 5:23-5 and for which they have been appointed by the appointing authority. Each subcode official shall be responsible for the administration and enforcement of the appropriate subcode, subject to the procedures of the enforcing agency as administered by the construction official. However, each subcode official shall have exclusive decision-making authority with respect to the technical provisions of the subcode for which he has been appointed the official.

3. Interface: Nothing shall prevent one person from serving in more than one position for which he is certified and qualified. However, more than one person shall not be appointed concurrently to the same position.

4. Assistants: The appointing authority may establish positions other than those provided in N.J.A.C. 5:23-5 as is deemed necessary. The commissioner reserves the right to establish categories of certification for such positions. The construction official or appropriate subcode official shall be responsible for the supervision of any such personnel.

5. Whenever the municipality contracts with private on-site inspection agencies for all subcodes, it shall as a minimum appoint a construction official to coordinate activities.

6. Acting appointments: A municipality shall appoint an acting construction official or subcode official any time the absence of such official would impede orderly administration of the Uniform Construction Code and other duties mandated by the municipality. Acting appointments shall be accomplished by any mechanism acceptable to the municipality; providing, however, that a written record shall be kept. Notice to the Department shall be provided within seven days any time an appointment is made for more than 30 days. Acting appointments may not be made for longer than 60 days, nor may they be extended or renewed beyond 60 days unless specific authority to do so is granted in writing by the Department.

i. Only an individual licensed as a construction official may be appointed as an acting construction official and only an individual licensed as a subcode official in a particular subcode may be appointed as an acting sub-

code official for that subcode. The technical license level of an acting construction or subcode official shall be superior or parallel to the enforcing agency classification of the municipality or such municipal classification shall be downgraded to the technical license level of the acting official for the period of time in the position. Employees of private on-site inspection agencies shall not serve as acting construction officials. Employees of private on-site inspection agencies may serve as acting subcode officials, provided that notice of any such appointment shall be given to the Department by the construction official within seven days of the making of the appointment and that such notice shall contain information as to the form and amount of the payment being made to the agency for the services of the acting subcode officials.

ii. Acting appointments shall not constitute the statutory four-year term for construction and subcode officials or any portion thereof.

iii. Conflict of interest provisions set forth in this subchapter shall apply to acting officials.

iv. Nothing in (b) of this section shall be interpreted as prohibiting licensed officials from serving in more than one municipality in regular or acting appointments.

7. The municipality shall provide the construction official, each subcode official and each inspector with personal identification which includes at least the name of the municipality, and the name, title and photograph of the individual. The identification shall be validated by the municipality.

8. A municipality may, in its discretion, employ a mechanical inspector to perform plan review and mechanical inspections, with oversight by a designated subcode official, for structures of Group R-3, R-4, or R-5.

9. Provisions concerning reappointment of construction and subcode officials in non-civil service municipalities are as follows:

i. At least 30 days prior to the expiration of the statutory four-year term of office of a construction or subcode official, the appointing authority shall give written notice to the official indicating whether or not he or she is going to be reappointed.

ii. In the event that the official is neither reappointed, nor given written notice that he or she is not being reappointed, prior to the date of expiration of the statutory four-year term of office, the official shall be deemed to have been appointed to serve in an acting capacity for a period of not more than 60 days, in accordance with (a)6 above. The municipality is not relieved of the obligation, pursuant to (a)6 above, to notify the Department within seven days any time any acting appointment will exceed 30 days.

iii. In the event that the official is neither reappointed, nor given written notice that he or she is not being reappointed, prior to the expiration of the 60-day period following the date of expiration of the prior statutory four year term of office, the Department, in such circumstance, shall not extend any such acting appointment and the official shall be deemed to have been reappointed, such reappointment being effective retroactively to the date of expiration of the prior statutory four-year term.

(b) The municipality shall establish a central permit office under the direction and supervision of the construction official. This office shall receive applications for construction permits and plan review, issue construction permits and certificates of occupancy, collect fees, penalties, fines and issue notices, and orders. The office shall be open during normal business hours at times to be determined by the municipality. These times shall be posted in a conspicuous place and shall be comparable with the amount of construction activity in the municipality. Nothing herein shall prevent a municipality from establishing branch offices, but the public shall not, unless in the case of an emergency, unforeseen or unavoidable circumstance, be required to do business, except at the central permit office.

(c) The construction official and the subcode officials shall be available for consultation and discussion during normal business hours at scheduled times to be determined by the construction official. All inspections may take place between 7:00 A.M. and 6:00 P.M. on business days or on days and at times at which construction is taking place or at such other times as may be acceptable to the owner or the owner's representative, or otherwise in case of emergency.

(d) The municipality shall ensure that the enforcing agency has adequate staff to review plans, applications, specifications and to schedule and perform inspections in a timely manner.

Amended by R.1982 d.23, effective February 1, 1982.

See: 13 N.J.R. 863(a), 14 N.J.R. 142(b).

(a)6: text deleted and replaced with new text through (a)6iv.

Notice of correction: "30 days. Acting appointments may not be made for longer than" was omitted from text in (a)6.

See: 20 N.J.R. 2823(a).

Amended by R.1993 d.187, effective May 3, 1993.

See: 25 N.J.R. 624(a), 25 N.J.R. 1875(a).

Added (a)8.

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.1996 d.387, effective August 19, 1996 (operative November 1, 1996).

See: 28 N.J.R. 2434(a), 28 N.J.R. 3923(a).

In (a) added provisions relating to reappointment of construction and subcode officials in non-civil service municipalities.

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

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

In (a)8, added R-5 to the list of groups.

Amended by R.2007 d.143, effective May 7, 2007.

See: 39 N.J.R. 7(a), 39 N.J.R. 1672(a).

Rewrote (c).

Case Notes

Municipal construction code official's appearance for work for 11 days after his four-year term expired did not confer tenure on him on basis of appointment to second consecutive term. *Cutler v. Borough of Westwood*, 295 N.J.Super. 344, 685 A.2d 44 (A.D.1996).

Township's failure to make a proper temporary appointment in conformance with regulation resulted in plaintiff's appointment as subcode plumbing inspector becoming one of tenure pursuant to N.J.S.A. 52:27D-126(b). *DeStefano v. Washington Twp.*, 220 N.J.Super. 273, 531 A.2d 1090 (L.1987).

5:23-4.5 Municipal enforcing agencies—administration and enforcement

(a) Records and procedures: The municipality shall ensure that the construction official, with the assistance of the subcode officials and other necessary municipal employees, maintains a central file system, by block and lot, for each property in the municipality for which a permit has been issued or requested or for which an action has been taken by the municipal enforcing agency.

1. The files shall contain all information, including inspection reports, correspondence, and so forth, relevant to each application for a construction permit or certificate of occupancy.

2. The files shall contain or indicate the storage location of all plans and specifications too bulky for inclusion in the central file.

3. The files and records of the municipal enforcing agency shall be open to Department review and audit during normal business hours.

i. File copies of all documents in connection with building operations shall be retained in the official records as provided by law.

ii. Files and records shall be maintained in a manner consistent with the Municipal Procedures Manual established by the commissioner for this purpose.

(b) Forms:

1. The construction official shall ensure that all necessary forms and applications are available to the public at the central permit office.

2. The following standardized forms established by the Commissioner are required for use by the municipal enforcing agency:

Form No.	Name
F100	Construction Permit Application
F101	Consent to Undertake Proposed Work
F110	Building Subcode Technical Section
F120	Electrical Subcode Technical Section
F130	Plumbing Subcode Technical Section
F140	Fire Subcode Technical Section
F145	Mechanical Inspector Technical Section
F150	Elevator Subcode Technical Section
F-155	Elevator Subcode Multiple Devices
F-160	Application for a Variation

Form No.	Name
F170	Construction Permit, Required Inspection
F180	Construction Permit Notice
F190	Permit Update
F211	Notice of Violation and Order to Terminate
F212	Notice and Order of Penalty
F213	Notice of Violation and Order to Terminate (Post Certificate of Occupancy – Residential Construction)
F214	Notice and Order of Penalty (Post Certificate of Occupancy – Residential Construction)
F221	Inspection Sticker Approval for Building
F-222	Inspection Sticker Approval for Electric
F223	Inspection Sticker Approval for Plumbing
F-224	Inspection Sticker Approval for Fire Protection
F-225	Inspection Sticker Approval for Elevator
F-230	Inspection Sticker Approval—Not Approved
F241	Notice of Unsafe Structure
F242	Notice of Imminent Hazard
F-245	Notice to Vacate
F250	Stop Construction Order
F-255	Stop Construction Notice
F260	Certificate
F270	Application for Certificate
F310	Elevator Inspection
F-320	Elevator Notice
F-325	Notice of Elevator Device Sealed Out of Operation
F326	Accident/Incident Report
F-350	Cut-In Card
F-360	Denial of Permit
F-370	Chimney Verification for Replacement of Fuel Fired Equipment
F380	Hydraulic System Data Plate
F390	Framing Checklist

3. The following standardized forms established by the Commissioner are optional for use by the municipal enforcing agency; provided, however, that where they are not used, equivalent forms or mechanisms are used by the enforcing agency to accomplish the same purpose:

Form No.	Name
F-200	Inspection Notice
F-280	T.C.O. Control Card
F-290	Ongoing Inspections Control Card
F-300	Ongoing Inspections Schedule
F375	Tickler/X-Ref Card

4. No forms other than those established by the Commissioner shall be required of the public in connection with the administration and enforcement of the State Uniform Construction Code. The municipal enforcing agency may use additional forms for its own internal processing and recordkeeping. Nothing in this section pertaining to forms or in the forms themselves shall be deemed to affect the requirements for plans and specifications or documentation of prior approvals. Where there is insufficient space on a form for all required information, the form shall be used with attachments.

5. Printing of forms: The municipal enforcing agency shall arrange for the printing of all forms. Other interested persons may also arrange for the printing of forms or may purchase and use forms printed by others. The municipal enforcing agency may provide for the inclusion of its name and other appropriate identifying information on the forms it has printed. However, the municipal enforcing agency shall accept forms not having municipal identification and shall, in any such case, insert the name of the municipality. All required forms shall be exact replicas of the forms required by the Commissioner, conforming in content, size, format and colors, except that all multi-part forms may be printed with an additional copy so long as the additional copy shall be in a color distinct from those specified by the Commissioner. Forms F-110, F-120, F-130 and F-140 may have the Subcode Technical Sections printed in any color or colors of ink as desired and Form F-310 (Elevator Inspection) may be printed as a multipart form on separate pages with up to four copies of each page.

(c) Logs:

1. The following standardized logs established by the Commissioner are required to be maintained by the municipal enforcing agency:

Log No.	Name
L700	Permit Fee Log
L-710	Inspection Log
L720	Certificate Log
L730	Ongoing Inspection Log

2. The municipal enforcing agency shall maintain the required logs either on log sheets established by the commissioner or on log sheets or ledger books of its own choice or design, provided that all required entries are maintained.

