

CHAPTER 23
UNIFORM CONSTRUCTION CODE

Authority

N.J.S.A. 52:27D-123, 123a, 123.2, 123.5, 123.8, 124 and 124f.

Source and Effective Date

R.1997 d.409, effective September 9, 1997.
See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

Executive Order No. 66(1978) Expiration Date

Chapter 23, Uniform Construction Code, expires on September 9, 2002.

Chapter Historical Note

Chapter 23, Uniform Construction Code, was adopted as R.1976 d.344, d.345, d.346 and d.347, effective January 1, 1977 and codified as Subchapter 1, General Provisions; Subchapter 2, Administration and Enforcement Process; Subchapter 3, Subcodes, and Subchapter 4, Enforcing Agencies: Duties, Powers, Procedures. See: 8 N.J.R. 216(b), 319(a), 370(d), 414(a); 8 N.J.R. 546(a). Chapter 23 superseded N.J.A.C. 5:16, Standard Building Code and N.J.A.C. 5:20, Safety Glazing Materials, which were repealed by R.1978 d.360, effective October 6, 1978. See: 10 N.J.R. 377(a), 10 N.J.R. 470(a). Chapter 23 also superseded N.J.A.C. 5:21, Uniform Standards Code for Mobile Homes, which was repealed by R.1982 d.7, effective February 1, 1982. See: 13 N.J.R. 717(a), 14 N.J.R. 142(a). Subchapter 5, Licensing of Code Enforcement Officials, was adopted as R.1977 d.304, effective October 1, 1977. See: 9 N.J.R. 257(b), 9 N.J.R. 413(b). Subchapter 6, Tax Exemption for Solar Facilities, was adopted as R.1978 d.334, effective September 18, 1978. See: 10 N.J.R. 222(b), 10 N.J.R. 418(a). Pursuant to Executive Order No. 66(1978), Subchapter 6 was readopted as R.1980 d.303, effective July 1, 1980. See: 12 N.J.R. 249(c), 12 N.J.R. 452(c).

Pursuant to Executive Order No. 66(1978), Chapter 23 was readopted as R.1983 d.144, effective April 26, 1983. See: 14 N.J.R. 1247(a), 15 N.J.R. 803(c). Subchapter 7, Barrier Free Subcode, was adopted as R.1986 d.448, effective November 3, 1986. See: 18 N.J.R. 757(a), 18 N.J.R. 2194(a). Subchapter 8, Asbestos Hazard Abatement Subcode, was adopted as Emergency New Rules R.1985 d.362, effective June 18, 1985 (expired August 17, 1985). See: 17 N.J.R. 1782(a). The provisions of R.1985 d.362 were readopted as R.1985 d.472, effective August 16, 1985. See: 17 N.J.R. 2249(a).

Pursuant to Executive Order No. 66(1978), Chapter 23 was readopted as R.1988 d.168, effective March 22, 1988. N.J.A.C. 5:23-6.1, 6.2 and 6.3, concerning tax exemption for solar facilities, were not readopted and expired on April 1, 1988. See: 20 N.J.R. 223(a), 20 N.J.R. 893(a). Subchapter 9, Code Interpretations, was adopted as R.1988 d.195, effective May 2, 1988. See: 20 N.J.R. 224(a), 20 N.J.R. 977(a). Subchapter 10, Radon Hazard Subcode, was adopted as R.1990 d.226, effective May 7, 1990. See: 21 N.J.R. 3696(a), 22 N.J.R. 1356(a). Subchapter 4A, Industrialized/Modular Buildings and Building Components, was adopted as R.1990 d.313, effective June 18, 1990, (operative July 1, 1990). See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b). Subchapter 11, Indoor Air Quality Standards and Procedures for Buildings Occupied by Public Employees, was adopted as R.1992 d.33, effective January 21, 1992. See: 23 N.J.R. 1730(b), 24 N.J.R. 229(c). Subchapter 12, Elevator Safety Subcode, was adopted as R.1991 d.325, effective July 1, 1991. See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Pursuant to Executive Order No. 66(1978), Chapter 23 was readopted as R.1993 d.106, effective February 3, 1993. See: 24 N.J.R. 1420(b), 25 N.J.R. 920(a). Subchapter 4B, Manufactured Homes and Manufactured Home Add-On Units Not Subject to Federal Regulation, and Subchapter 4C, Enforcement of Federal Manufactured Home

Standards, were adopted as R.1994 d.96, effective February 22, 1994. See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a). N.J.A.C. 5:23-7.1 through 7.99 were repealed and 7.100 through 7.116 were recodified as 7.2 through 7.18 by R.1995 d.144, effective March 20, 1995 (operative July 1, 1995). See: 26 N.J.R. 2698(a), 26 N.J.R. 2524(a), 27 N.J.R. 1180(a). Subchapter 11, Indoor Air Quality Standards and Procedures for Buildings Occupied by Public Employees, was repealed by R.1995 d.612, effective December 4, 1995 (operative July 1, 1995). See: 27 N.J.R. 3518(a), 27 N.J.R. 4885(a).

Pursuant to Executive Order No. 66(1978), Chapter 23 was readopted as R.1997 d.409, effective September 9, 1997. See: Source and Effective Date. As a part of R.1997 d.409, effective October 6, 1997, Subchapter 6, Tax Exemption, was repealed. See, also, section annotations.

Cross References

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

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

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

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SUBCHAPTER 1. GENERAL PROVISIONS

5:23-1.1 Title; division into subchapters

(a) These regulations shall be known as the "Regulations for the New Jersey Uniform Construction Code" and are referred to herein as "the regulations".

(b) The chapter consists of the following subchapters:

1. "General provisions" which may be cited throughout the regulations as N.J.A.C. 5:23-1 and when referred to in subchapter 1 of this chapter may be cited as this subchapter.

2. "Administration and enforcement; process" which may be cited throughout the regulations as N.J.A.C. 5:23-2 and when referred to in subchapter 2 of this chapter may be cited as this subchapter.

3. "Subcodes" which may be cited throughout the regulations as N.J.A.C. 5:23-3 and when referred to in subchapter 3 of this chapter may be cited as this subchapter.

i. N.J.A.C. 5:23-3.11B contains references to the Department of Environmental Protection's rules concerning underground storage tanks, codified at N.J.A.C. 7:14B, which are jointly enforced by this Department and local enforcing agencies pursuant to this chapter.

4. "Enforcing agencies: duties, powers, and procedures" which may be cited throughout the regulations as N.J.A.C. 5:23-4 of this chapter and when referred to in subchapter 4 of this chapter may be cited as this subchapter.

5. "Industrialized/Modular Buildings and Building Components" which may be cited throughout the regulations as N.J.A.C. 5:23-4A and when referred to N.J.A.C. 5:23-4A may be cited as this subchapter.

6. "Manufactured Homes and Manufactured Home Add-On Units Not Subject to Federal Regulations" which may be cited throughout the regulations as N.J.A.C. 5:23-4B and when referred to in subchapter 4B may be cited as this subchapter.

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

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

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

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

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

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

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

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

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

(b) Notice: Notice of intention to approve any such fixture, appurtenance, material or method shall be published in the New Jersey Register at least 45 calendar days prior to its final approval. Thereafter, notice of final approval, stating operative date, shall be published in the New Jersey Register.

(c) Prospective effect: Any approval issued pursuant to this section shall be prospective in nature and shall not alter the ruling of a subcode official already rendered in a specific instance relating to a specific permit or structure.

(d) The Department shall have exclusive authority to approve systems for indirect apportionment of heating costs in multiple dwellings.

Amended by R.1992 d.390, effective October 5, 1992.
See: 24 N.J.R. 1844(a), 24 N.J.R. 3515(b).

Exception added at (d).
Amended by R.1995 d.544, effective October 16, 1995.
See: 27 N.J.R. 2827(a), 27 N.J.R. 3933(a).

5:23-3.8A Products violating the Code

(a) The Department shall, after public hearing and in accordance with the Administrative Procedure Act (P.L. 1968, c.410, as amended), establish and distribute to all enforcing agencies a list of items, devices and materials the regular and intended use of which would violate any provision of the State Uniform Construction Code. A list of such items is set forth in (d) below.

(b) Upon determining that any manufacturer or distributor in the State is selling or offering for retail sale any product on the list which does not have a regular and intended use that does not violate the Code, or any product which may have one or more such non-violative regular and intended use but which is being advertised or promoted for a use that does violate the Code, the Department or any enforcing agency having jurisdiction shall give written notice of the violation of N.J.S.A. 52:27D-138a(5) to such seller. Such notice shall forbid the further sale or offering for retail sale of such product within the State and shall specify a date and time by which such product shall be removed from display to customers.

(c) Any person who, having received a notice of violation pursuant to this section, continues to sell or offer for retail sale products specified in such notice, shall be deemed to be knowingly selling or offering the product for sale in violation of the Code and shall be subject to penalty as provided by statute, in accordance with the procedures set forth in N.J.A.C. 5:23-2.31.

(d) The Commissioner has determined that the following materials and supplies are not in conformance with the State Uniform Construction Code:

1. Building materials and supplies:

i. Wood paneling being used as an interior finish not in conformance with section 803.2 of the building

subcode. This section specifies that finish shall be classified in accordance with ASTM E84;

ii. Carpeting used as an interior floor finish material not in conformance with section 805.2 of the building subcode. This section specifies that interior floor finish shall be classified in accordance with ASTM E648; and

2. Electrical materials/supplies:

i. As stated in the National Electric Code (sections 90-7, 110-2, 110-3, and 100), only products listed, labeled, approved, and identified are acceptable. Approval is to be based on tests and listings of testing laboratories such as Underwriters Laboratories Inc. (UL), Factory Mutual (FM), or Canadian Standards Association/Nationally Recognized Testing Laboratory (CSA/NRTL), etc.