(d) Monthly reports:

1. The following standardized report forms established by the Commissioner are required to be completed by the municipal enforcing agency and transmitted to the Department by the tenth business day following the end of each calendar month:

Report No.	Name
R-811	Municipal Monthly Activity Report Certificates
R-812	Municipal Monthly Activity Report Permits

2. Municipalities currently submitting monthly reports electronically shall continue to do so. Municipalities that do not already submit monthly reports electronically using UCCARS I shall begin to do so according to the following schedule:

i. By December 31, 1992, all municipalities issuing 600 or more permits per year as determined by the Department shall submit monthly reports electronically.

ii. By December 31, 1993, all municipalities issuing fewer than 600, but more than 200, permits per year as determined by the Department shall submit monthly reports electronically.

iii. All other municipalities shall have the option of submitting monthly reports electronically or by mail. Any municipality which issues more than 200 permits per year as determined by the Department for any future year shall submit monthly reports electronically beginning during the following year.

iv. A municipality that determines that compliance with this schedule would impose an undue hardship may apply to the Department for an extension of time. A request for an extension shall be in writing and shall set forth the reason(s) for such extension and the period of time for which the extension is sought. The Department shall give the municipality written notice of its determination in response to the extension request.

3. As long as funding permits, the Department shall provide the UCCARS I software, training and technical support for the system free of charge to municipalities. Municipalities may submit monthly reports electronically using an alternative system compatible with UCCARS as determined by the Department and capable of transmitting a monthly report based on UCCARS specifications.

4. Municipalities, at their option, may choose to add UCCARS II and III systems to their UCCARS I System and may obtain them, at no cost, from the Department, when available.

(e) Quarterly reports: The following standardized report established by the Commissioner is required to be completed by the municipal enforcing agency for State of New Jersey training fees and must be submitted quarterly, with the accompanying fees, pursuant to N.J.A.C. 5:23-4.19:

Report No.	Name
R840	State Training Fee Report

(f) The following standardized report form established by the Commissioner is optional for use by the municipal enforcing agency:

Report No.	Name
R-800	Inspector's Report

(g) Exceptions: Exceptions may be made by the municipal enforcing agency to those requirements for records and procedures, forms, logs, and reports as stated in this section and in the Municipal Procedures Manual established by the commissioner only with the express written authorization of the Department. Requests for exceptions shall be in writing and shall detail the requirement(s) to which an exception is sought, the reason(s) for such exception and the duration for which the exception is sought, and shall be accompanied by any appropriate documentation and examples of alternative procedures, forms, logs or reports.

(h) Duties of construction officials:

1. The construction official shall enforce the regulations and:

i. Provide that applications are available, and assist the public in preparing the applications whenever necessary;

ii. Review all applications for completeness as to form and for verification of prior approvals. He may request additional documentation concerning prior approvals whenever it is deemed necessary;

iii. Upon receipt of the completed application, the construction official shall determine the proper fee for the work required;

iv. Collect all fees and penalties and ensure that funds are properly accounted for;

v. Ensure that the proper subcode official shall have an adequate time period to review appropriate applications, plans and specifications;

vi. Ensure that all requests for variation are properly prepared, documented and referred to the appropriate subcode officials;

vii. Issue the construction permit upon receiving the approval of all appropriate subcode officials;

viii. Record all notices of violation upon receiving notification of the appropriate subcode official, and determine all penalties for noncompliance with the penalty notices;

ix. Ensure that all required inspections are scheduled and performed within three business days of the time for which inspection has been requested;

x. Ensure that the reports of all inspections are completed and properly filed;

xi. Record stop construction orders upon notification of the appropriate subcode official or, in the case of a development-wide stop construction order, issue the stop construction order upon recommendation of the appropriate subcode official. Within 24 hours of issuance, a copy of the development-wide stop construction order shall be forwarded to the Department via mail to: Department of Community Affairs, Office of Regulatory Affairs, 101 S. Broad Street, PO Box 818, Trenton, NJ 08625.

xii. Ensure that all final inspections have been completed prior to the issuance of a certificate of occupancy.

(1) Ensure that all inspection required for the purpose, has been completed prior to the issuance of temporary certificate of occupancy;

xiii. Issue the certificate of occupancy, upon receiving the approval of all appropriate subcode officials.

(1) Issue the temporary certificate of occupancy, upon receiving the approval of all appropriate subcode officials;

xiv. Ensure, in the case of a change of use, or upon a request for a certificate of continued occupancy, that each subcode official gives an approval based on an inspection and the review of all submitted data before issuing a certificate of continued occupancy;

xv. Prepare and obtain reports required in the regulations;

xvi. Attend meetings and hearings as required by the regulations;

xvii. Carry out such other functions as are necessary and appropriate to the position of construction official;

xviii. Coordinate the activities of the subcode officials in enforcement of the energy radon hazard, elevator safety and mechanical subcodes;

xix. Reply within three business days to any request from the municipal search officer for information concerning construction permits or certificates of occupancy;

xx. Comply with any local procedures which may be established by the governing body to provide the municipal search officer with information concerning construction permits and certificates of occupancy;

xxi. File with the Department a notice of the execution of each contract with a private on-site inspection agency, which notice shall specify the subcode(s) covered by the contract, within 10 days after the effective date of the contract;

xxii. Take or initiate appropriate disciplinary action in the case of any subcode official or inspector failing to properly enforce the UCC. If the action includes suspension or dismissal, the construction official shall report this action to the Office of Regulatory Affairs via mail: Department of Community Affairs, Office of Regulatory Affairs, 101 S. Broad Street, PO Box 818, Trenton, NJ 08625;

xxiii. Issue a notice of violation pursuant to N.J.A.C. 5:23-2.35 for any violation of the provisions of the Code in effect at the time of permit application that comes to his or her attention. Pursuant to N.J.S.A. 2A:14-1.1, no notice of violation may be issued to the developer or to any contractor more than 10 years after issuance of the certificate of occupancy;

xxiv. Ensure that all units within a residential development, other than Group R-1, that might have similar violations are inspected for such violations and that any such violations found are cited and abated if violations of the provisions of the Code in effect at the time of permit application listed at N.J.A.C. 5:23-

2.35(a)1 are found in a residential structure in the development subsequent to the issuance of a certificate of occupancy. The construction official shall supervise the work of any professional engineer or registered architect hired by the municipality for this purpose; and

xxv. Report the name of the developer and the nature of the code violation(s) to the Department by sending this information in writing to the Office of Regulatory Affairs, 101 S. Broad Street, PO Box 818, Trenton, NJ 08625 whenever:

(1) It is necessary to take development-wide action for code violations discovered after issuance of certificate(s) of occupancy pursuant to N.J.A.C. 5:23-2.35(a)1;

(2) The municipal engineer advises the construction official that the municipality has had to call a bond posted pursuant to N.J.S.A. 40:55D-53 due to failure of the developer to complete site improvements satisfactorily; or

(3) The developer fails to maintain funds in the escrow account required pursuant to N.J.A.C. 5:23-4.17 unless the charges to the escrow account are under appeal.

2. Nothing contained herein shall prevent the construction official from overruling a decision of a subcode official if he is qualified and certified in that subcode pursuant to subchapter 5 of this chapter.

(i) Duties of subcode officials:

1. The subcode official shall enforce the regulations and:

i. Review those aspects of the application, plans and specifications appropriate to his subcode for approval and release to the construction official for issuance of the permit;

ii. Receive and review directly from the applicant applications involving only one trade or subcode and minor or emergency work for approval and release to the construction official for issuance of the permit;

iii. Collect fees for permit applications involving only trade or subcode and minor or emergency work and forward same to the construction official for proper accounting;

iv. Comply with the time limitations for review as determined by the construction official;

v. Review requests for variations as necessary;

vi. Perform all required inspections within three business days of the time for which inspection has been requested;

vii. Issue in the name of the enforcing agency notices of violation and notify the construction official of same.

The subcode official may issue verbal orders at the job-site and shall record such orders in his inspection report;

viii. Complete reports of all inspections performed;

ix. Issue stop construction orders in the name of the enforcing agency and notify the construction official of same or, in the case of a development-wide stop construction order, make a recommendation to the construction official for issuance of the order;

x. Perform final inspection and notify construction official of approval in order that the construction official may issue certificate of occupancy;

xi. Make inspection, review submitted data and notify construction official of approval in the case of a change of use, or a request for a certificate of continued occupancy;

xii. Assist the construction official in the preparation of all reports required in the regulations;

xiii. Attend meetings and hearings as required by the regulations;

xiv. Issue documentation and certification, such as cut-in cards to utilities and/or public agencies if required by the regulations;

xv. Carry out such other functions as are necessary and appropriate to the position of subcode official.

2. In the course of enforcing the regulations, the fire protection subcode official shall cooperate, to the greatest extent possible, with the local fire service, which is the local fire department or district having jurisdiction.

i. The fire protection subcode official shall, upon request of the local fire service, allow a designated representative of the local fire service reasonable access to, and opportunity to review, plans submitted to the fire protection subcode official for his approval.

ii. The fire protection subcode official shall consult with the local fire service prior to granting any variations from the requirements of the fire protection subcode. If the fire protection subcode official is not himself a member of the local fire service, he shall, upon receipt of an application for a variation, forward a copy thereof to the local fire service and shall not grant a variation until he has received the comments of the local fire service or until 10 business days have passed, whichever comes first.

iii. The participation of the local fire service in the code enforcement process shall in no way be construed as reducing the responsibility of the fire protection subcode official for the proper enforcement of the fire protection subcode. Advice rendered by the local fire service shall in no way be binding upon the subcode official.

(j) Conflict of interest:

1. No person employed by an enforcing agency as a construction or subcode official or as an inspector shall knowingly carry out any inspection or enforcement procedure with respect to any property or business in which he or she, or any close relative or household member, or his or her superior within the enforcing agency, or any close relative or household member of such superior, or any other public official or employee having any direct or indirect control over the funding or operations of the enforcing agency, or any household member of any such public official or employee, has an economic interest. For purposes of this paragraph, "close relative" shall mean and include a spouse, sibling, ancestor or descendant, or the spouse of any of them.

i. Where an inspection or enforcement procedure is necessary or required in any such property or business, and there is no other person employed by the enforcing agency who is qualified, pursuant to this chapter, to perform the inspection or enforcement procedure and who is not a subordinate of the person with the direct or indirect economic interest in such property or business, the official or inspector shall arrange for the inspection or enforcement to be carried out either by another local enforcing agency or by the Department.

ii. A separate log shall be maintained by the enforcing agency of all inspections and enforcement procedures performed, when permitted in accordance with (j)1i above, with regard to any properties or businesses in which any persons employed by the enforcing agency have a direct or indirect economic interest.

2. No person employed by an enforcing agency as a construction or subcode official, assistant to the construction or subcode official, trainee, inspector or plan reviewer, shall, whether directly or indirectly, be engaged in ownership of, or employment by, or contracting to provide goods or services to, any business furnishing labor, materials, products or services for the construction, alteration or demolition of buildings or structures, or for the maintenance of any equipment or building component the maintenance of which is regulated pursuant to this chapter, that is engaged in any such activity within any municipality in which he is so employed by an enforcing agency, or in any municipality adjacent to any municipality in which he is thus employed. For purposes of the prohibition set forth in this paragraph, it shall be immaterial whether the employment by the business, or the providing of goods and services to the business, occurred within the employing municipality or an adjacent municipality or occurred elsewhere.

3. Persons subject to this subsection shall annually report any income or benefits received from any business or property subject to the Code, or from any business furnishing materials, products, labor or services for types of work subject to the Uniform Construction Code regulations, to

the municipal governing body. This report shall include a list of all sources of income, but need not list the amount.

4. No person employed by a municipal enforcing agency as a construction official, subcode official or inspector shall be employed to appear before any construction board of appeals, or be involved in any court proceeding within the State, as a paid expert witness, or in any other compensated capacity in any proceeding involving the enforcement of the Uniform Construction Code except on behalf of another enforcing agency, or as a court-appointed witness.

i. This prohibition shall not apply to any litigation not involving enforcement of the Code, or to an appearance as a fact witness; nor shall it apply to any activities unrelated to an action for, or an appeal of, enforcement of the Code.

5. This section shall not apply to:

i. The ownership of stock or other investment instrument in any corporation listed on any national stock exchange.

ii. Any such business or employment outside the State;

iii. Dual employment by two or more enforcing agencies;

iv. Any business or employment which is not subject to the regulations.

v. Service as an instructor in a code enforcement training program.

6. Nothing herein shall prohibit a municipality from establishing by ordinance more restrictive provisions covering conflict of interest.

(k) No person employed by an enforcing agency as a construction official, subcode official or inspector shall accept, or continue to hold, employment in one or more other municipalities as a construction official, subcode official or inspector unless the resulting combined workload is such that it can be discharged in a manner consistent with the requirements of this chapter.

Amended by R.1983 d.611, eff. January 3, 1984.
See: 15 N.J.R. 1789(a), 16 N.J.R. 45(b).

Deleted old (b)2.-3. and (c) and added new (b)2, (c), (d) and (e).
Renumbered old (d)-(f) as new (f)-(h).

Amended by R.1984 d.303, effective July 16, 1984.
See: 16 N.J.R. 950(a), 16 N.J.R. 1968(b).

Added (g)2.
Amended by R.1990 d.61, effective February 5, 1990.
See: 21 N.J.R. 3346(b), 22 N.J.R. 351(b).

Form numbers updated, new (d)2. added and reference made to reports and fees being submitted quarterly.
Amended by R.1990 d.226, effective May 7, 1990.
See: 21 N.J.R. 3696(a), 22 N.J.R. 1356(a).

Radon mitigation added to (f)1xviii.
Amended by R.1991 d.325, effective July 1, 1991.
See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Elevator safety added at (f)1xviii; conflict of interest provision added at (h).

Amended by R.1992 d.47, effective February 3, 1992.
See: 23 N.J.R. 3440(a), 24 N.J.R. 405(a).

Electronic monthly reporting added at (d)2.-4.
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 (b).
Amended by R.1992 d.243, effective July 6, 1992.
See: 24 N.J.R. 678(a), 24 N.J.R. 2422(a).

Conflict of interest and exception provisions added.
Amended by R.1992 d.392, effective October 5, 1992.
See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).

Report form number changed at (e).
Amended by R.1993 d.581, effective November 15, 1993.
See: 25 N.J.R. 3693(a), 25 N.J.R. 5146(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.1995 d.249, effective June 5, 1995, (operative October 1, 1995).

See: 27 N.J.R. 619(a), 27 N.J.R. 2187(a).

In (b)2 added Form No. F-370.
Amended by R.1996 d.512, effective November 4, 1996.
See: 28 N.J.R. 3697(a), 28 N.J.R. 4782(a).

Amended by R.1997 d.64, effective February 18, 1997 (operative May 19, 1997).
See: 28 N.J.R. 4695(a), 29 N.J.R. 550(a).

In (b)2, amended form references.
Amended by R.1997 d.378, effective September 15, 1997.
See: 29 N.J.R. 2742(a), 29 N.J.R. 4103(a).

In (b)2 and (c)1, amended form designations and in (b)2 deleted form F-330A and F-340A.

Amended by R.1997 d.419, effective October 6, 1997.
See: 29 N.J.R. 3406(a), 29 N.J.R. 4287(a).

In (j)1, inserted “, or his or her superior within ... any such superior;”, in (j)1i inserted “, and there is no other person ... property or business;”, and added (j)1ii.

Amended by R.2000 d.166, effective April 17, 2000.
See: 31 N.J.R. 4151(a), 32 N.J.R. 1376(a).

In (b)2, inserted a reference to Form No. F380.
Amended by R.2000 d.413, effective October 16, 2000.
See: 32 N.J.R. 2278(a), 32 N.J.R. 3783(a).

In (j)1, substituted references to close relatives or household members for references to members of the immediate family, and added the second sentence; and deleted former (j)7.

Amended by R.2003 d.363, effective September 15, 2003.
See: 35 N.J.R. 2426(a), 35 N.J.R. 4281(a).

In (b), added forms F211, F212, F241, F242 and deleted form F240; deleted the revision dates of the referenced forms throughout.

Amended by R.2003 d.385, effective October 6, 2003.
See: 35 N.J.R. 2423(a), 35 N.J.R. 4713(a).

In (h), added 3.
Amended by R.2005 d.446, effective December 19, 2005.
See: 37 N.J.R. 2747(a), 37 N.J.R. 4907(a).

Added (h)1xxii.
Amended by R.2006 d.75, effective February 21, 2006.
See: 37 N.J.R. 3110(a), 38 N.J.R. 1183(a).

In (b)2, added Form F390, Framing Checklist.
Administrative correction.

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

In (h)1xxii, substituted “818” for “817” to correct PO Box number.
Amended by R.2006 d.355, effective October 2, 2006.

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

In the table in (b)2, added entries for forms “F101”, “F213”, and “F214”; in (h)1xxi, deleted “and” from the end; in (h)1xxii, substituted a semicolon for a period at the end; added (h)1xxiii through xxv; and deleted (h)3.

Amended by R.2007 d.46, effective February 5, 2007.
See: 38 N.J.R. 872(a), 39 N.J.R. 370(b).

Rewrote (h)1xi and (i)lix.
Administrative correction.

See: 39 N.J.R. 1249(a).

Amended by R.2007 d.143, effective May 7, 2007.

See: 39 N.J.R. 7(a), 39 N.J.R. 1672(a).

In (j)1, inserted “, or any other public official or employee having any direct or indirect control over the funding or operations of the enforcing agency or any close relative or household member of any such public official or employee.”

Administrative correction.

See: 39 N.J.R. 3296(a).

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

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

Added (k).

Administrative correction.

See: 40 N.J.R. 113(a).

Amended by R.2008 d.273, effective September 15, 2008.

See: 40 N.J.R. 2630(a), 40 N.J.R. 5195(c).

In the introductory paragraph of (j)1, inserted “a” preceding “construction”, inserted “knowingly” and inserted a comma following “agency” twice, and deleted “close relative or” preceding the third occurrence of “household member”; and rewrote (j)2.

Amended by R.2010 d.291, effective December 20, 2010.

See: 42 N.J.R. 1943(a), 42 N.J.R. 3053(a).

In (b)2, (b)3, (c)1, (d)1 and (f), updated the tables; in (b)5, deleted “they” preceding “may purchase”, and deleted “A” following “F-110”, “F-120”, “F-130”, “F-140” and “F-310”; and in (j)2, inserted “, or for the maintenance of any equipment or building component the maintenance of which is regulated pursuant to this chapter.”

Amended by R.2011 d.269, effective November 7, 2011.

See: 43 N.J.R. 904(a), 43 N.J.R. 3008(a).

In entry F-370 of (b)2, substituted “Verification” for “Certification”.

Case Notes

Former N.J.A.C. 5:23-4.3 regarding conflict of interest valid. *New Jersey State Plumbing Inspectors Assn., Inc. v. Sheehan*, 163 N.J. Super. 398, 394 A.2d 1244 (App.Div.1978), certiorari denied 79 N.J. 484, 401 A.2d 239 (1979).

Adopting Initial Decision’s conclusion that 60-day suspension of license, rather than revocation, was sufficient punishment for infractions where there was no evidence that the municipal building code official intended to receive an economic benefit, within the meaning of N.J.A.C. 5:23-4.5(j), on the transfer of stocks of the official’s former plumbing business (adopting 2007 N.J. AGEN LEXIS 763 as modified). *Mazzer v. Office of Regulatory Affairs*, OAL Dkt. No. CAF 07898-07 (On Remand), 2008 N.J. AGEN LEXIS 12, Final Decision (January 10, 2008).

Construction official violated N.J.A.C. 5:23-4.5(j)(2), where the official performed architectural services on an ongoing basis for a builder undertaking construction in the municipality in which the official was employed, as well as in the adjoining municipality. *Easse v. Dep’t of Community Affairs*, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842, Final Decision (July 24, 2007).

Location of the projects for which an official receives compensation for services from a builder is not relevant to the analysis of whether N.J.A.C. 5:23-4.5(j)(2) was violated; an official may not perform services for a builder anywhere, once that builder undertakes construction in the municipality in which the official is employed or an adjoining municipality. *Easse v. Dep’t of Community Affairs*, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842, Final Decision (July 24, 2007).

Code official does not have to commit a criminal offense in order to be in violation of N.J.A.C. 5:23-4.5(j)2. A code official is in violation of N.J.A.C. 5:23-4.5(j)2 if he or she enters into, or maintains, any involvement with any person or business entity that is involved in construction under circumstances where such involvement might reasonably be perceived as compromising the objectivity of the official and, thus, the integrity of the code enforcement system. *Easse v. Dep’t of Community Affairs*, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842, Final Decision (July 24, 2007).

Willfulness is not an element of violation of the Uniform Construction Code rules. *Easse v. Dep’t of Community Affairs*, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842, Final Decision (July 24, 2007).

Code official’s issuance of permits to a builder during the same period of time in which the official was providing compensated architectural services to the builder violated not only N.J.A.C. 5:23-5.25(a)5, but also N.J.A.C. 5:23-4.5(j)2. *Easse v. Dep’t of Community Affairs*, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842, Final Decision (July 24, 2007).

Multiple incidents involving conflicts of interest under N.J.A.C. 5:23-4.5(j)2 warranted revocation of all of the official’s Uniform Construction Code licenses, and a previously “unblemished” record did not overcome the seriousness of the violation. *Easse v. Dep’t of Community Affairs*, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842, Final Decision (July 24, 2007).

Monetary penalty against builder for code violations was not reduced for financial hardship, but was reduced by half to secure prompt compliance. *Bureau of Housing Inspection v. Regency Village Apartments*, 95 N.J.A.R.2d (CAF) 37.

Fraud and deceit while practicing as a licensed code enforcement official or inspector warranted license revocation. *Regulatory Affairs v. Zieniuk*, 95 N.J.A.R.2d (CAF) 15.

Conflict of interest precluded employment as elevator inspector. *Kunz v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 32.

5:23-4.5A (Reserved)

Repealed by R.2006 d.128, effective April 3, 2006.

See: 37 N.J.R. 4106(a), 38 N.J.R. 1573(a).

Section was “Selection of private on-site inspection and plan review agencies”.

5:23-4.6 Interlocal enforcing agencies—establishment

(a) Parties: Any two or more municipalities may, by resolution, join to administer and enforce this chapter and any adopted subcode. Any municipalities that are party to an agreement establishing one enforcing agency having jurisdiction for all subcodes may further provide for the establishment of a joint board of appeals.

(b) Agreement: Except as this section may add or substitute requirements, the procedures for the execution of any agreement pursuant to this section shall be governed by the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1 et seq.).

1. Upon the adoption of a resolution pursuant to the Uniform Shared Services and Consolidation Act, a copy of such resolution, the contract, and any other pertinent information shall be forwarded to the department;

2. The term of any contract entered into pursuant to this section shall be four years.

3. The contract shall stipulate that the term of office of any construction or subcode official shall, except for good cause, be four years.