3. Plumbing materials/supplies:

i. All purpose solvent cement, except transition glues permitted in the plumbing subcode;

ii. Clear PB piping;

iii. Flexible traps and tailpieces;

iv. Sheet and tubular copper and brass trap and tailpiece fittings less than B & S 17 gauge (.045 in.);

v. Water closets requiring in excess of an average of 1.6 gallons per flush, that either have a manufacturer's date stamp of July 1, 1991 or later or were not purchased by the distributor prior to July 1, 1991;

vi. Plumbing fixtures that do not meet the standards listed in the plumbing subcode.

4. Miscellaneous materials and supplies:

i. Portable unvented natural gas, liquified petroleum gas and kerosene heaters when offered for sale for use in buildings for human occupancy, unless they are tested, listed, labeled and certified by a nationally recognized testing laboratory such as the American Gas Association Laboratories (AGA), Underwriters Laboratories Inc. (UL) or Factory Mutual (FM);

ii. Urea formaldehyde foam insulation, unless offered for sale for use elsewhere than in buildings.

R.1983 d.296, effective August 1, 1983.

See: 15 N.J.R. 587(a), 15 N.J.R. 1247(a).

Amended by R.1985 d.38, effective February 19, 1985.

See: 16 N.J.R. 3074(a), 17 N.J.R. 421(a).

(d) added.

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

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

(d)1i and ii: 904.2 was 1404.2; 904.3 was 1404.3.

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

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

Text conformed to BOCA National Code/1990.

Amended by R.1992 d.47, effective February 3, 1992.

See: 23 N.J.R. 3602(a), 24 N.J.R. 405(a).

Low volume water closet exception added at (d)4iii.

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

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

Amended by R.1997 d.508, effective December 1, 1997.

See: 29 N.J.R. 3762(a), 29 N.J.R. 5062(a).

In (d)2i, added reference to CSA/NRTL standards; in (d)3i, added the exception for transition glues; and inserted (d)3vi.

5:23-3.9 Interpretations and opinions

(a) Whenever the Commissioner shall, in accordance with applicable provisions of the Administrative Procedure Act, make any rule constituting an interpretation of any provision of the regulations, such shall be binding provided, however, that such interpretations shall be prospective in nature. Such interpretations shall not alter the ruling of a subcode official already rendered in a specific instance relating to a specific permit or structure. Requests for interpretations shall be in the form, and submitted in accordance with the procedure, set forth in N.J.A.C. 5:2-2.

(b) In response to a written inquiry or request setting forth a specific factual situation, or upon its own initiative, the Construction Code Element may issue a formal technical opinion to clarify provisions of the adopted subcodes. Such formal technical opinion shall be signed by the Assistant Director of the Element and shall be binding upon the Element and upon other code enforcement agencies and licensed officials. Formal technical opinions shall be prospective in nature, shall be based upon adopted subcodes or upon authoritative test results or standards incorporated by reference into an adopted subcode and shall not alter the ruling of a licensed official already rendered in a specific instance relating to a specific permit or structure, except that any such formal technical opinion may be considered in the context of an appeal from any such ruling.

(c) The Construction Code Element may issue bulletins to provide advice to code enforcing agencies, builders, and designers. Bulletins may be issued when the Element finds that an issue that is in need of clarification is adequately dealt with by existing rules and that rulemaking is therefore not appropriate or necessary. Consultation with the Code Advisory Board shall be required prior to the issuance of any bulletin.

(d) In response to a written or oral inquiry or request setting forth a specific factual situation, a staff member of the Construction Code Element may issue an informal opinion as to the proper application of the regulations if the issue is one with which he has authority to deal. Such informal opinion shall only be in writing if it is issued in response to a written inquiry or request and shall not be binding upon the Element or any other party.

Amended by R.1981 d.454, effective December 7, 1981.

See: 13 N.J.R. 561(a), 13 N.J.R. 886(a).

Section substantially amended.

Administrative Correction: Name change.

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

Amended by R.1995 d.340, effective June 19, 1995.

See: 27 N.J.R. 1512(a), 27 N.J.R. 2388(a).

Redesignated (c) as (d) and added a new (c).

Administrative correction.

See: 31 N.J.R. 4259(a).

5:23-3.10 (Reserved)

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

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

Substantially amended.

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

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

Text conformed to BOCA National Code/1990.

Recodified to 5:23-4.3A by R.1992 d.272, effective July 6, 1992.

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

Section was "Enforcing agency classification".

5:23-3.11 Enforcement activities reserved to the Department

(a) Except as otherwise provided in N.J.A.C. 5:23-3.11A(b), the Department of Community Affairs shall be the sole plan review agency for the following structures:

1. Electrical generating stations and substations, including nuclear;
2. Incineration plants;
3. Solid waste disposal plants;
4. Class I and Class II structures where required in accordance with N.J.A.C. 5:23-4.3A and N.J.A.C. 5:23-4.24(a)2ii;
5. Casino hotels;
6. Public mausoleums, vaults, crypts and other structures intended to hold or contain human remains;
7. All premanufactured systems for Class I and Class II structures, other than those authorized to be approved by an inplant inspection agency licensed to perform Class I and Class II plan review as provided in N.J.A.C. 5:23-4A.10, and all on-site installation of Class I and Class II premanufactured construction within the jurisdiction of a local enforcing agency that is not a Class I or Class II agency, as the case may be.
8. Health care facilities, as defined in N.J.A.C. 5:23-1.4; and
9. Public school facilities, as defined in N.J.A.C. 5:23-1.4.

(b) The Department of Community Affairs shall be the sole plan review agency for elevators, escalators, and moving walks in Use Groups other than R-3, R-4, or R-2 structures in which the elevator devices are wholly within dwelling units and not accessible to the general public, in all buildings and structures other than those that:

1. Are in a municipality that has an elevator subcode official; and
2. Are otherwise within the plan review jurisdiction of the local enforcing agency.

(c) A permit shall not be issued until the required plans for the building or structure have been released by the department. The department shall insure that the municipal enforcing agency receives a copy of the approved plans.

(d) The department may perform field inspections for any of the above projects when it deems such activity appropriate. However, such action shall not relieve the municipality of the obligation to perform field inspections for any project for which the municipality has granted a permit.

(e) Whenever the department shall determine that there exists a violation of these regulations, it shall take appropriate action and shall provide the municipality with copies of all notices, orders, and other applicable information. The department and any municipality may consolidate or take other steps to expedite any matter of which they jointly complain, but in no event shall the owner of any building subject to the act be sanctioned twice for the same violations.

(f) In any case where the department shall notify a municipality that a violation exists, no certificate of occupancy may issue until the department notifies the municipality that the violation has been abated.

(g) The Department of Community Affairs shall be the sole agency for the enforcement of the Barrier Free Recreation Standards (N.J.A.C. 5:23-7.2 through 7.18). Any complaint of noncompliance with these rules shall be forwarded to the Department.

(h) The Department of Community Affairs shall be the sole agency having authority to grant variations from the requirements of the Asbestos Hazard Abatement Subcode, pursuant to N.J.A.C. 5:23-8.4.

(i) The Department of Community Affairs shall be the sole agency for the enforcement of the Playground Safety Subcode (N.J.A.C. 5:23-11) with regard to all matters not within the scope of a construction permit issued by a local enforcing agency; provided, however, that this subsection shall not be construed as prohibiting the Department of Education from including review of compliance with applicable playground requirements in its ongoing district monitoring process.

(j) The Department shall be the sole enforcing agency for the following:

1. Amusement rides;
2. Ski lifts;
3. High pressure boilers;
4. Refrigeration systems;
5. Pressure vessels; and
6. Liquefied petroleum gas installations, except one- and two-family residential (building subcode Use Group R-3/R-4) which jurisdiction is retained by the municipal enforcing agency.

Amended by R.1981 d.455, effective December 7, 1981.

See: 13 N.J.R. 561(b), 13 N.J.R. 886(b).
Correction: Codification error and (a)6 was missing.
See: 16 N.J.R. 1621(a).
Administrative Change: This section has been divided into 3.11 and 3.11A administratively.
See: 18 N.J.R. 1842(a).
Amended by R.1988 d.352, effective August 1, 1988.
See: 19 N.J.R. 1270(a), 20 N.J.R. 1873(b).
Added (f).
Amended by R.1990 d.313, effective June 18, 1990.
See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).
Industrialized/modular buildings requirements added to (a)7.
Amended by R.1990 d.507, effective October 15, 1990.
See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).
Text conformed to BOCA National Code/1990.
Amended by R.1991 d.325, effective July 1, 1991.
See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).
Enforcement of elevator, moving walk and escalator requirements for other than R-3 and R-4 reserved to Department.
Amended by R.1992 d.147, effective April 6, 1992.
See: 24 N.J.R. 170(a), 24 N.J.R. 1397(a).
Elevators wholly within R-2 residences exempt.
Amended by R.1992 d.183, effective April 20, 1992.
See: 24 N.J.R. 167(a), 24 N.J.R. 1475(b).
Enforcement of public employees' indoor air quality subcode assigned to DCA.
Amended by R.1994 d.28, effective January 18, 1994.
See: 25 N.J.R. 4546(b), 26 N.J.R. 352(a).
Amended by R.1994 d.96, effective February 22, 1994.
See: 26 N.J.R. 1073(a).
Amended by R.1997 d.377, effective September 15, 1997.
See: 29 N.J.R. 2741(b), 29 N.J.R. 4102(b).
In (g), amended N.J.A.C. references; deleted (g)1; and substantially amended (h).
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), inserted "Except as otherwise provided . . . and (d),"; added (a)8 and 9; and in (g), amended N.J.A.C. references.
Amended by R.1999 d.351, effective October 18, 1999.
See: 31 N.J.R. 1838(a), 31 N.J.R. 3082(a).
Added (i).
Amended by R.2000 d.166, effective April 17, 2000.
See: 31 N.J.R. 4151(a), 32 N.J.R. 1376(a).
In (a), changed N.J.A.C. reference; and added (j).