4. Such contract shall provide a mechanism for administration and enforcement within each of the contracting municipalities by one or more of the contracting municipalities, on an interim or emergency basis, should such

agreement be invalidated by a court of competent jurisdiction or prove otherwise unenforceable.

5. The contract shall additionally stipulate the information contained in N.J.A.C. 5:23-4.7(b) and 4.8(a).

Amended by R.2011 d.269, effective November 7, 2011.
See: 43 N.J.R. 904(a), 43 N.J.R. 3008(a).

Rewrote (a), the introductory paragraph of (b), and (b)1.

5:23-4.7 Interlocal enforcing agencies—organization

(a) General: Except as is provided in this section, enforcing agencies organized pursuant to this section shall, insofar as is practicable, be organized in the same manner as are municipal enforcing agencies.

(b) Exception: Nothing contained in N.J.A.C. 5:23-4.3, with respect to offices, shall require that only one central office be established pursuant to this section. Whenever municipalities join pursuant to this section, they shall establish offices which are reasonably accessible in terms of distance, location and function.

5:23-4.8 Interlocal enforcing agencies—administration and enforcement

(a) General: Enforcing agencies organized pursuant to this article shall administer and enforce the regulations in the same manner as municipal enforcing agencies.

(b) The provisions of N.J.A.C. 5:23-4.3 regarding conflict of interest shall be applicable to interlocal enforcing agencies, including all municipalities party to the interlocal agreement, to the extent that the agreement covers specific subcode activities.

5:23-4.9 State enforcing agencies—establishment

(a) Department of Community Affairs:

1. The Bureau of Local Code Enforcement in the Division of Codes and Standards is constituted as the enforcing agency for the purpose of administering and enforcing the code in those municipalities which have decided, pursuant to N.J.A.C. 5:23-4.3, not to enforce the code.

2. Pursuant to Reorganization Plan No. 004-1996, the Department is constituted as the sole plan review agency for the administration and enforcement of Federal and State standards applicable to the construction, alteration, demolition or maintenance of health care facilities, as defined in N.J.A.C. 5:23-1.4.

(b) Division of Building and Construction, Department of the Treasury:

1. The Division of Building and Construction is constituted as the enforcing agency for the purpose of performing plan review if the Department of Community Affairs cannot approve plans within the 20-day period provided for in N.J.S.A. 52:27D-131, with respect to buildings built under the supervision of the Division of Building and Construction.

Administrative Correction to (a)1.

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

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

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

In (a)1, changed enforcing agency and amended N.J.A.C. references; deleted (a)1i and (c); inserted (a)2; and recodified former (d) as (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 (b)1, substituted "performing plan review" for "administering and enforcing the regulation" following "purpose of"; and deleted a former (c).

Administrative correction.

See: 36 N.J.R. 466(a).

(e) Interlocal enforcement: When two or more municipalities or a county and one or more municipalities enter into an agreement to administer and enforce this chapter pursuant to N.J.A.C. 5:23-4.4(a)2 and the Interlocal Service Act (N.J.S.A. 40:8A-1 et seq.), there shall be one uniform fee schedule which shall be applied by all parties to the agreement. Said fee shall be collected by the interlocal enforcing agency performing the administration and enforcement of the regulations. No additional fee shall be required to be paid or be paid by an applicant to any municipality or county for any Uniform Construction Code enforcement service. The enforcing agency shall maintain financial records showing for each municipality the amounts of money collected and expended in the enforcement of this chapter.

Amended by R.1982 d.401, effective November 15, 1982.

See: 14 N.J.R. 495(a), 14 N.J.R. 1300(a).

Added (d). Prior to recodification of N.J.A.C. 5:23, this section was codified at 5:23-4.8.

Amended by R.1982 d.402, effective November 15, 1982.

See: 14 N.J.R. 943(a), 14 N.J.R. 1300(b).

Added to (b)2 that copy of report ... must be filed every two years.

Emergency amendment, R.1989 d.405, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2127(b).

In (a): added "certificates of continued occupancy, certificate of approval" and deleted "moving of building permit ...".

In (a)1: added language regarding rounding of dollar amounts in fees. 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 without change.

Amended by R.1990 d.115, effective February 5, 1990 (operative March 1, 1990).

See: 21 N.J.R. 3348(a), 22 N.J.R. 352(a).

Requirements added at (c) for the establishment of a mechanism (dedication by rider) to ensure construction fees are used for no other purpose than to fund annual costs for the operation of enforcing agencies.

Amended by R.1990 d.489, effective October 1, 1990.

See: 22 N.J.R. 1871(a), 22 N.J.R. 3147(a).

Amended to state that appropriation of municipal construction code fees may be done by rider or by estimates in advance, in accordance with the Local Budget Law, N.J.S.A. 40A:4-1 et seq.

Amended by R.1992 d.148, effective April 6, 1992.

See: 24 N.J.R. 169(a), 24 N.J.R. 1399(a).

Construction official may report based on the municipality's fiscal year.

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.2006 d.355, effective October 2, 2006.

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

Added new (d); and recodified former (d) as (e).

Administrative correction.

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

Case Notes

Fee schedules must be calculated to reasonably cover municipal code enforcement costs. Bureau of Construction Code Enforcement v. Hasbrouck Heights, 4 N.J.A.R. 282 (1983).

5:23-4.18 Standards for municipal fees

(a) General:

1. The fee for plan review, computed as a percentage of the fee for a construction permit, shall be paid at the time

of submission of an application for a permit. The amount of this fee shall then be deducted from the amount of the fee due for a construction permit, when the permit is issued; provided however, that the municipality may provide by ordinance that the plan review fee be paid at the time of granting the permit. Plan review fees are not refundable.

2. The fee to be charged for a construction permit will be the sum of the basic construction fee computed in accordance with (c) below herein plus any applicable special fees, such as elevator or sign fees. This fee shall be paid before a permit is issued.

3. The fee to be charged for a certificate of occupancy shall be paid before a certificate is issued. This fee shall be in addition to the construction permit fee;

4. The fee to be charged for an annual construction permit shall be charged annually. This fee shall be a flat fee based upon the number of maintenance workers employed by the facility and who are primarily engaged in work that is governed by a subcode. Managers, engineers and clericals shall not be considered maintenance workers for the purposes of establishing the annual construction permit fee. Annual permits may be issued for building/fire protection, electrical and plumbing. Annual permit fees shall be non-refundable.

5. Prior to the issuance of the annual permit, a training registration fee of \$140.00 per subcode and a list of not more than three individuals to be trained per subcode shall be submitted by the applicant to the municipal construction official, who shall forward the fee and list to the Department of Community Affairs, Bureau of Code Services, Training Section along with a copy of the construction permit (Form F170). Checks shall be made payable to "Treasurer, State of New Jersey." The Department shall register these individuals and notify them of the courses being offered.

(b) Plan review fees:

1. Plan review fees shall be computed as a percentage of the fee to be charged for the construction permit. This percentage shall, to the extent possible, approximate the actual costs incurred in plan review activities, but in any case shall be not less than five percent nor more than 25 percent of the amount that would be charged for the construction permit. For projects which do not require plan review for all subcodes, the fee shall be the appropriate percentage of the subcode fee which is applicable.

2. When plans have been reviewed and released by the Department or when a plan review is waived by the municipality in accordance with N.J.A.C. 5:23-2.15(f)1x, then the enforcing agency construction permit fee shall be reduced by 20 percent from the amount otherwise specified in the municipal enforcing agency fee schedule.

3. If a municipality has not established a plan review fee by ordinance, 20 percent of the construction permit fee

shall be designated as the plan review fee for prototype plans.

4. Whenever a permit application is received based on a released prototype plan, the permit fee shall be reduced by the amount of the plan review fee.

i. For Statewide prototype plans released by the Department or for other prototype plans where the prototype did not include the foundation detail, the construction permit fee shall be reduced by 15 percent from the amount otherwise specified in the municipal enforcing agency fee schedule.

5. The municipality may establish an hourly fee for review of any amendment or change to a plan that has already been released.

(c) Basic construction fee: The basic construction fee shall be computed on the basis of the volume of the building or, in the case of alterations, the estimated construction cost, and the number and types of plumbing, electrical and fire protection fixtures and devices as herein provided.

1. Fees for new construction or alterations shall be as follows:

i. Fees for renovations, alterations, reroofing, repairs, and site construction associated with pre-engineered systems of commercial farm buildings, premanufactured construction, and the external utility connections for premanufactured construction, shall be based upon the estimated cost of the work. The fee shall be computed as a unit rate per \$1,000 of estimated cost.

ii. Fees for renovations, alterations, and repairs shall be based upon the estimated cost of the work. The fee shall be computed as a unit rate per \$1,000 of estimated cost.

iii. Fees for additions shall be computed on the same basis as for new construction for the added portion;

iv. Fees for combination renovations and additions shall be computed as the sum of the fees for the addition and alteration computed separately in accordance with (b) and (c) above;

v. The unit rates may vary for different occupancy groups or structures of different sizes within the same occupancy group, but this shall be clearly indicated in the ordinance and schedule;

vi. Temporary structures and all structures for which volume cannot be computed, such as swimming pools and open structural towers, shall be charged a flat rate;

vii. Fees for minor construction work shall be based upon the estimated cost of the work. The fee shall be computed as a unit rate per \$1,000 of estimated cost or fraction thereof.

viii. Fees for retaining walls shall be as follows:

(1) A retaining wall with a surface area greater than 550 square feet that is associated with a Class 3 residential structure shall have a flat fee.

(2) A retaining wall with a surface area of 550 square feet or less that is associated with a Class 3 residential structure shall have a flat fee.

(3) 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.

ix. A different unit rate may be established for permits for work done in response to Notices of Violation issued pursuant to N.J.A.C. 5:23-2.35.

2. Plumbing fixtures and stacks: Fees shall be based upon the number of plumbing fixtures, devices, plumbing stacks and utility service connections to be installed. Utility service connections include sewer connections and water service connections. The fee shall be a unit rate per fixture, stack, and utility service connection. The unit rate may vary for different types of fixtures and utility service pipes, but this shall be clearly indicated in the ordinance and schedule. There shall be no inspection fee charged for gas service entrances.

3. Electrical fixtures and devices: Fees shall be based upon the number of electrical fixtures or rating of electrical equipment and devices to be installed. The fee shall be a unit rate per fixture or per kilowatt, horsepower or ampere rating of the device or equipment. The unit rate may vary for different types of fixtures or devices, but this shall be clearly indicated in the ordinance and schedule.

4. Fees shall be based upon the number of sprinkler heads, standpipes, and detectors (smoke and heat) and shall be reasonable unit charges. Fees may also be charged for the inspection of premanufactured fire suppression systems, for gas and oil fired appliances not connected to the plumbing system, for kitchen exhaust systems and for incinerators and crematoriums. The municipal ordinance shall clearly set forth what fees are to be charged for what devices.

5. The municipality shall set a flat fee for a mechanical inspection performed by a mechanical inspector or a plumbing inspector in a structure of Group R-3, R-4, or R-5. No separate fee shall be charged for gas, fuel oil, or water piping connections, including the bonding conductor (jumper), associated with the mechanical equipment inspected.