Case Notes

Delaware River Port Authority was not subject to Construction Code or anti-discrimination laws. *Eastern Paralyzed Veterans Ass'n, Inc. v. City of Camden*, 111 N.J. 389, 545 A.2d 127 (1988).

5:23-3.11A Public school facility plan review and inspection; Uniform Construction Code enhancements in public school facilities

(a) Plan review for the following types of projects shall be performed by the Department of Community Affairs. Prior to the release of plans for the following types of projects, the Department of Education shall ensure that the plans meet the standards for educational adequacy set forth in N.J.A.C. 6:22:

1. New public school buildings, including the creation of a new public school building through the change of use of an existing building;
2. Additions to existing public school buildings;
3. Alterations changing the total number of units, size or type of any instructional space;

4. Installations of mobile units; or

5. Any site or building change or alteration for the purpose of making the site and school barrier-free pursuant to N.J.A.C. 5:23-7 and accessible to the handicapped pursuant to section 504 of the Federal Rehabilitation Act of 1973.

(b) In lieu of obtaining construction code plan review and release from the Department of Community Affairs, a school district, upon notice to the Department, may secure construction code plan review and release from any municipal code enforcing agency, pursuant to P.L. 1990, c.23.

1. The municipal code enforcing agency providing construction code plan approval must agree to perform the review and must be appropriately classified for the proposed project in accordance with this chapter.

2. The municipal code enforcing agency performing the construction code plan review may require the payment of any municipal plan review fees.

3. No construction permit shall be issued for a public school facility unless and until the final plans and specifications have been released by the Department or an appropriately classified municipal code enforcing agency.

4. The municipal code enforcing agency within the jurisdiction in which the facility is located shall be responsible for construction permit issuance, construction inspection and certificate of occupancy issuance.

5. Amendments to released plans and specifications for reasons other than educational adequacy shall be submitted for review and release to the Department or the municipal code enforcing agency, whichever originally released the plans.

6. Release of the plans by the Department or the municipal code enforcing agency, as the case may be, shall not preclude the enforcing agency doing the inspection from issuing a stop work order in the event of a violation of the code. The enforcing agency doing the inspection shall not, however, issue a stop work order based on its disagreement with the released plans unless the agency that released the plans, be it the Department or another local enforcing agency, agrees that the issuance of such an order is appropriate. In the event that the enforcing agency doing the inspection believes there to be an error in the plans, that enforcing agency shall give prompt notice of the error that is believed to exist to the Department or the municipal agency that reviewed the plans, as the case may be.

(c) The Department or the municipal code enforcing agency providing construction code plan release or inspection shall be responsible for enforcing the following Uniform Construction Code enhancements in public school facilities:

1. An automatic fire alarm system shall be installed in all new buildings of Use Group E (educational), as designated in the BOCA National Building Code/96 Section 918.4.1 and in accordance with the applicable National Fire Protection Association standards. The system shall utilize:

i. Combination fixed-temperature and rate of rise devices in classrooms and other spaces not covered in (c)1ii below;

ii. Devices to detect abnormal visible smoke densities or gaseous products of combustion in corridors and exit stairs;

iii. An automatic fire suppression system and, in areas where suppression is deleted, automatic detection devices; or

iv. A combination of the above three types of detection devices except that a fixed-temperature detector shall be permitted in approved locations, such as in a boiler room or incinerator.

2. Manual fire alarm boxes, in addition to BOCA/96 Section 918.5 requirements, shall be provided in the natural path of escape from fire, near each exterior door from the corridor, kitchen, heater room and other exits that are required to serve 50 or more persons. Additional fire alarm boxes shall be located in the main office, stage, at each stairway entrance from a corridor or place of assembly and near one exterior exit in each section of a place of assembly. It shall not be necessary to traverse more than 200 feet of unobstructed horizontal distance on the same floor in order to reach a fire alarm box.

3. Each instructional space and room of assembly which is illuminated with the use of high intensity discharge (HID) sources, such as mercury vapor, high pressure sodium and metal halide lamps, shall also be provided with a second source of illumination to provide illumination instantly upon activation of the circuit. All high intensity discharge (HID) lamps shall be of the fail-safe type which will permanently extinguish within 15 minutes after the outer glass of the bulb is broken. All lamps shall be provided with a glass or plastic lens to protect the bulb.

4. All school buildings shall be equipped with a mechanical air supply and exhaust ventilation system which will provide, during periods of occupancy, standard tempered outdoor air supply and mechanical exhaust at the minimum rates set forth in the BOCA National Mechanical Code as amended.

(d) Pursuant to Reorganization Plan No. 004-1996, the Department or the municipal code enforcing agency shall have authority to enforce and cite violations of N.J.A.C. 6:22-5.4.

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

New (a)7; old (a)7 through 9 renumbered (a)8.-10.
Administrative Change: This section was originally part of N.J.A.C. 5:23-3.11.

See: 18 N.J.R. 1842(a).

Amended by R.1988 d.155, effective April 4, 1988.

See: 20 N.J.R. 824(d).

Added (d). This was amended by the rule adoption of the Department of Education published in the New Jersey Register at 20 N.J.R. 824(d).

Administrative Correction to (c).

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

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

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

Text conformed to P.L. 1990, c.23, qualified agencies may perform plan review of public school structures.

Amended by R.1991 d.309, effective June 17, 1991.

See: 23 N.J.R. 1084(a), 23 N.J.R. 1922(a).

Rule conformed to P.L. 1990 c. 23; text at (c) revised to specify type of project covered; BOCA cites updated; reference to N.J.A.C. 6:22 added.

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

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

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

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

Deleted (a); recodified former (b) through (e) as (a) through (d); in (b), inserted "Prior to the release . . . of projects,"; in (b)1 and 2, inserted "public" preceding "school buildings"; in (c)7, deleted option of inspecting agency requiring subsequent correction of any errors in the plans, inserted second sentence, and in third sentence amended notice provisions.

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

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

In (d), substituted "alarm" for "detection", changed BOCA reference and substituted a reference to (d)5ii for a reference to (e)5ii in 5, and changed BOCA in 6.

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

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

Rewrote the section.

5:23-3.11B Underground storage tank systems

(a) The installation, repair (other than "minor repair," as defined in N.J.A.C. 7:14B-10.5), and closure (or "demolition") of underground storage tank systems, as defined in N.J.A.C. 7:14B-10.1, shall be controlled by the State Uniform Construction Code and by N.J.A.C. 7:14B-1 through 15.

(b) A DEP permit for the installation, repair or closure of an underground storage tank system that requires a DEP approval, or any part thereof, or an emergency permit granted pursuant to N.J.A.C. 7:14B, shall be a prior approval for any permit application submitted pursuant to the State Uniform Construction Code Act and these rules. Applicants installing secondarily contained systems for which no prior DEP approval is necessary shall be required to submit engineering drawings of the secondarily contained systems and to certify that the underground storage tank system meets all requirements of N.J.A.C. 7:14B.

(c) Construction code officials shall retain all penalty powers, as set forth in these rules, with respect to the installation, usage or closure (demolition) of underground storage tank systems and parts thereof in violation of the State Uniform Construction Code Act or these rules.

(d) The following types of underground storage tank systems requiring a construction permit are exempt from the requirements of N.J.A.C. 7:14B:

1. Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
2. Tanks with a capacity of 2,000 gallons or less used to store heating oil for onsite consumption in a nonresidential building;
3. Tanks used to store heating oil for onsite consumption in a residential building;
4. Septic tanks installed in compliance with rules adopted by DEP pursuant to P.L. 1954, c.199 (N.J.S.A. 58:11-23 et seq.);
5. Tanks situated in an underground area, including, but not limited to, basements, cellars, mines, drift shafts, or tunnels, if the storage tank is situated upon or above the surface of the floor;
6. Tanks situated in an underground area, including, but not limited to, basements, cellars, mines, drift shafts, or tunnels, if the storage tank is equipped with secondary containment and is uncovered so as to allow visual inspection of the exterior of the tank;
7. Wastewater treatment tanks;
8. Electrical equipment;
9. Hydraulic lift tanks; and
10. Any pipes, lines, fixtures, or other equipment connected to any tank exempted from the provisions of N.J.A.C. 7:14B as set forth in (b)1 to 9 above.

New Rule, R.1990 d.562, effective November 19, 1990.

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

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

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

In (d)3, deleted maximum capacity for tanks of 2000 gallons.

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

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

In (d)3, deleted "with a capacity of 2000 gallons or less" following "Tanks".

5:23-3.12 Amended rules

Whenever the Commissioner shall make any modifications to the rules, notice of same shall be published in the New Jersey Register.

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.2000 d.413, effective October 16, 2000.

See: 32 N.J.R. 2278(a), 32 N.J.R. 3783(a).

Rewrote the section.

5:23-3.13 State-sponsored code change proposals

(a) Any municipality, other political subdivision, or agency of the State seeking to submit a "State-sponsored code change proposal" shall do so not less than 90 days prior to

the code change meeting of the model code adoption agency for which the amendment is proposed.

(b) Such proposal shall be on a form provided by the model code organization where one is available. If none is available, such proposal shall state the name and address of the official proposing the code change, the agency or political subdivision represented, the text of the amendment suggested and an explanation of the amendment together with any technical justification deemed necessary by the proponents.

(c) A hearing shall thereafter be held in accordance with N.J.S.A. 52:27D-124 of the Act.

(d) Copies of the submitted applications for code change proposals, transcripts of hearings on such applications and State-sponsored code change proposals as adopted, shall be available from the department at a fee of \$.50 per page.

(e) Whenever a model code change hearing is scheduled so as not to permit adequate time to meet the procedures set forth in this section and in N.J.S.A. 52:27D-124 of the Act, the Commissioner may hold a hearing and require the advice of the code advisory board within a lesser time period, as the situation dictates.

5:23-3.14 Building subcode

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

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

i. Copies of this code may be obtained from the sponsor at: BOCA, International, 4051 W. Flossmoor Road, Country Club Hills, Illinois 60478-5795.

ii. "The BOCA National Building Code/1996," may be known and cited as the "building subcode."

2. Any references to the mechanical code, plumbing code, CABO One and Two Family Dwelling Code, CABO A117.1 standard (including reference to chapter 11) or NFPA 70 (including reference to Chapter 27) listed in Chapter 35 shall be considered a reference to the appropriate adopted mechanical, plumbing, one and two family dwelling or electrical subcode referenced in N.J.A.C. 5:23-3 or to the barrier-free subcode, N.J.A.C. 5:23-7, as appropriate.

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

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

2. The following amendments are made to Chapter 2 of the building subcode, entitled "Definitions," section 202.0 general definitions:

i. The term and definition of "Additions" is deleted;

ii. The definition of the term "Agricultural building" is amended to add a sentence as follows: "Structures qualifying under the Uniform Construction Code definition of Commercial Farm Buildings may be built according to the regulations at N.J.A.C. 5:23-3.2(d).";

iii. The definition of the term "Approved" is amended to delete the phrase "or other authority";

iv. The phrase and definition of "Approved material, equipment and methods" is deleted;

v. The term and definition of "Approved rules" is deleted;

vi. The term and definition "Attic, habitable" are added from the 1990 BOCA National Building Code as follows: "Attic, habitable: A habitable attic is an attic which has a stairway as a means of access and egress and in which the ceiling area at a height of 7 1/2 feet (2235 mm) above the attic floor is not more than one-third of the area of the next floor below."

vii. The definition of the term "Building" is deleted and replaced by the definition at N.J.A.C. 5:23-1.4;

viii. The term and definition of "Building, existing" is deleted;

ix. The term and definition of "Building line" is deleted;

x. The term and definition of "Building service equipment" is deleted and replaced by the term and definition of "equipment" at N.J.A.C. 5:23-1.4;

xi. The definition of the term "Code official" is deleted and is redefined herein and throughout the subcode as the "building subcode official" as defined in N.J.A.C. 5:23-1.4 unless indicated otherwise;

xii. The term and definition of "Equipment, existing" is deleted;

xiii. The terms and definitions of "hereafter" and "heretofore" are deleted;

xiv. The term and definition of "Jurisdiction" is deleted;

xv. The term and definition of "Occupancy, change of" is deleted;

xvi. The definition of "Owner" is deleted and replaced by the definition at N.J.A.C. 5:23-1.4;

xvii. The term and definition of "Permit" is deleted;

xviii. The term and definition of "Person" is deleted;

- xix. The term and definition of "Repair" is deleted;
 - xx. The definition of the term "Structure" is replaced by the definition at N.J.A.C. 5:23-1.4;
 - xxi. The term and definition "Structure, existing" is deleted;
 - xxii. The term and definition of "Writing" is deleted;
 - xxiii. The term and definition of "Zoning" is deleted.
3. The following amendments are made to Chapter 3 of the building subcode, entitled "Use or Occupancy."
- i. Section 301.2 is deleted;
 - ii. Section 307.8 is amended to replace the term "less" in the second line of exception #3 with the term "more."
 - iii. Section 310.6 is amended to delete the phrase "not more than three stories in height."
 - iv. Section 312.0 is deleted and substitute in lieu thereof section 312.0 of the 1993 BOCA National Building Code as follows: "312.0 Utility and Miscellaneous Use Group—312.1 General: Buildings and structures of an accessory character and miscellaneous structures not classified in any specific use group shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Use Group U shall include fences over 6 feet (1829 mm) high, tanks, cooling towers, retaining walls and buildings such as private garages, carports, sheds and agricultural buildings.
 - v. Table 313.1.2 is modified to delete Use Group U from the table.
4. The following amendments are made to Chapter 4 of the building subcode, entitled "Special Use and Occupancy";
- i. Section 415.1 is amended to replace the phrase "authority having jurisdiction" with the term "construction official";
 - ii. Section 416.11 is deleted;
 - iii. Section 420.0 is amended to replace the terms "Mobile Units," "Unit" and "Units" with the terms "Manufactured Homes," "Home" and "Homes" respectively;
 - iv. Sections 420.1 and 420.2 are deleted in their entirety;
 - v. Section 421.3 is amended to replace the term "code official" with the term "construction official";
 - vi. Section 421.6 is amended to end with the phrase "in accordance with the plumbing subcode";
 - vii. Section 421.6.1 is deleted;
 - viii. Section 421.6.2 is amended to end with the phrase "in accordance with the plumbing subcode";
 - ix. Section 421.9.3 is amended to replace the term "governing body" with the term "construction official."
 - x. Section 421.10.1 #9 of the 1996 BOCA National Building Code is deleted in its entirety.
5. The following amendment is made to Chapter 5 of the building subcode, entitled "General Building Limitations":
- i. Table 503 is modified to delete Use Group U from the table.
6. The following amendments are made to Chapter 7 of the building subcode, entitled "Fire-resistant Material and Construction":
- i. Table 705.2 is modified to delete U^d in the second column and U^c in the fourth column under the heading of Use Group. Delete "Note c" and "Note d" of the table.
 - ii. Table 707.1 is modified to delete U under the heading of Use Group in the second row.
 - iii. Section 721.6.5 is deleted and substitute in lieu thereof the text of Section 720.6.5 of the 1993 BOCA National Building Code as follows: "Architectural Trim: Fireblocking shall be installed in exterior cornices and other exterior architectural elements where permitted of combustible construction in Section 1406.0, or where erected with combustible frames, at maximum intervals of 20 feet (6096 mm). If noncontinuous, such elements shall have closed ends, with at least 4 inches (102 mm) of separation between sections."
 - iv. Section 723.6 is deleted in its entirety.
7. The following amendments are made to Chapter 8 of the building subcode, entitled "Interior Finishes":
- i. Table 803.4 is modified to delete U under the heading of Use Group in the eighth row.
 - ii. Sections 805.1, 805.2.1, 807.2.1 and 807.2.2 are amended to replace the term "code official" with the term "fire protection subcode official."
8. The following amendments are made to Chapter 9 of the building subcode, entitled "Fire Protection Systems":
- i. References to the term "code official" shall be replaced with the term "fire protection subcode official."
 - ii. Section 901.4 is deleted in its entirety;
 - iii. Section 903.1 is amended to replace the term "department" with the phrase "enforcement agency"

responsible for plan review,” and in the note, to replace the word “Since” with the term “If”;

iv. Section 917.0 is amended to replace the phrase “administrative authority of the jurisdiction” with the term “fire protection subcode official;”

v. Section 921.0 is deleted in its entirety.

9. The following amendments are made to Chapter 10 of the building subcode, entitled “Means of Egress”:

i. Section 1001.2 is amended to replace the phrase “Article 1 for modification of this code or by adoption of approved rules” with the regulations at “N.J.A.C. 5:23-2”;

ii. Section 1005.5 is deleted and substitute in lieu thereof Section 1005.5 of the 1993 BOCA National Building Code as follows: “1005.5 Open-sided floor areas: Guards shall be located along open-sided walking surfaces, mezzanines and landings which are located more than 30 inches (762 mm) above the floor or grade below. The guards shall be constructed in accordance with Section 1021.0. Exception: Guards are not required on the loading side of loading docks and the auditorium side of stages and raised platforms.”

iii. Section 1005.6 is deleted and substitute in lieu thereof section 1005.6 of the 1993 BOCA National Building Code as follows:

“1005.6 Elevation Change: Where changes in elevation exist in exit access corridors, exits or exit discharge, ramps shall be used where the difference in elevation is less than 12 inches (305 mm). Exception: A maximum step height of 8 inches (203 mm) shall be permitted for buildings with occupancies in Use Groups F, H, R and S at exterior doors not required to be accessible by Chapter 11.”

iv. Section 1014.6 exception #8 is modified to replace the first sentence with the text of Section 1014.6 exception #8 of the 1993 BOCA National Building Code and retain the 1996 text for the second sentence as follows:

“8. In occupancies in Use Group R-3 and within dwelling units in occupancies in Use Group R-2, the maximum riser height shall be $8\frac{1}{4}$ inches (210 mm) and the minimum tread depth shall be 9 inches (229 mm). A nosing of not less than $\frac{3}{4}$ inches (19 mm) but not more than $1\frac{1}{4}$ inches (32 mm) shall be provided on stairways with a solid riser where the tread depth is less than 11 inches (279 mm).”

v. Section 1014.6.3 is deleted and substitute in lieu thereof Section 1014.6.3 of the 1993 BOCA National Building Code as follows:

“1014.6.3 Winders: Winders shall not be permitted in required means of egress stairways except in occupancies in Use Group R-3 and stairways serving a single dwelling unit. Such winders shall have a tread depth of not less than 9 inches (229 mm) at a point not more than 12 inches (305 mm) from the side where the tread is narrower and the minimum tread depth shall not be less than 6 inches (152 mm).”

vi. Section 1014.9.1 is deleted and substitute in lieu thereof Section 1014.9.1 of the 1993 BOCA National Building Code as follows:

“1014.9.1 Strength: All stairways, platforms and landings in other than occupancies in Use Group R-3 shall be adequate to support a live load of 100 pounds per square foot (488.20 kg/m²) and a concentrated load of 300 pounds (136.20 kg).”

vii. Section 1017.1.1 is amended to add the word “nominal” at the end of the sentence at exception #2.

viii. Section 1021.2 exception #1 is deleted and substitute in lieu thereof Section 1021.2 exception #1 of the 1993 BOCA National Building Code as follows:

“1. In other than occupancies in Use Group E, guards shall not be less than 34 inches (864 mm) in height above the leading edge of the tread along stairs which are not more than 20 feet (6096 mm) in height or which reverse direction at an intermediate landing with 12 inches (305 mm) or less measured horizontally between successive flights.”

ix. Section 1022.2 and the exception are deleted and substitute in lieu thereof Section 1022.2 of the 1993 BOCA National Building Code as follows:

“1022.2 Handrail details: Handrail-gripping surface shall be continuous, without interruption by newel posts, other structural elements or obstructions. A handrail and any wall or other surface adjacent to the handrail shall be free of any sharp or abrasive elements. The clear space between the handrail and the adjacent wall or surface shall not be less than $1\frac{1}{2}$ inches (38 mm). Edges shall have a minimum radius of $\frac{1}{8}$ inch (3 mm).”

x. Section 1022.2.2 exception #1 is deleted and substitute in lieu thereof Section 1022.2.2 exception #1 of the 1993 BOCA National Building Code as follows:

“1. Handrails that form part of a guard shall have a height not less than 34 inches (864 mm) and not more than 42 inches (1067 mm).”

xi. Section 1022.2.4 is deleted and substitute in lieu thereof the text of Section 828.2.4 of the 1987 BOCA National Building Code as follows:

“Handrail grip size: For all stair handrails located within a dwelling unit, the maximum horizontal cross-sectional dimension of the handrails shall not exceed 2 $\frac{5}{8}$ inches (67 mm).”

xii. Section 1024.1 is modified to delete the second sentence in the paragraph.

xiii. Section 1028.2 is deleted.

10. Chapter 11 of the building subcode entitled “Accessibility,” is modified in the manner set forth in N.J.A.C. 5:23-7.

11. Chapter 12 of the building subcode, entitled “Interior Environment”, is modified as follows:

i. Sections 1207.2 and 1207.2.1 entitled “Stairway illumination” and “Controls,” respectively, are deleted in their entirety.

ii. Section 1210.1 is deleted and substitute in lieu thereof Sections 1210.1 and 1210.1.1 of the 1993 BOCA National Building Code as follows:

“1210.1 Roof spaces: Enclosed attics and enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters shall have cross ventilation for each separate space by ventilation openings that are protected against the entrance of rain and snow. The openings shall be covered with corrosion-resistant mesh not less than $\frac{1}{4}$ inch (6 mm) nor more the $\frac{1}{2}$ inch (13 mm) in any direction.

1210.1.1 Ventilation Area: The minimum required net free ventilation area shall be $\frac{1}{50}$ of the area of the space ventilated, except that the minimum required area shall be reduced to $\frac{1}{500}$, provided that: a vapor retarder having a permeance not exceeding 1 perm is installed on the warm side of the ceiling; or at least 50 percent, and not more than 80 percent, of the required ventilating area is provided by ventilators located in the upper portion of the space to be ventilated at least 3 feet (914 mm) above eave or cornice vents, with the balance of the required ventilation provided by eave or cornice vents.”

12. Chapter 13 entitled “Energy Conservation” is deleted in its entirety.

13. The following amendment is made to Chapter 14 of the building subcode, entitled “Exterior Wall Coverings”:

i. Section 1405.3.11, entitled “Foundation Insulation” is deleted in its entirety.

14. The following amendment is made to Chapter 15 of the building subcode, entitled “Roofs and Roof Structures”:

i. Section 1512.1 is amended to delete the sentence “The repair for new roofing.”

15. The following amendments are made to Chapter 16 entitled “Structural Loads”:

i. Table 1609.7(6) Note e is deleted and substitute in lieu thereof the text of Table 1611.7(6) Note e of the 1993 BOCA National Building Code as follows: “Note e. Openings are permanent openings and those that are likely to be breached during wind having the basic wind speed per Section 1609.3. Doors and windows which have been designed for wind loads in accordance with Section 1609.8 are to be considered enclosures.”

ii. Section 1614.5 is amended to replace the term “Change of Occupancy” with the term “Change of Use as per N.J.A.C. 5:23-2.6”;

16. The following amendments are made to Chapter 17 of the building subcode, entitled “Structural Tests and Inspections”:

i. Section 1701.2 is amended to replace the term “approved rules” with the word “regulations”;

ii. In Section 1702.1, the definition of the term “approved agency” is amended to add the words “by the building subcode official or other authority having jurisdiction in accordance with the regulations” after the word “approved”;

iii. In Section 1702.1, the definition and the term “Inspection, special” are deleted;

iv. Section 1705.1 is amended to add the words “for Class 1 structures or when requested by the building subcode official” after the words “special inspections” on lines 1 and 2;

v. Section 1705.1.1 is deleted in its entirety and replaced with the sentence: “Permit applications shall be made in accordance with N.J.A.C. 5:23-2.15”;

vi. Section 1705.2 is amended to add the sentence: “Building elements fabricated off site shall be approved in accordance with N.J.A.C. 5:23-4.26”;

vii. Section 1705.3.1 is deleted in its entirety;

viii. Section 1707.1 is amended to replace the phrase “approved rules” with the word “regulations,” and to replace the phrase “Section 106.0” with the phrase “the regulations.”

17. The following amendment is made to Chapter 26 of the building subcode, entitled “Plastic”:

i. Section 2603.5.1 is deleted in its entirety.

18. The following amendment is made to Chapter 27 of the building subcode, entitled “Electric Wiring, Equipment and Systems”:

i. Chapter 27 is deleted in its entirety.

19. The following amendments are made to Chapter 28 of the building subcode, entitled “Mechanical Systems”:

- i. Section 2803.0 is deleted in its entirety;
 - ii. Section 2809.0 is deleted in its entirety.
20. Chapter 29 of the building subcode, entitled "Plumbing Systems" is deleted in its entirety.
21. The following amendments are made to Chapter 30 of the building subcode, entitled "Elevators and Conveying Systems":
- i. Section 3001.1 is amended to replace the phrase "Except as otherwise provided by statute, the" in the first line with "The", to add the phrase "and where applicable, of N.J.A.C. 5:23-12" after the word "Chapter" in the second line, to delete the phrase "and amusement devices" in the second sentence and to replace the term "code official" with the term "construction official" in the second sentence;
 - ii. Section 3001.2 is amended to substitute the term "this code" for "these rules", to add the phrase "with the exception of Rule 1206.1h" after "ASME A17.1", and to add the following sentence at the end of the first paragraph: "However any education, experience or training requirements included or cited in reference standards shall not be binding in this State.";
 - iii. Section 3002.1, "Hoisting and elevating equipment, miscellaneous," is amended to delete "inclined elevators" in the fourth line;
 - iv. Section 3003.0 is deleted in its entirety except section 3003.3;
 - v. Section 3004.1 is amended to delete the words "and maintenance" and substitute in lieu thereof "inspection and," and to delete the words "and periodic inspections";
 - vi. Section 3004.2 is amended to add the words "and inspections" after the word "tests" in the title and after the words "All such tests" in the seventh line; to delete the words "this chapter" in the first sentence and "this code" in the second sentence and substitute in lieu thereof "these rules"; and to replace the term "code official" with the term "appropriate subcode official";
 - vii. Sections 3004.3 and 3004.4 are deleted in their entirety;
 - viii. Section 3004.5.2 is amended to delete the words "and amusement devices";
 - ix. Section 3004.5.4 is amended to replace the term "code official" with the term "construction official";
 - x. Section 3005.0 is deleted in its entirety with the exception of section 3005.4 which is amended to replace the term "code official" with the term "construction official";
 - xi. Section 3006.2 is amended to add in the fifth line after the words "rescue purposes," the phrase "and all elevators installed as part of an accessible route or approved to serve as an accessible means of egress";
 - xii. Section 3009.0 is amended to delete the words "Signals and" after the word "Emergency" in the title;
 - xiii. Section 3010.2.2 is amended to replace the term "code official" with the term "fire protection subcode official";
 - xiv. Section 3012.2 is deleted;
 - xv. Section 3012.4 is amended to replace the term "code official" with the term "construction official";
 - xvi. Section 3012.5 is amended to replace the term "code official" with the term "construction official";
 - xvii. Section 3013.0 is deleted in its entirety.
22. The following amendments are made to Chapter 31 of the building subcode, entitled "Special Construction":
- i. Section 3102.5 is deleted in its entirety.
 - ii. Section 3104.1.1 is deleted in its entirety and replaced by the following language:
 - (1) Temporary structures: A construction permit is required for the erection, operation or maintenance of all temporary structures (excluding tents and tensioned membrane structures) covering an area in excess of 120 square feet, including all connecting areas or spaces with a common means of egress or entrance, or which are used or intended to be used for gatherings of 10 or more persons;
 - (2) Tents with appurtenances: A construction permit is required for the erection, operation or maintenance of all tents or tensioned membrane structures of any size if they contain appurtenances such as platforms or electrical equipment;
 - (3) Tents without appurtenances: No permit is required for the erection, operation or maintenance of any tent or tensioned membrane structure without appurtenances if the tent or structure is no more than 900 square feet in area and no more than 30 feet in any dimension (excluding canopies), whether it is one unit or composed of multiple units. Tents used exclusively for recreational camping purposes shall be exempt from the above requirements.
 - (4) A temporary greenhouse, also called a "hoop-house" or "polyhouse," used exclusively for the production or storage of live plants, shall be exempt from the permit requirements of the Uniform Construction Code if it meets the following criteria:
 - (A) There is no permanent anchoring system or foundation;

(B) There is no storage, temporary or otherwise, of solvents, fertilizers, gases, or other chemical or flammable materials;

(C) The structure is no wider than 31 feet and there is an unobstructed path of no greater length than 150 feet from any point to a door or fully accessible wall area; and

(D) The covering of the structure is of a material no greater than six mils (152.4 micrometers) in thickness, conforming to N.F.P.A. 701 standard, that yields approximately four pounds of maximum impact resistance to provide egress through the wall.