6. Fees for construction permits for individual tenant spaces in multi-tenant buildings shall be applied as follows:

i. If full plans and specifications for the space(s) are not part of the original permit application, the fee for permit updates shall be based on the cost of the work. For electrical, fire, and plumbing work, the fees for permit updates shall be based on the equipment installed in accordance with (c)2, 3, or 4 above.

(d) Demolition permit fees: Permit fees for demolition of a building or structure shall be a flat fee. This fee may vary according to type of structure or whether there has been a condemnation, but this shall be clearly indicated in the ordinance and schedule.

(e) Sign permit fees: The fee for a permit to construct a sign shall be either based upon the square foot area of the surface of the sign, computed on one side only for double-faced signs, or a flat fee per sign.

(f) Certificate fees:

1. The fee for a certificate of occupancy for new construction shall be computed as a percentage of the fee to be charged for the construction permit. This percentage shall be an amount sufficient to cover the actual costs for processing the certificate of occupancy. In the alternative, the municipality may establish a flat fee for the certificate of occupancy.

2. The municipality shall establish a flat fee for certificate of continued occupancy, for certificate of occupancy granted pursuant to a change of use, for multiple certificates of occupancy (as for a shopping center), and similar conditions.

3. The fee for the first issuance and the renewal of a temporary certificate of occupancy shall not exceed \$30.00.

i. Exception: There shall be no fee for the first issuance of the temporary certificate of occupancy provided the certificate of occupancy fee is paid at that time.

4. Where a written request for a temporary certificate of occupancy is made for reasons other than uncompleted work covered by the permit (such as prior approvals from state or municipal agencies), the duration of the temporary certificate of occupancy shall be reasonably consistent with the time required for compliance with the conditions of the prior approval.

5. There shall be no fee charged for a certificate of approval issued pursuant to N.J.A.C. 5:23-2.23(j).

6. There shall be no fee for a certificate of compliance.

(g) Elevator, backflow preventer and cross connection fees are as follows:

1. The fee for a permit to install an elevator device shall be a flat fee. The fee may vary for different types of inspections, tests and elevator devices.

2. The fees for inspections and witnessing of tests for an elevator, escalator, moving walk, dumbwaiter or other elevator device shall be flat fees. These fees may vary for different required inspections and tests, but any variation shall be set forth in the ordinance and the schedule.

3. The categories of municipal elevator fees shall be identical to the categories of elevator fees listed at N.J.A.C. 5:23-12.6(a) and (b).

4. For cross-connections and backflow preventers that are subject to testing and require reinspection, the fee shall be a flat fee.

(h) No special fee shall be established for any class or type of work which is undertaken as a part of work authorized by a construction permit, except elevator and sign permits as herein provided. Other special fees may be established for work regulated by the code but not undertaken as a part of the new construction project. Such special fees shall be flat fees.

(i) Rules concerning the appeal of fees are:

1. Whenever any person shall believe that the fees established by a municipality, pursuant to this subsection, fail to meet the standards of this section for establishing fees, that person shall be entitled to petition the commissioner for a review of the fee schedule in question.

i. Any such petition shall state the name, place of residence and the manner in which the fee schedule affects the petitioner. It shall further state the manner in which the petitioner believes the fees established to be inconsistent with the standards established herein.

ii. If, upon investigation, the commissioner determines that there is reason to believe that the fees in question do not meet the standards established herein, then the commissioner shall set a time and the place for a hearing. The purpose of the hearing shall be to determine the facts.

iii. No such hearing shall be called except upon 30 days notice to the municipality and the petitioner. The municipality shall be required to furnish such information concerning construction volume, construction activity, and local enforcing agency costs as the commissioner may require in order that a determination may be made.

iv. As soon as practical after the conclusion of such a hearing, the commissioner shall make a finding and determination as to whether the fee schedule in question, as a whole or in any of its parts, conforms or fails to conform to the standards established in this section.

2. In addition to any other actions that he may take upon determining that the fees established by a municipality fail to meet the standards of this section, the commissioner may order the repayment of the excess amount of such fees to the persons who have paid them.

3. Any appeal of hourly charges imposed pursuant to (l) below shall be made in accordance with N.J.S.A. 40:55D-53.2a and N.J.A.C. 5:23A.

(j) Fees to be charged by municipalities where private on-site inspection and plan review agencies carry out subcode

official responsibilities shall not exceed those amounts to be paid to those private agencies for those services, pursuant to the contract between the private agency and the municipality, plus such amount as may be sufficient to cover a proportionate share of administrative costs incurred by the local enforcing agency in connection with inspections performed by private agencies.

(k) The fee charged for the annual electrical inspection of swimming pools, spas or hot tubs shall be a flat fee and the amount of the fee shall be set to cover the costs.

(l) Fees for development-wide inspection of homes after issuance of a certificate of occupancy shall be in accordance with N.J.A.C. 5:23-4.17(d).

Amended by R.1984 d.260, effective July 2, 1984.
See: 16 N.J.R. 3(a), 16 N.J.R. 1714(c).

Section substantially amended.
Amended by R.1985 d.351, effective July 15, 1985.
See: 17 N.J.R. 1029(a), 17 N.J.R. 1756(b).

Old (a)4 deleted and new text substituted.
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)4 "annual permit-fees shall be non-refundable" and (a)5 "Prior to the issuance of the annual permit" and "Bureau of Construction Code Enforcement."
Emergency amendment, R.1989 d.405, effective July 3, 1989 (expires September 1, 1989).
See: 21 N.J.R. 2127(b).

Minor technical changes made throughout section.
Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989 (operative January 1, 1990 for 4.18(c)-(e)).
See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).

Provisions of emergency amendment R.1989 d.405 readopted with change.

Added sections (c)4; (k)1iv and v.
Deleted sections (e), "Removal permit fees"; (l)1ii, "Fire subcode"; and (l)4, "Elevator fees ...", with renumbering and recodification.
Amended by R.1991 d.325, effective July 1, 1991.
See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Uniform flat fees for elevators to be set forth in ordinance and schedule.
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 (a)5.
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.1993 d.187, effective May 3, 1993.
See: 25 N.J.R. 624(a), 25 N.J.R. 1875(a).

Added (c)5.
Amended by R.1993 d.353, effective July 19, 1993.
See: 25 N.J.R. 1629(a), 25 N.J.R. 3147(a).
Amended by R.1993 d.665, effective December 20, 1993.
See: 25 N.J.R. 4548(a), 25 N.J.R. 5928(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.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 (a)5 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).
Rewrote (f) and (g).

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.1997 d.409, effective October 6, 1997.
See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).
Amended by R.1997 d.418, effective October 6, 1997.
See: 29 N.J.R. 3402(a), 29 N.J.R. 4286(a).

In (c)5, inserted reference plumbing inspector.
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)3; and added (l).
Amended by R.2001 d.347, effective October 1, 2001.
See: 32 N.J.R. 3218(a), 33 N.J.R. 3430(a).

Rewrote (f).
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), rewrote 5.
Amended by R.2004 d.144, effective April 5, 2004.
See: 35 N.J.R. 4944(a), 36 N.J.R. 1753(a).

In (b), rewrote 2, deleted the N.J.A.C. reference in 3 and added 4; deleted former (i) and recodified former (j) through (l) as (i) through (k).
Amended by R.2005 d.446, effective December 19, 2005.
See: 37 N.J.R. 2747(a), 37 N.J.R. 4907(a).

Added (c)1viii.
Amended by R.2006 d.120, effective April 3, 2006.
See: 37 N.J.R. 3753(a), 38 N.J.R. 1567(a).

In (c)5, added "including the bonding conductor (jumper)".
Amended by R.2006 d.128, effective April 3, 2006.
See: 37 N.J.R. 4106(a), 38 N.J.R. 1573(a).

In (j), substituted "plus such amount as may be sufficient to cover a proportionate share of administrative costs incurred by the local enforcing agency in connection with inspections performed by private agencies" for "by more than 15 percent".

Amended by R.2006 d.355, effective October 2, 2006.
See: 38 N.J.R. 1789(a), 38 N.J.R. 4175(a).

Added (c)1ix, (i)3 and (l).
Amended by R.2007 d.125, effective May 7, 2007.
See: 38 N.J.R. 3707(a), 39 N.J.R. 1671(a).

Added (c)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)5.
Administrative correction.
See: 39 N.J.R. 4571(a).

Case Notes

Owner was not entitled to hearing before administrative law judge to review adverse determination of Department of Community Affairs regarding its challenge to permit fees charged in connection with construction of new building absent evidence that township's permit fee revenues exceeded its expenditures, in violation of governing law. *Toys R Us, Inc. v. Township of Mount Olive*, 300 N.J.Super. 585, 693 A.2d 539 (A.D.1997).

Fee standards violation. *Bureau of Construction Code Enforcement v. Hasbrouck Heights*, 4 N.J.A.R. 282 (1983).

5:23-4.19 New Jersey State permit surcharge fees

(a) In order to provide for the training and certification and technical support programs required by the Act, an enforcing agency, including the Department when acting as the local agency, shall collect a surcharge fee to be based upon the volume of new construction within the municipality. Said fee shall be accounted for and forwarded to the Division of Codes and Standards in the manner herein provided.

(b) Amount: This fee shall be in the amount of \$0.00334 per cubic foot volume of new buildings and additions. Volume shall be computed in accordance with N.J.A.C. 5:23-

(7) The fee for an above-ground swimming pool shall be \$126.00 for a pool with a surface area greater than 550 square feet; the fee in all other cases shall be \$63.00. The fee for an in-ground swimming pool shall be \$189.00 for a pool with a surface area greater than 550 square feet; the fee in all other cases shall be \$95.00.

(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 \$189.00;

(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 \$95.00;

(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 \$13.00 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 \$82.00 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 \$45.00; for each additional block consisting of up to 25 receptacles, fixtures or devices, the fee shall be \$8.00. 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 underwater lighting fixture; for household electric cooking equipment rated up to 16 kw; for each fire, security or burglar alarm control unit; for each receptacle 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 \$13.00.

(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 \$58.00.

(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 \$116.00.

(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 \$576.00.

(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 \$69.00 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 underwater 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 \$29.00 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 loadside panel boards shall be charged in accordance with (c)2iii(3), (4) or (5) above. There shall be no additional fee charged for the concurrent installation of individual feeder conductors.

(9) For motors or similar devices requiring concurrent installation of individual controls, relays and switches, the fee shall be based only upon the rating of the motor or device. There shall be no additional fee charged for the concurrent installation of individual circuit components, for example, controllers, starters, and disconnecting means.

(10) For electrical work requiring replacement of service entrance conductors or feeder conductors only, the fee shall be based on the designated ampere rating of the overcurrent device of the service or feeder as follows:

(A) 225 amperes or less, the fee shall be \$58.00;

(B) 226 to 1,000 amperes, the fee shall be \$116.00; and

(C) Greater than 1,000 amperes, the fee shall be \$576.00.

(11) The fee charged for process equipment shall be based on the ampere rating of the overcurrent device protecting the conductor feeding the process equipment or the cutoff device.

(12) For the purpose of computing these fees, all electrical and communications devices, utilization equipment and motors which are part of premises wiring, except those which are portable plug-in type, shall be counted.