(5) The provisions of (b) 22ii(4) above notwithstanding, if a temporary greenhouse contains any device subject to the electrical subcode or any mechanical equipment subject to the mechanical subcode, then a permit shall be required for the device, system or fixture only. If the temporary greenhouse is connected to a potable water system, a permit shall be required for the backflow prevention devices only;

iii. Section 3104.6 is amended to replace the term "code official" with the term "construction official";

iv. Section 3106.5 is amended to replace the term "authorities" with "authorities having jurisdiction";

v. Section 3107.8 is amended to replace the term "Mobile units" with the term "Manufactured Homes";

vi. Section 3107.10 is amended as follows: The text from the phrase "sections 118.0" to the end is deleted and replaced with the following language: "N.J.A.C. 5:23-2.4";

vii. Section 3107.11 is amended to replace the term "Section 3403.0" with the term "N.J.A.C. 5:23-2.5";

viii. Section 3108.5 is amended to add the phrase "to comply with the requirements of the electrical subcode" after the word "grounded."

23. The following amendments are made to Chapter 32 of the building subcode, entitled "Construction in the Public Right of Way":

i. Section 3202.5 is deleted in its entirety.

ii. Section 3204.2 is deleted.

iii. Section 3205.1 is amended to replace the term "code official" on line 1 with the term "construction official".

24. The following amendments are made to Chapter 33 of the building subcode entitled "Site Work, Demolition and Construction":

i. Section 3302.1 is amended to replace the term "code official" on line 3 with the term "construction official";

ii. Section 3309.2 is amended to delete the words "and the construction and extension of soil and vent stacks and the location of window openings shall comply with the provisions of section 2908.3" and replace them with the following language:

(1) "When a new building is erected higher than an existing building, windows or other wall openings shall not be located nearer than 10 feet to an existing soil or vent stack on the lower building unless the owner of the new building makes the necessary provision to extend such soil or vent stacks to a height of not less than two feet above the topmost opening at his own expense and with the approval of the adjoining owner."

(2) "When the existing adjoining building is of greater height than the new building, the owner of the structure of greater height may, with consent of the owner of the new structure, extend all new soil, waste or vent stacks which are located within 20 feet of the common lot line to a level above the higher existing roof";

iii. Section 3310.0 is deleted in its entirety and replaced by N.J.A.C. 5:23-2.17.

iv. Section 3315.0 is amended to replace the words "Sections 1024.0 and 2702.2, item 5" with "Section 1024.0 and provide a level of illumination equivalent to at least 3 foot candles (32 lux);"

25. Chapter 34 entitled "Existing Structures" is deleted in its entirety.

26. The following amendments are made to Chapter 35 of the building subcode entitled "Referenced Standards":

i. Under the subheading "ASME", standard "A17.1-93", add "and A17.1b-95 Addendum" after "A17.1a-94 Addendum";

ii. Under the subheading "Codes" delete the following titles:

(1) BOCA National Property Maintenance Code;

(2) ICC International Mechanical Code;

(3) ICC International Plumbing Code—with 1996 Supplement;

(4) ICC International Private Sewage Disposal Code—with 1996 Supplement;

(5) CABO Model Energy Code.

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

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

Amended by R.1983 d.12, eff. February 7, 1983, operative February 22, 1983.

See: 14 N.J.R. 132(a), 15 N.J.R. 141(c).

Added (a)2 and (c).

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

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

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

Case Notes

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

5:23-3.15 Plumbing subcode

(a) Rules concerning subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c.217, as modified by P.L. 1996, c.53, the Commissioner hereby adopts the Model Code of the National Association of Plumbing-Heating-Cooling Contractors, known as "The National Standard Plumbing Code/1996", as the plumbing subcode for New Jersey.

i. Copies of this code may be obtained from the sponsor at: NAPHCC, P.O. Box 6808, Falls Church, VA 22046.

2. "The National Standard Plumbing Code/1996," may be known and cited as "the plumbing subcode."

(b) The following pages, chapters, sections or appendices of the plumbing subcode are amended as follows:

1. The section entitled "Administration," comprising sections ADM 1.1 through ADM 1.13, is deleted in its entirety.

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

i. The definition of the term "administrative authority" is deleted in its entirety, and substitute in lieu thereof the following language, "Unless otherwise defined herein, or unless the context clearly indicates otherwise, the term "administrative authority" for purposes of the plumbing subcode, shall mean the "plumbing subcode official."

ii. The definition of the term "approved" is amended to add after the word "authority" on line 3, the words "as defined in N.J.A.C. 5:23-3.7."

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

iv. The definition of the term "building classification" is amended to delete the term "administrative authority" and substitute in lieu thereof, the term "building subcode official."

v. The term and definition of "code" are deleted.

vi. The term and definition of "family" are deleted.

vii. The term and definition of "nuisance" are deleted.

3. Chapter 2 of the plumbing subcode, entitled "General Regulations," is amended as follows:

i. Section 2.4.1 is amended to delete the sentence "The provisions of this paragraph may be waived by the administrative authority."

ii. Section 2.4.3 is amended to delete the phrase "or is approved by the administrative authority as having a desirable and acceptable function and is of ultimate benefit to the proper and continuing functioning of the plumbing system."

iii. Section 2.5 is deleted in its entirety.

iv. Section 2.9.3 is amended to delete the phrase "building code or as required by the proper administrative authority" and substitute in lieu thereof, the term "building subcode."

v. Section 2.12 is amended to delete subparagraph e.

vi. Section 2.16 is amended to insert the number "Forty-two" in the blank space under item (a), and to insert the number "Twenty-four" in the blank space under item (b). Under item (c), delete the words "as permitted in section 3.12.1."

vii. Section 2.19.1 is amended to delete the blank and the words "feet of any property line of the premises, or other."

viii. Section 2.19.2 is amended to delete the words "the Health Department or other agency having jurisdiction" and substitute in lieu thereof "The New Jersey Department of Environmental Protection."

ix. Section 2.25 (h) is amended to add at the end, the words "which does not otherwise adversely affect health and safety."

4. Chapter 3 of the plumbing subcode, entitled "Materials," is amended as follows:

i. Section 3.1.1 is amended in the heading to delete the word "minimum" and under items (a) and (b) to delete the words "Section 3.12.2" at the end and substitute in lieu thereof, the words "N.J.A.C. 5:23-3.7."

ii. Section 3.1.2 is amended to delete the words "at least" on line 2. Also the words "section 3.12" are deleted at the end of the first paragraph and substitute in lieu thereof, the words "N.J.A.C. 5:23-3.7."

iii. Section 3.1.3 is amended to delete the words "Section 3.12.2" on line 4 and in lieu thereof, substitute the words "N.J.A.C. 5:23-3.7."

iv. Section 3.3.11 entitled "septic tank" is deleted in its entirety.

v. Section 3.11.1 is amended to delete the phrase "approved by the Administrative authority".

vi. Section 3.11.2 is amended to delete the phrase "except as may be otherwise authorized by the administrative authority".

vii. Sections 3.12.1, 3.12.2, 3.12.3, 3.12.4, and 3.12.5 are deleted in their entirety.

5. Chapter 4 of the plumbing subcode entitled "Joints and Connections" is amended as follows:

i. Section 4.2.17(a) is amended to delete the phrase "or be approved by the administrative authority."

6. Chapter 5 of the plumbing subcode entitled "Traps, Cleanouts and Backwater Valves" is amended as follows:

i. Section 5.3.2 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the words "administrative authority" on line 3.

ii. Section 5.3.4 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the words "administrative authority" on line 2.

7. Chapter 6 of the plumbing subcode, entitled "Interceptors," is amended as follows:

i. Section 6.1.1 is amended to delete the phrase "in the opinion of the administrative authority" on line 2 and to add after line 5 the sentence "The determination of necessity shall be made by the plumbing subcode official in accordance with N.J.A.C. 5:23-3.3."

ii. Section 6.3.2e. is amended to delete the words "administrative authority" in line 2 and substitute in lieu thereof "authority having jurisdiction."

iii. Section 6.4.4 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the word "approval" on line 2.

8. Chapter 7 of the plumbing subcode, entitled "Plumbing Fixtures," is amended as follows:

i. Section 7.2 is amended to read "Plumbing fixtures for accessible use and their installation shall conform to the requirements of N.J.A.C. 5:23-7 et. seq."

ii. Section 7.4.2 is amended to add the words "Only pressurized (not gravity flow) water closets are acceptable for commercial uses. Commercial uses are A, E, B and M uses with an occupancy requiring more than two water closets connected to the building sewer." after the words "1.6 gallons per flush" and to delete the exceptions.