(13) For photovoltaic systems, the fee shall be based on the designated kilowatt rating of the solar photovoltaic system as follows:

(A) One to 50 kilowatts, the fee shall be \$58.00;

(B) Fifty-one to 100 kilowatts, the fee shall be \$116.00; and

(C) Greater than 100 kilowatts shall be \$576.00.

iv. For fire protection and hazardous equipment, sprinklers, standpipes, detectors (smoke and heat), pre-engineered suppression systems, gas and oil fired ap-

pliances not connected to the plumbing system, kitchen exhaust systems, incinerators and crematoriums, the fee shall be as follows:

(1) The fee for 20 or fewer heads shall be \$82.00; for 21 to and including 100 heads, the fee shall be \$151.00; for 101 to and including 200 heads, the fee shall be \$289.00; for 201 to and including 400 heads, the fee shall be \$748.00; for 401 to and including 1,000 heads, the fee shall be \$1,036; for over 1,000 heads, the fee shall be \$1,323.

(2) The fee for one to 12 detectors shall be \$45.00; for each 25 detectors in addition to this, the fee shall be in the amount of \$15.00.

(3) The fee for each standpipe shall be \$289.00.

(4) The fee for each independent pre-engineered system shall be \$116.00.

(5) The fee for each gas or oil fired appliance that is not connected to the plumbing system shall be \$58.00.

(6) The fee for each kitchen exhaust system shall be \$58.00.

(7) The fee for each incinerator shall be \$460.00.

(8) The fee for each crematorium shall be \$460.00.

(9) For single and multiple station smoke or heat detectors and fire alarm systems in any one or two-family dwellings, there shall be a flat fee of \$29.00 per dwelling unit. For detectors and fire alarm systems in buildings other than one or two-family dwellings, the fee shall be charged in accordance with (c)2iv(2) above.

3. Fees for certificates and other permits are as follows:

i. The fee for a demolition or removal permit shall be \$82.00 for a structure of less than 5,000 square feet in area and less than 30 feet in height, for one- or two-family dwellings (Group R-3 or R-5 of the building subcode), structures on farms, including commercial farm buildings under N.J.A.C. 5:23-3.2(d), and \$151.00 for all other Groups.

ii. The fee for a permit to construct a sign shall be as follows:

(1) Fees for pylon signs shall be \$5.00 per square foot for the first 100 square feet, \$3.75 per square foot for the next 400 square feet and \$2.50 per square foot thereafter;

(2) Fees for ground signs or wall signs shall be \$2.50 per square foot for the first 100 square feet, \$1.90 per square foot for the next 400 square feet and \$1.25 per square foot thereafter;

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).

Amended by R.2007, d.384, effective December 17, 2007.

See: 39 N.J.R. 2684(a), 39 N.J.R. 5211(a).

In (c)2iii(6), substituted "\$55.00" for "\$46.00" and "underwater" for "under-water".

Amended by R.2009 d.48, effective February 2, 2009.

See: 40 N.J.R. 5319(a), 41 N.J.R. 733(b).

In (c)2i(1), substituted "chapters 3 and 6, respectively," for "articles 3 and 4".

Amended by R.2009 d.77, effective March 2, 2009.

See: 40 N.J.R. 5895(a), 41 N.J.R. 1009(b).

Updated the fees throughout; in (c)2i(1), substituted "buildings" for "building" following "farm"; in (c)2i(2), inserted "for the first \$50,000, prorated" and substituted "fee on the amount exceeding \$50,000" for "additional fee", the second occurrence of "prorated" for "above \$50,000", "fee on the amount exceeding \$100,000" for "additional fee", and the third occurrence of "prorated" for "above \$100,000"; and in (c)2iii(2), substituted "underwater" for "under-water".

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.

(d) Post abatement sampling and analysis for an asbestos hazard abatement project shall be performed as per EPA 40 CFR 763.90i. Samples collected within the affected work area shall be analyzed by TEM.

(e) Post abatement sampling and analysis for an asbestos hazard abatement project utilizing the glovebag technique and encapsulation shall be as follows:

1. One sample per 10,000 square feet of work area with a minimum of five samples shall be required. Samples collected within the affected work area may be analyzed by PCM to confirm completion of an asbestos abatement project using the methodology specified in NIOSH 7400.

(f) For TEM analysis, the project shall be considered complete when the results of samples collected in the affected work area comply with 40 CFR 763.90 and Appendix A to Subpart E. Maximum turnaround time from sample collection through data reporting shall be 72 hours.

(g) For PCM analysis, the project shall be considered complete when the results of samples collected in the affected work area show that the concentration of fibers for each of the five samples is less than or equal to 0.01 fibers per cubic centimeter.

(h) When the air analysis results for projects covered by this subchapter show asbestos fiber concentrations above the acceptance criteria, then clean-up shall be repeated until compliance is achieved by re-cleaning all surfaces using wet methods and operating all HEPA equipped air pressure differential units to filter the air.

New Rule R.1986 d.143, effective May 5, 1986.

See: 18 N.J.R. 378(a), 18 N.J.R. 949(a).

Amended by R.1989 d.342, effective July 3, 1989.

See: 20 N.J.R. 1130(b), 21 N.J.R. 1844(b).

Recodified old 8.20 as new 8.21. Section 8.21 was formerly "Demolition".

Recodified from 5:23-8.23 by R.1993 d.198, effective June 7, 1993.

See: 24 N.J.R. 1422(a), 25 N.J.R. 2519(b).

Prior text at section, "Appeals", repealed.

Case Notes

Bureau had not met its burden of proof by a preponderance of the competent and credible evidence to support charges under N.J.A.C. 5:23-8.3(b), N.J.A.C. 5:23-8.5, N.J.A.C. 5:23-8.15, and N.J.A.C. 5:23-8.21(b) when it provided no proof that respondent performed asbestos removal. Dep't of Community Affairs, Bureau of Code Services v. Herman H. Braun Heating & Plumbing, OAL Dkt. No. CAF 03509-06, 2006 N.J. AGEN LEXIS 1018, Initial Decision (December 22, 2006).

5:23-8.22 Disposal of asbestos waste

(a) The disposal of friable/non-friable asbestos-containing material and asbestos-contaminated waste from the project site shall be in accordance with New Jersey Department of Environmental Protection and Energy requirements specified in N.J.A.C. 7:26 and 40 CFR Part 61, Subpart M.

Amended by R.1986 d.143, effective May 5, 1986.

See: 18 N.J.R. 378(a), 18 N.J.R. 949(a).

Recodified from 8.13 and substantially amended.

Amended by R.1987 d.525, effective December 21, 1987.

See: 19 N.J.R. 902(a), 19 N.J.R. 2389(a).

Substantially amended.

Amended by R.1989 d.342, effective July 3, 1989.

See: 20 N.J.R. 1130(b), 21 N.J.R. 1844(b).

Recodified old 8.14 as new 8.15, no change in text. Section 8.15 was formerly "Duties of the asbestos safety technician".

Recodified from 5:23-8.15 and amended by R.1993 d.198, effective June 7, 1993.

See: 24 N.J.R. 1422(a), 25 N.J.R. 2519(b).

Prior section, "Demolition", recodified as 5:23-8.18.

SUBCHAPTER 9. CODE INTERPRETATIONS

5:23-9.1 Interpretations: Plumbing Subcode

(a) Application of the Plumbing Subcode to certain manufactured homes:

1. Chapter 18 of the Plumbing Subcode (National Standard Plumbing Code) is not applicable to permanently installed manufactured homes meeting the Federal Manufactured Home Construction and Safety Standards, 24 C.F.R. Part 3280.

2. An approved structure placed on a site for use as a permanent dwelling shall meet the requirements of the State Plumbing Subcode, excluding Chapter 18 of the Plumbing Subcode (National Standard Plumbing Code), or, if applicable, the Federal Manufactured Home Construction and Safety Standards.

(b) Use of common water service and sewer lines under Sections 1.2 and 2.19 of the Plumbing Subcode:

1. Common water services shall be permitted to serve attached single-family dwellings in groups of three or more where the common water service is located within property subject to an association easement or on common property and there is a homeowners' association or other owner entity responsible for maintenance and upkeep.

2. Common building sewers shall be permitted to serve attached single-family dwellings in groups of three or more where the common sewer is located within property subject to an association easement or on common property and there is a homeowners' association or other owner entity responsible for maintenance and upkeep.

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.2002 d.319, effective October 7, 2002.

See: 33 N.J.R. 4185(a), 34 N.J.R. 3497(b).

Rewrote the section.

Amended by R.2003 d.386, effective October 6, 2003.

See: 35 N.J.R. 2550(b), 35 N.J.R. 4714(a).

In (b), inserted "owner" preceding "entity" in 1 and 2.

5:23-9.2 Interpretation: Construction Permit for a single-family residence

(a) Any application for a construction permit for a single family residence shall be accompanied by at least two copies of plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the work to be performed. Plans submitted shall not be required to show more detail or include more information than is reasonably necessary to assure compliance with the requirements of the Uniform Construction Code and rules in this chapter.

(b) Plans containing the following information shall be considered to meet the requirements of (a) above:

1. Site diagram consisting of a site plan showing size and location of all new and existing construction on the site with distances from lot lines and indicating new building services, location and size.

2. Construction plans consisting of a scale drawing showing foundation, floor plans, and elevations, including structural framing notes for all floors, ceilings and roofs. Only girders and columns need be identified and located on the plan. Included on the drawings shall be a loading schedule indicating the live loads for which the structure is designed.

3. The following details and submissions shall be required:

i. A cross section through one typical wall showing construction details from footing to and including roof framing. This section shall indicate all construction materials used including roofing, vapor barriers, sheathing type and thickness, insulation type and thickness, windows, glazing type if other than standard window glazing is used, interior finish material, floor type and thickness, structure, foundation and footings. Decorative material shall not be required to be shown unless it contributes to the structural integrity of the section.

ii. When roof or other truss systems are used, the details required by N.J.A.C. 5:23-2.15(f)1ii(1)(A) shall be shown.

iii. Electrical details indicating lighting; receptacles; motors and equipment; smoke detectors; service entrance locations; size and type (overhead or underground); panel size, location; number of proposed circuits. A symbol legend shall be included.

iv. Plumbing details indicating the locations of fixtures and a notice or table listing water and drainage pipe sizes. A note stating if sewage disposal is to public sewer or individual septic system shall be included.

v. Mechanical details indicating the type of heating system; location, size and type of heating unit, noting the distribution method and indicating design rates, location

of fire dampers and safeguards; and location, type and size of flue.

vi. Energy subcode compliance shall be demonstrated with either detailed calculations, Energy Star compliance documentation, the submission of printouts from software recognized by the Department, such as RES Check, or the prescriptive packages described in Bulletin 03-2. RES Check software is available from the Department of Community Affairs, Division of Codes and Standards, PO Box 802, Trenton, New Jersey 08625 or from the U.S. Department of Energy at www.energycodes.gov.

4. The drawings shall bear the seal and signature of an architect or engineer who prepared the plans and is registered in the State of New Jersey. The seal and signature shall appear on each sheet of each copy of the plans submitted.

i. The construction official shall waive the requirements for sealed plans in the case of a single family home owner who prepares his or her own plans for the construction, alteration or repair of a structure used or intended to be used exclusively as the owner's private residence, and which is to be constructed by the owner, providing that the owner shall submit an affidavit attesting to the fact that he has prepared the plans and that the plans are, in the opinion of the construction official and appropriate subcode officials, legible and complete for the purpose of ensuring compliance with the regulations.

ii. Plumbing plans, electrical plans and mechanical plans may be prepared by licensed plumbers, licensed electrical contractors and mechanical contractors, respectively, in accordance with these regulations.

5. Construction plans, and electrical, plumbing, and mechanical details may be shown on more than one drawing.

6. Where a permit application is based upon a released prototype plan, the permit application shall include the items listed at N.J.A.C. 5:23-2.15(f)2ii.

7. The Construction Official, upon the advice of the appropriate subcode official, may waive any or all of the requirements for plans in (b)1 through 6 above when the work is of a minor nature.

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

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

In (b)3, inserted "and submissions" following "details" in the introductory paragraph, added new ii, recodified former ii through iv as iii through v and added vi.

Administrative correction.

See: 35 N.J.R. 2865(a).

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

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

Rewrote (b)6.

Administrative correction.

See: 39 N.J.R. 4571(a).

substituted "conveying devices," for "conveyor devices that are", inserted ", and mine elevators" and inserted the last sentence.

5:23-12.2 Referenced standards

(a) Periodic, routine and acceptance tests and inspections, if applicable, shall be required on all new, altered and existing power elevators, escalators, dumbwaiters, moving walks, wheelchair lifts, manlifts and stairway chairlifts in accordance with the most recent edition of ASME A17.1, ASME A18.1, or ASME A90.1 referenced in the building subcode. This subsection shall not apply to elevator devices in structures of Group R-3, R-4, or R-5, or to any elevator device located wholly within dwelling unit in a structure of Group R-2 if the device is not accessible to the general public.

(b) All operating and electrical parts and accessory equipment for elevator devices shall be maintained in safe operating condition. The elevator devices shall be maintained to conform to the applicable safety standard at the time of the installation and/or alteration. The maintenance of elevator devices shall conform to the most recent edition of ASME A18.1 or ASME A90.1 referenced in the building subcode, or ASME A17.1 (1996-1998), Section 1206 (except 1206.1h). Maintenance of ASME A17.1 elevator devices shall be in accordance with (c) below.

(c) Maintenance of elevator devices installed under ASME A17.1 shall conform with the following:

1. Maintenance of elevator devices installed under ASME A17.1 shall comply with Sections 8.6.1 through 8.6.12 except for: 8.6.1.2.1, 8.6.1.3, 8.6.1.4, 8.6.1.6.3(a), 8.6.1.6.5, 8.6.5.8, 8.6.7.3, 8.6.7.4, 8.6.7.8, 8.6.7.9, 8.6.8.2, 8.6.8.3, 8.6.11.3, 8.6.11.4, 8.6.11.6, 8.6.11.7, 8.6.11.8, 8.6.12.1.2, 8.6.12.2.2, 8.6.12.2.4, 8.6.12.2.5, 8.6.12.2.6, and 8.6.12.3.4.

2. Additionally, escalators installed under ASME A17.1-2000 and later editions shall comply with sections 8.6.8.2(d) and 8.6.8.3.

3. Where unique or product-specific procedures or methods are required to inspect or test equipment, such procedures or methods shall be made available to the owners and kept where they are readily available to the authority having jurisdiction, authorized and elevator personnel.

(d) If, upon inspection of any elevator device subject to the requirements of this subchapter, the equipment is found to be in a dangerous condition, or if there is an immediate hazard to persons riding on or using any such device, or if the design, or the method of operation in combination with the design, of the device is determined to be inherently dangerous by the elevator subcode official, the elevator subcode official shall so advise the construction official so that a notice of unsafe structure may be issued pursuant to N.J.A.C. 5:23-2.32.

(e) Inspection and testing procedures for equipment within the scope (section 1) of the ASME A17.1 Safety Code for

Elevators and Escalators shall be performed in accordance with the latest edition of ASME A17.2.

(f) Any education, experience or training requirements included or cited in reference standards shall not be binding in this State.

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.564, effective November 6, 1995 (operative March 1, 1996).

See: 27 N.J.R. 2829(a), 27 N.J.R. 4281(a).

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

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

In (a), added R-5 to the list of groups.

Amended by R.2008 d.369, effective December 15, 2008.

See: 40 N.J.R. 4651(a), 40 N.J.R. 6958(a).

In (a) and (b), inserted ", ASME A18.1, or ASME A90.1"; and in (b), substituted "elevator devices" for "elevators, dumbwaiters and escalators".

Amended by R.2009 d.255, effective August 17, 2009.

See: 41 N.J.R. 1919(a), 41 N.J.R. 3065(a).

Rewrote (b).

Amended by R.2010 d.195, effective September 7, 2010.

See: 41 N.J.R. 3140(a), 42 N.J.R. 2043(a).

In (b), deleted "or devices" following "equipment" and inserted the last sentence; and added new (c) to replace reserved (c).

5:23-12.3 Inspection and test schedule

(a) Routine, periodic and acceptance inspections and test of elevators shall be conducted as follows:

1. Routine and periodic inspections shall be made at intervals of not more than six months for all manlifts, and at intervals not exceeding those set forth in Appendix N-1 of ASME A17.1 referenced in the most recent edition of the building subcode for elevators, escalators, dumbwaiters, and moving walks. Stairway chairlifts and wheelchair lifts shall be inspected at intervals not exceeding one year.

2. Routine tests shall be made and periodic tests shall be witnessed at intervals not exceeding those set forth in Appendix N-1 of the most recent edition of ASME A17.1 referenced in the building subcode. Manlifts, stairway chairlifts and wheelchair lifts shall be tested at intervals not exceeding one year.

3. Routine and periodic inspections, including any applicable acceptance inspections, shall be made by the elevator subcode official or elevator inspector. Routine tests shall be made and periodic tests, including any applicable acceptance tests, shall be witnessed by the elevator subcode official or elevator inspector.

4. Each building containing devices covered by this subchapter shall have an inspection cycle established by the enforcing agency. This cycle shall be consistent with the routine and periodic inspection and test intervals required in this section. Once this cycle is established, all such devices in the building shall be subject to inspections and tests, except as exempted by this section or by N.J.A.C. 5:23-12.9.

i. Elevator devices that have been temporarily taken out of operation for alteration work to be performed shall be exempt from routine and periodic inspection and test requirements as long as the elevator device is not accessible to the public or placed back in operation. Those devices that are still in operation, even though they are included in the alteration permit, shall be subject to routine and periodic inspections within the cycle of inspections in the building.

ii. Elevator devices that have been removed from service as per ASME A17.1, A18.1 or A90.1 as applicable are exempt from routine and periodic inspections and tests until the device is placed back in service as per the applicable safety code, which is referenced in the building subcode. Taking a device in or out of service by Code shall be considered minor work within the meaning of N.J.A.C. 5:23-2.17A.

iii. Elevator devices that are used for construction purposes as per ASME A17.1 referenced in the building subcode are subject to inspections and tests required by ASME A17.1 for elevators used for construction. Such devices shall not be accessible to the public. During the operation of the device for construction purposes the owner shall assure that the device is used only for construction purposes by providing a designated operator, authorizing of key operation or by other methods acceptable to the elevator subcode official.

5. Elevator devices in structures of Group R-3, R-4, or R-5, except those elevator devices accessible to the public, shall be exempt from periodic inspection and test requirements. Elevator devices wholly within the dwelling units in structures of Group R-2 and not accessible to the general public shall also be exempt. In addition, signed statements and supporting inspection and acceptance test reports, filed by an approved qualified agent or agency for elevator devices in such structures, other than elevator devices accessible to the public, may be accepted by the construction official, in accordance with N.J.A.C. 5:23-2.19 and 2.20, in lieu of inspections performed by and acceptance tests witnessed by the enforcing agency for work requiring a permit. If the construction official designates the elevator subcode official to perform the inspection and to witness the acceptance test for work under a permit in such structures, those inspections and tests shall ensure compliance with the requirements of the code(s) under which the permit was issued.

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).

Added (a)4 and 5.

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

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

In (a)5, substituted "structures of Group R-3, R-4, or R-5" for "structures classified as Use Group R-3 and R-4"; inserted "the" preceding "acceptance test for work" and substituted "ensure" for "assure" preceding "compliance".

Amended by R.2008 d.369, effective December 15, 2008.

See: 40 N.J.R. 4651(a), 40 N.J.R. 6958(a).

In (a)1, inserted "Appendix N-1 of", substituted a comma for "and" following "escalators" and inserted a comma following "dumbwaiters"; in (a)2, inserted "Appendix N-1 of" and inserted the last sentence; in (a)4ii, inserted ", A18.1 or A90.1 as applicable" and substituted "the applicable safety code" for "ASME A17.1".

5:23-12.4 Registration of elevator devices

(a) On or before July 1, 1992, and thereafter as required by (e) below, the owner of every existing structure containing one or more elevator devices, other than a structure of Group R-3, R-4, or R-5, or other than an elevator device wholly within a dwelling unit in a structure of Group R-2 that is not accessible to the general public, shall register each elevator device with the Department on a form provided by the Commissioner.

(b) The owner of every new structure containing one or more elevator devices or with a newly installed elevator in an existing building shall register each elevator device with the Department, on a form provided by the Commissioner, prior to the issuance of a certificate of occupancy or certificate of approval as the case may be.

1. Exception: Elevators within a building of Group R-3, R-4, or R-5 shall not be required to be registered.

(c) Each filed registration form shall contain the following information for each elevator device:

1. The identification or code number for each individual device;

2. The name, and the address of the New Jersey office or New Jersey residence, of the device's owner or the owner's representative; the owner or the owner's representative must reside or have an office in the State of New Jersey to accept service of process;

3. The mailing address and phone number of the person listed in (c)2 above;

4. The street address of the building or structure, including lot and block number, where the device is located;

5. The type of device;

6. The vertical travel of the device in number of feet and stories, or horizontal feet of travel of the walk or other device;

7. The rating load of the device in pounds;

8. The occupancy load in number of persons;

9. The speed of the elevator in feet per minute;

10. The manufacturer of the device;

11. The date of installation, if known, and date of last inspection performed; and

12. Special devices, such as, but not limited to, oil buffers, counterweights, governors and safeties, and auxiliary power generators.

(d) Each construction official shall provide the Department with the following information concerning each device within the municipality:

1. The name and mailing address of the owner or owner's representative of each device; and
2. The street address, including lot and block number, where the device is located.

(e) If the ownership of a structure containing one or more elevator devices, other than a structure of Group R-3, R-4, or R-5, or a device in a structure of Group R-2 exempted under (a) above, is transferred, whether by sale, gift, assignment, interstate succession, testate devolution, reorganization, receivership, foreclosure or execution process, the new owner

shall file a notice of change of ownership, with the appropriate re-registration fee, with the Department within 60 days of the date of transfer. A device in a structure of Group R-2 exempted by (a) above, which, because of alterations in design or changes in ownership or management, is no longer wholly within one residential unit, or which otherwise becomes accessible to the general public, shall be registered within 60 days of its change in status.

(f) No permit shall be issued for work to be performed on an existing device if that device is not registered as required by this section.

code official and the Department, when the accident meets at least one of the following conditions:

1. An accident involving an elevator device resulting in death or personal injury requiring medical treatment by a physician other than first aid.

i. For purposes of this section, "first aid" means the one time treatment or observation of scratches, cuts not requiring stitches, burns, splinters or contusions, or a diagnostic procedure, including examination and x-rays, which does not indicate any need for further medical treatment. First aid may be performed by licensed medical personnel or by other persons; or

2. An accident involving an elevator device in which the device is damaged as either a result or cause of the accident and which affects the future safe operation of the elevator device.