(1) Exception: Installation of water closets bearing a manufacturer's date stamp indicating a date of manufacture prior to July 1, 1991 and requiring an amount in excess of 1.6 gallons per flush shall be permitted.

iii. Exception 2 to section 7.4.4 is amended to read "Accessible Water Closets shall conform to the requirements of N.J.A.C. 5:23-7 et seq."

iv. Section 7.18.2 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the words "administrative authority" on line 2.

v. Note 1 to Tables 7.21.1.A, 7.21.1.B, 7.21.1.C, 7.21.1.D, 7.21.1.E is amended to delete the words "for handicap requirements see local, state, or national codes" in the second sentence.

vi. Figure 7.3.2 is amended to delete the word "Code" and substitute in lieu thereof "Subcode" in the block at bottom.

vii. A new section 7.22 is added as follows:

"7.22 Safety Features for Spas and Hot Tubs

Spas and hot tubs shall comply with the following sections of ANSI/NPSI-2 1992:

9.4 Entrapment avoidance: If the suction outlet system, such as an automatic cleaning system, is a vacuum cleaner system which has a single suction outlet or

multiple suction outlets which can be isolated by valves, then each suction outlet shall protect against user entrapment by either an antivortex cover or an equivalent means approved by the plumbing subcode official.

9.5 Outlets per pump: A minimum of two suction outlets shall be provided for each pump in the suction outlet system, separated by a minimum of three feet or located on two different planes; for example, one on the bottom and one on the vertical wall, or one each on two separate vertical walls. These suction outlets shall be plumbed such that water is drawn through them simultaneously through a common line to the pump.

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

Amended by R.1989 d.435, effective August 21, 1989.
See: 20 N.J.R. 1764(a), 21 N.J.R. 2474(a).

Deleted (e), which was "Interim Procedures" and recodified (f) "Personnel" as new (e), with no change in text. Deleted (g) "Failure to perform" and reserved subsection as (f). Recodified old (h) as (g).
Amended by R.1989 d.551, effective November 6, 1989.
See: 21 N.J.R. 2436(a), 21 N.J.R. 3460(b).

New subsection (f) added regarding departmental intervention.
Administrative Correction to (d)4.
See: 22 N.J.R. 2503(b).

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

Elevator plan review provisions added at (a)3.
Amended by R.1992 d.245, effective June 15, 1992.
See: 24 N.J.R. 1148(a), 24 N.J.R. 2244(a).

Exception for elevator safety subcode added to (a)3.
Administrative Change.
See: 26 N.J.R. 5007(a).

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

See: 27 N.J.R. 4050(a), 28 N.J.R. 2586(a).
Amended by R.1997 d.409, effective October 6, 1997.
See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

In (f)1iv, changed Division for appeals.

Case Notes

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

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

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

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

5:23-4.3A—Enforcing agency classification

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

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

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

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

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

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

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

1. Class 3 agencies:

i. Use group B less than 7,200 square feet, two stories, 30 feet high;

ii. Use group M less than 4,800 square feet, one story, 20 feet high;

iii. Use group S-1 less than 4,200 square feet, one story, 20 feet high;

iv. Use group S-2 less than 7,200 square feet, two stories, 30 feet high;

v. Use group R-3 as permitted in the building subcode and including accessory private garages (section 407.0), radio and television antennae (section 3108.0) and swimming pools (section 421.0).

2. Class 2 agencies:

- i. All plan review activities permitted to class 3 officials;
- ii. Use group A-1 less than 4,800 square feet, one story, 20 feet high;
- iii. Use group A-2 less than 2,400 square feet, one story, 20 feet high;
- iv. Use group A-3 less than 8,400 square feet, two story, 30 feet high;
- v. Use group A-4 less than 14,400 square feet, two story, 30 feet high;
- vi. Use group A-5 less than 5,000 square feet, one story, 30 feet high;
- vii. Use group B less than 34,200 square feet, six story, 75 feet high;
- viii. Use group E less than 14,400 square feet, two story, 30 feet high;
- ix. Use group F-1 less than 22,800 square feet, six story, 75 feet high;
- x. Use group F-2 less than 34,200 square feet, six story, 75 feet high;
- xi. Use group H (paint spray booths, section 419.2.1 only);
- xii. Use group I-1 less than 8,400 square feet, three story, 40 feet high;
- xiii. Use group I-2 less than 7,200 square feet, one story, 20 feet high;
- xiv. Use group I-3 less than 6,000 square feet, one story, 20 feet high;
- xv. Use group M less than 22,800 square feet, six story, 75 feet high;
- xvi. Use group R-1 less than 9,600 square feet, three story, 40 feet high;
- xvii. Use group R-2 less than 9,600 square feet, three story, 40 feet high;
- xviii. Use group S-1 less than 19,950 square feet, five story, 65 feet high;
- xix. Use group S-2 less than 34,200 square feet, six story, 75 feet high;
- xx. Use group U as permitted by the building subcode.

3. Class 1 agencies:

- i. All plan review activities permitted to class 2 and class 3 officials;
- ii. All remaining use groups and categories not reserved to the State.

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

(e) Departmental plan review shall not be required for class 3 work. Departmental plan reviews prior to the issuance of a permit shall be required for class 2 work after January 1, 1981, unless the construction official and each subcode official in the municipal enforcing agency are certified at the class 2 level of certification at a minimum. Departmental plan review prior to the issuance of a permit shall be required for class 1 work as of January 1, 1977 and until the construction official and each subcode official in the municipal enforcing agency are certified at the class 1 level of certification.

1. Reconstruction, changes of use and additions to class 1 buildings shall be submitted to the Department. The Department may, at its discretion, review such plans, or may return such plans to the municipality for review.

2. The addition would cause a building not previously classified as class 1 to be classified as class 1.

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

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

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

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

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

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

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

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

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

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

Rewrote (e).

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.

See: 32 N.J.R. 2279(a), 32 N.J.R. 3870(b).

In (b)3i, substituted "11" for "7.5" and changed "per person gross" to "gross per person" following "square feet".

Department of Community Affairs of State, 331 N.J.Super. 40, 751 A.2d 111 (N.J.Super.A.D. 2000).

Case Notes

In light of undeveloped record and uncertainty as to whether there was actually present conflict between two regulatory schemes, casino that objected to Department of Community Affairs' adoption of design and construction safety regulations for casinos, on theory that regulatory authority of Casino Control Commission prevailed over Department of Community Affairs' authority, was entitled to seek declaratory relief under Administrative Procedure Act at a joint hearing under auspices of Office of Administrative Law. *Atlantic City Showboat, Inc. v.*

5:23-9.7 Interpretation: Manufacturing, production and process equipment

(a) Manufacturing, production and process equipment is not under the jurisdiction of the Uniform Construction Code. Manufacturing, production, and process equipment is defined as all equipment employed in a system of operations for the explicit purpose of the production of a product.

(b) Manufacturing, production, and process equipment shall include, but is not limited to, the following:

1. Electrical generation equipment, such as turbines, condensers, generators, and the like;
2. Electrical transmission equipment such as transformers, capacitors, regulators, switchgears, and the like;
3. Air pollution equipment, such as scrubbers;
4. Metal working equipment, such as castings, screen machines, grinders, lathes, presses, drills, welders, and the like;
5. Material handling equipment, such as rollers, control belts, and the like;
6. Packaging equipment, such as bottling machines;
7. Process drying equipment, such as ovens, kettles, fans, and the like;
8. Finishing equipment, used for such purposes as heat treatment, plating, painting, and the like;
9. Petrochemical refinery/plant equipment used for distillation, conversion, treatment and blending;
10. Electric, steam, pneumatic- or hydraulic-actuated equipment, such as motors, pumps, compressors, and the like;
11. Tanks which constitute part of a controlled industrial process, including those tanks containing flammable and combustible liquids, together with the dikes surrounding the tanks;
12. All piping used to transport products to and between industrial processes; any piping connected to the potable water supply downstream of an appropriate back-flow prevention device; any piping located upstream of the first joint at the outlet of the equipment or upstream of the indirect connection to the sanitary or storm sewer;
13. Pipe racks, hangers, and the like that support the process piping and the storage racks for the raw materials and finished products. Building structural systems supporting the racks, hangers, storage loads, and the like are excluded from the definition of process equipment, except that pipe support units that include a foundation and support steel shall be included as process equipment when they do not transfer loads to structures whose main function is other than supporting process pipe;
14. Boilers, pressure vessels, furnaces and the like used exclusively for industrial process;
15. Pre-wired and/or pre-engineered (bearing name plate) electro-mechanical equipment or machinery used exclusively for an industrial process;
16. Electrical work which forms a part of the power or control system of industrial process equipment, up to the point where that work connects to the plant electrical distribution system. Such a point shall be considered a

suitable junction box, panel board, disconnect switch, or a terminal box which constitutes the final connection to the factory-installed equipment wiring. Where these items are not supplied as a part of the equipment, they shall be subject to local enforcing agency jurisdiction; and

17. (Reserved)

New Rule, R.1993 d.132, effective April 5, 1993.

See: 24 N.J.R. 3458(a), 25 N.J.R. 1512(b).

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).

5:23-9.8 Bed and breakfast guest houses, change in use group requirements

(a) Use Group R-3 or R-4 single family dwellings being converted to bed and breakfast guest houses shall meet the requirements of this section.

1. "Bed and breakfast guest house" shall mean a facility providing sleeping or dwelling accommodations to transient guests which:

i. Consists of a structure originally constructed for the purposes of a private residence;

ii. Includes individual sleeping accommodations for six to 12 guests;

iii. Has at least one dwelling unit occupied by the owner of the facility as his or her place of residence during any time this facility is being used for the lodging of guests;

iv. Has not less than 300 square feet of common area for the exclusive use of the guests, including but not limited to parlors, dining rooms, libraries and solariums;

v. Prohibits cooking and smoking in guest rooms;

vi. Provides a meal to the guests in the forenoon of each day but does not operate as a restaurant open to the general public;

vii. Is not a "rooming house" "or boarding house" as defined in N.J.S.A. 55:13B-3;

viii. Does not allow more than 15 percent of the guests to remain more than 30 successive days or more than 30 days of any period of 60 successive days; and

ix. Does not allow any guest to remain more than 60 successive days or more than 60 days of any period of 90 successive days.