(b) It shall be unlawful to use an elevator device involved in an accident under (a)1 or 2 above until after an examination by the elevator subcode official has been made and approval of the equipment for continued use has been granted.

(c) It shall be the duty of the construction official to ensure that a prompt examination is conducted into any contributing code violation and/or mechanical malfunction affecting the safety of operation and that a full and complete report is forwarded to the Department pursuant to (f) below. In order to make such determinations, the construction official may request assistance from the Department.

(d) It shall be unlawful to remove from the premises any part of the damaged construction or operating mechanism of elevators, or other equipment subject to the provisions of this chapter, until permission to do so has been granted by the construction official.

(e) Except as otherwise required by (a) above, the construction official shall notify the Elevator Safety Unit about any accident within five working days after the accident is reported to the enforcing agency, except that accidents involving devices under the Department's jurisdiction shall be reported as soon as possible, but not later than the end of the next business day after an accident is reported to the construction official.

(f) Within five working days after an accident involving a device not under the Department's jurisdiction is reported to the enforcing agency, a copy of the Accident/Incident Report form and all attachments, as indicated in the form, shall be forwarded to the Elevator Safety Unit by the construction official.

(g) When a special inspection is performed by a person other than the Elevator Safety Unit subcode official, a copy of the Inspection Report shall be forwarded to the Elevator Safety Unit within five working days after the date of the special inspection.

New Rule, R.1997 d.64, effective February 18, 1997 (operative May 19, 1997).

See: 28 N.J.R. 4695(a), 29 N.J.R. 550(a).

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

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

Rewrote (a); added (b) through (d); and recodified (a)1 through (a)3 as (e) through (g).

Administrative correction.

See: 40 N.J.R. 3991(b).

5:23-12.12 Special safety equipment

(a) On all existing elevators, a space between the elevator hoistway door and the car door or gate shall comply with the requirements of Rule 204.4e of ASME A17.1-1990. Where the space exceeds the maximum distance, a space guard shall be installed to minimize the gap. Sight guards shall be installed along with the space guards on horizontally sliding type hoistway doors.

1. Freight elevators that are equipped with horizontally swinging doors, are not accessible to the general public, and are located in the factories, warehouses, garages, or similar buildings shall not be required to comply.

2. Installation of space and sight guards shall comply with all applicable requirements of ASME A17.3-1993 and shall be considered minor work within the meaning of N.J.A.C. 5:23-2.17A.

(b) In buildings containing more than one elevator device, each such device shall be identified according to ASME A17.1, referenced in the building subcode.

1. In addition, each elevator shall be identified by such a number in every elevator lobby. The identification number shall be a minimum of 1½ inches high and of a color that contrasts with the background. The number shall be permanent and shall be on or adjacent to every elevator hoistway entrance frame. By August 4, 2003, all existing elevators shall comply with this requirement. On all elevators installed on or after June 15, 2009, the identification number shall be a minimum of two inches high.

i. Exception: The identification number on newly installed destination-oriented elevators shall be in accordance with ICC/ANSI A117.1-2003, Section 407.2.3.2.

(c) On each existing escalator, a skirt obstruction device conforming to ASME A17.1-93-95, Rule 805.1.h. and a step level device conforming to ASME A17.1-93-95, Rule 805.1.s. shall be installed by August 4, 2003.

(d) On each existing elevator, a floating (movable) platform that permits the operation of the elevator when the car door or gate is not in the closed position shall be prohibited. Use of a floating (movable) platform that exists as of February 4, 2002 on any elevator shall be discontinued by August 4, 2003.

(e) A sign stating "DO NOT USE A STANDING ESCALATOR AS A BUILDING STAIR" shall be permanently placed where it is readily visible to the general public

at the top and bottom landings of an escalator. This requirement shall apply to new escalator installations and to existing escalators. Each of such signs on existing escalators shall comply with the applicable requirements of ASME A17.1-93-95, Rule 805.2.b. Signs on newly installed escalators shall comply with the Additional Signs requirements of ASME A17.1 referenced in the building subcode. All existing escalators shall be required to comply with this subsection by August 18, 2004.

New Rule, R.1997 d.305, effective July 21, 1997.

See: 29 N.J.R. 2205(a), 29 N.J.R. 3249(a).

Amended by R.2002 d.43, effective February 4, 2002.

See: 33 N.J.R. 3714(a), 34 N.J.R. 732(b).

Rewrote the section.

Administrative correction.

See: 35 N.J.R. 219(c).

Amended by R.2003 d.72, effective February 18, 2003.

See: 34 N.J.R. 3672(a), 35 N.J.R. 1055(a).

Added (e).

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

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

In (b), deleted "BOCA Rule 3003.3 and" preceding "ASME A17.1".

Amended by R.2007 d.144, effective May 7, 2007.

See: 38 N.J.R. 4962(a), 39 N.J.R. 1683(a).

Added (b)1i.

Amended by R.2008 d.369, effective December 15, 2008.

See: 40 N.J.R. 4651(a), 40 N.J.R. 6958(a).

In the introductory paragraph of (a), substituted "Rule 204.4e" for "Rule 204.4c" and substituted "hoistway doors" for "hoistways"; and in (b)1, inserted the last sentence.

Amended by R.2010 d.195, effective September 7, 2010.

See: 41 N.J.R. 3140(a), 42 N.J.R. 2043(a).

Rewrote (e).

SUBCHAPTER 12A. OPTIONAL ELEVATOR INSPECTION PROGRAM

5:23-12A.1 Title; scope; intent

(a) This subchapter of the rules, adopted pursuant to the authority of the Uniform Construction Code Act, as supplemented by P.L. 1997, c.336, is entitled "Optional Elevator Inspection Program" and shall be known and cited throughout this chapter as N.J.A.C. 5:23-12A. When referred to in this subchapter, it may be cited as "this subchapter."

(b) Unless otherwise specifically provided, all references to paragraphs, sections, or to provisions not specifically identified, shall be construed to refer to such paragraph or section or provision of this subchapter.

(c) This subchapter shall control all matters relating to the administration of the registration of qualified elevator device inspection firms, hereinafter referred to as "qualified firms," qualified elevator device inspectors and the elevator devices enrolled in this optional program, as defined in (d) below.

(d) For purposes of this subchapter, "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. The term shall include, without limitation, elevators, dumb-waiters, wheelchair lifts, manlifts, stairway chairlifts and any device within the scope of ASME A17.1 (Safety Code for Elevators and Escalators) or ASME A90.1 (Safety Standard for Belt Manlifts), except escalators and moving walks.

1. This definition shall not apply to any conveyor devices that are process equipment.

5:23-12A.2 Qualified elevator device inspection firms

(a) Any sole proprietorship, partnership, association or corporation that is engaged in the business of maintaining, inspecting and testing elevator devices, has at all times, as a bona fide employee, at least one qualified elevator device inspector, and carries general liability insurance in at least the amount of \$4,000,000 for each person and each occurrence to satisfy claims or judgments for property damage and/or personal injury may apply for registration with the Department as a qualified firm.

1. The application shall contain information relating to the financial integrity of the firm, as evidenced by a reviewed financial statement prepared by an independent certified public accountant.
2. The application shall contain the names and addresses and home phone numbers of all persons who hold at least a ten percent interest in the qualified firm and/or are corporate officers.
3. Each applicant for registration as a qualified firm shall disclose in the application any subsidiary or parent relationship with any other qualified firm or other entity regulated by the State Uniform Construction Code and shall further disclose all interests of any officer, partner, or stockholder of the firm in any other qualified firm or other entity regulated by the State Uniform Construction Code.
4. Each application shall include a sample form of the contract of full service needs to be used for the purposes of this subchapter.

(b) Upon receipt of a completed application on a form prescribed by the Department, including the information in (a) above and a nonrefundable fee of \$250.00, the Department shall issue a certificate of registration, unless the application is denied in accordance with (c) below.

1. The certificate of registration shall remain valid, unless revoked in accordance with (c) below, for two consecutive years following the date of registration; provided, however, that the certificate of registration shall become inactive for any period of time during which the firm ceases to engage in the business of maintaining, inspecting and testing elevator devices or ceases to employ at least one qualified elevator device inspector. It shall be the responsibility of the qualified firm to inform the Department within 30 days of any changes to the status of the qualified firm during the two-year registration period. It shall be the

responsibility of the firm to reapply for registration at least two months prior to the renewal date to make current the information contained in the original application by submission of a completed reapplication form, as prescribed by the Commissioner.

(c) A certificate of registration may be denied or revoked if the Department determines that the firm, or any person holding an ownership interest in the firm or otherwise authorized to represent the firm, has at any time:

1. Willfully made a misstatement of material fact in an application for issuance or renewal of a registration certificate;
2. Willfully committed fraud in connection with the maintenance, inspection or testing of any elevator device;
3. Maintained, inspected or tested any elevator device in a grossly negligent manner;
4. Failed to ensure that the qualified elevator device inspectors that it employs perform their duties in accordance with the requirements of this subchapter;
5. Habitually failed to ensure the timely submission of the elevator device certification in accordance with the requirements of this subchapter;
6. Willfully violated the requirements of the State Uniform Construction Code to any substantial degree; or
7. Failed to report an accident or equipment failure as required by the building subcode and N.J.A.C. 5:23-12.11.

5:23-12A.3 Qualified elevator device inspector

(a) A candidate for certification as a qualified elevator device inspector for the inspection and testing of elevator devices enrolled under this subchapter shall pay a nonrefundable fee of \$65.00 and shall meet the following competence and experience requirements:

1. Seven years of experience consisting of one or a combination of the following:
 - i. Experience in construction, design, or supervision as a journeyman in a skilled trade currently regulated by the elevator subcode;

- ii. Experience as an elevator inspector; or
- iii. Experience as a construction contractor in a field of construction currently regulated by the elevator subcode; and

2. Demonstration of competence by successful completion of one of the following:

- i. Successful completion of the examination module 6B-Elevator General of the National Certification Program for Construction Code Inspectors administered by the Chauncy Group, a subsidiary of the Educational Testing Service for the Department; or
- ii. Possession of a current Qualified Elevator Inspector (QEI) certificate issued pursuant to ASME QEI-1-1993.

(b) The certificate shall be renewed every three years upon the submission of a renewal application, payment of a renewal fee of \$65.00 and submission of documentation of continuing education as follows:

1. Documentation of having completed 1.5 Continuing Education Units (CEUs) in a related technical subject area, as approved by the Bureau of Code Services, within the three-year period preceding the date of application. One CEU equals 10 contact hours;
2. Annual submission of a current QEI certificate; or
3. Submission of equivalent certification approved by the Bureau of Code Services.

(c) A qualified elevator device inspector, when employed by a qualified elevator device inspection firm, shall perform, and certify by signature, the inspection and tests required by this subchapter. The qualified inspector shall not inspect his or her own work; however, the qualified elevator device inspector may perform work as required under the contract of full service needs on the device he or she is inspecting at the time of the inspection and test, provided that work does not require more than one person. The maintenance and repair of a contracted device that is required at any other time under a contract of full service needs shall be performed by another individual, and not by the certifying inspector.