(b) Use Group R-3 or R-4 single-family residences being converted to bed and breakfast guest houses shall be deemed to have met the intent of the rules, as provided in N.J.A.C. 5:23-2.6(b)1, if the following requirements have been met:

1. AC-powered interconnected smoke detectors with battery back-ups shall be installed in accordance with the

building subcode in the locations listed below. Fixed temperature or rate-of-rise and fixed temperature heat detectors may be substituted for smoke detectors in those locations where frequent nuisance alarms would be likely to occur. At least one portable visual alarm-type smoke detector for the deaf or hearing impaired shall be available. Notification of the availability of such devices shall be provided to each occupant. Installation shall be required at the following locations:

- i. In all guestrooms;
- ii. On each story in common areas;
- iii. In storage rooms;
- iv. In basements; and
- v. In utility and mechanical rooms.

2. Except as otherwise provided in (b)2i and ii below, every story utilized for human occupancy shall be provided with a minimum of two exits.

i. An existing fire escape shall be accepted as providing one of the required means of egress if it can safely be used under emergency exiting conditions. All occupants shall have unobstructed access to the fire escape without having to pass through a room subject to locking. Access to a fire escape shall be through a door, except that window access shall be permitted from guest rooms.

ii. In buildings having a single exit, no additional exit shall be required if all of the following conditions are met:

(1) At all locations in the story at the level of discharge, the exit access travel distance shall not exceed 75 feet;

(2) Except as otherwise provided in (b)2ii(3) below, no part of the building open to guests shall be on a floor that is more than 16 feet above exterior grade;

(3) In buildings not more than two stories in height, from floors that are more than 16 feet above grade, where there are not more than four guest-rooms per floor and the exit access travel distance does not exceed 50 feet, the exit shall be enclosed with construction and opening protection providing a one hour fire-resistance rating.

3. Every sleeping room shall be provided with an approved window having a sill height of not more than 44 inches.

4. Dead-end corridors shall not exceed 35 feet.

5. Emergency egress lighting shall be provided and shall be connected to an emergency electrical system conforming to NFPA 70 to assure continued illumination for a duration of not less than one hour, in case of primary power loss in all building rooms or spaces required to have more than one exit or exit access.

6. In all buildings, rooms or spaces required to have more than one exit or exit access, all required means of egress shall be indicated with approved, internally illuminated or self-luminous exit signs that comply with the building subcode. Exit signs shall not be required if the second means of egress is a fire escape or on main exterior doors that are clearly identified as exists. Exit signs shall be connected to an emergency electrical system to assure continued illumination for not less than one hour in case of primary power loss.

7. Means of egress doors shall comply with the following:

i. All doors opening into a passageway at grade or exit stair shall be self closing or automatic closing by listed closing devices; and

ii. All guest room doors shall be at least 1 $\frac{3}{8}$ inch solid core wood or approved equal with approved door closers and shall be reasonably tight fitting. Replacement doors shall be 1 $\frac{3}{4}$ inch solid cord wood or approved equal unless existing frame will accommodate only a 1 $\frac{3}{8}$ inch door.

8. Existing handrails and guardrails provided for stairways and open sided floor areas shall be permitted to remain in place, provided they are structurally sound. When handrails or guardrails do not exist in locations where the building code requires them, or where handrails or guardrails are in danger of collapse when used under emergency conditions, handrails and guardrails complying with the building subcode shall be provided.

9. Transoms shall be either glazed with $\frac{1}{4}$ inch wire glass set in metal frames and permanently secured in the closed position or sealed with materials consistent with the corridor construction.

10. Interior finish shall comply with the following:

i. Interior finish of exit enclosures shall have a flame spread of 0-25 and a smoke developed rating of 450 or less (Class I finish as determined by ASTM-E84);

ii. Interior finish of exit access enclosures shall have a flame spread of 26-75 and a smoke developed rating of 450 or less (Class II finish as determined by ASTM-E84);

iii. Interior finish of all other spaces shall have a flame spread rating of under 200 and a smoke developed rating of 450 or less (Class III finish as determined by ASTM-E84).

11. Interior stairways and other vertical openings connecting more than six floors levels shall be enclosed with approved assemblies having a two-hour fire-resistance rating. Those connecting four to six floor levels shall be enclosed with approved assemblies having a one-hour fire-resistance rating. Interior stairways connecting three or fewer levels shall be enclosed as follows:

i. A minimum one-hour fire barrier shall be provided to protect all interior stairways and other vertical openings not exceeding three stories. Such fire barrier may be omitted provided that:

(1) The building is provided throughout with an approved automatic fire suppression system;

(2) In buildings where the building is protected throughout by an automatic fire alarm system complying with the building subcode; or

(3) All of the following conditions exist:

(A) Every sleeping room has an approved window with a sill height of not more than 44 inches;

(B) Every sleeping room above the second floor is provided with direct access to a fire escape or other approved secondary exit;

(C) Any exit-access corridor exceeding eight feet in length which serves two means of egress, at least one of which is an unprotected vertical opening, shall be separated from the vertical opening by a one-hour fire barrier; and

(D) The building is protected throughout with supervised fire alarm systems installed in accordance with the building subcode.

(c) Buildings meeting the requirements in (a) and (b) above shall be entitled to a certificate of occupancy for use group R-1. The certificate of occupancy shall be subject to the condition that it shall be valid for a bed and breakfast use only.

New Rule, R.1995 d.611, effective December 4, 1995 (operative April 4, 1996).

See: 27 N.J.R. 3257(a), 27 N.J.R. 4884(a).

5:23-9.9 Foundation systems for garden type utility sheds and similar structures

(a) Garden type utility sheds and similar structures which are 100 square feet or less in area, 10 feet or less in height and accessory to Use Groups R-2, R-3 or R-4 shall not be required to have a foundation system which extends below the frost line. These structures shall be of sufficient weight to remain in place or shall be anchored to the ground.

(b) Garden type utility sheds and similar structures which are greater than 100 square feet but not more than 200 square feet in area, 10 feet or less in height, and accessory to Use Groups R-2, R-3 or R-4 are not required to be provided with a foundation system that extends below the

frost line provided the shed is dimensionally stable without the foundation system. A shed shall be considered dimensionally stable if it is provided with a floor system which is tied to the walls of the structure such that it reacts to loads as a unit. These sheds shall be placed on a bed of gravel not less than four inches in depth or shall have other frost protected design. These structures shall be of sufficient weight to remain in place or shall be anchored to the ground.

New Rule, R.2000 d.166, effective April 17, 2000.

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

SUBCHAPTER 10. RADON HAZARD SUBCODE

5:23-10.1 Title, scope; intent

(a) This part of the regulations, adopted pursuant to the State Uniform Construction Code Act, P.L. 1975, c. 217, as amended and as supplemented by P.L. 1989, c.186 (N.J.S.A. 52:27D-119 et seq.), and entitled Radon Hazard Subcode, shall be known, and may be cited throughout the regulations as, N.J.A.C. 5:23-10 and, when referred to in this subchapter, may be cited as "this subchapter".

1. This subchapter is intended to complement rules adopted by the New Jersey Department of Environmental Protection at N.J.A.C. 7:28-27 which provide for certification of persons who sell radon or radon progeny devices, test for radon or radon progeny, or mitigate radon in buildings.

i. Copies of N.J.S.A. 26:2D-70 et seq. and N.J.A.C. 7:28-27 may be obtained from the New Jersey Department of Environmental Protection, PO Box 411, Trenton, NJ 08625-0411.

(b) This subchapter pertains to the construction of all buildings in Use Groups E and R, as defined in the building subcode, within recognized radon prone areas defined as tier one by the New Jersey Department of Environmental Protection and shall control matters relating to construction techniques to minimize radon gas and radon progeny entry and facilitate any subsequent remediation that might prove necessary.

(c) This subchapter seeks to protect and ensure public safety, health and welfare insofar as it is affected by radon entry into schools and residential buildings.

1. It is the purpose of this subchapter to establish standards and procedures to ensure that construction techniques that minimize radon entry and that facilitate any post-construction radon removal that is required shall be incorporated in the construction of all buildings in Use Groups E and R in tier one areas and are permitted to be incorporated elsewhere in New Jersey.

2. Radon is a colorless, odorless, tasteless, radioactive gas that occurs naturally in soil gas, underground water, and outdoor air. Prolonged exposure to elevated concentrations of radon and its progeny (that is, substances formed as a result of the radioactive decay of radon) has been associated with increases in the risk of lung cancer. An elevated concentration is defined as being at or above the guideline of 4 pCi/L or 0.02 WL average annual exposure.

3. Inasmuch as it is deemed to be more cost effective to build schools and residential buildings that resist radon entry than to remedy a radon problem after construction, design and construction techniques shall be employed, in tier one areas, to minimize pathways for soil gas to enter and features shall be incorporated during construction in tier one areas that will facilitate radon removal after completion of the structure if prevention techniques prove to be inadequate.

4. The installation of radon mitigation systems in existing portions of buildings shall not be subject to the construction technique requirements set forth in N.J.A.C. 5:23-10.4.

Amended by R.1994 d.609, effective December 19, 1994 (operative April 1, 1995).
See: 26 N.J.R. 2704(a), 26 N.J.R. 5007(b).

5:23-10.2 Definitions

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

“Foundation pipe drain” means a drain placed around the perimeter of a foundation that utilizes a perforated pipe. An “interior foundation pipe drain” is one placed around the internal perimeter of a foundation. An “exterior foundation pipe drain” is one placed around the external perimeter of a foundation.