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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

ii. Repairs to any installed electrically operated equipment such as doorbells, communication systems, and any motor operated device. Provided, however, that if fire protection systems are interrupted for repairs the fire official shall be notified in accordance with the building subcode;

iii. Installation of communications wiring for communications wiring in a Class 3 structure, provided that the rearrangement does not involve penetration of a fire-rated assembly and is not in a hazardous location as defined in Chapter 5 of the electrical subcode;

(1) For the purposes of applying these provisions, communications wiring shall mean any wiring covered by Chapter 8 of the electrical subcode, such as telephone, radio antenna, or coaxial cable TV wiring. Communications wiring shall also include data circuits between computers/information technology equipment, which may be classified as "communications circuits," in accordance with Article 725 of the electrical subcode; and

iv. Replacement of domestic dishwashers; and

v. Replacement of kitchen range hoods in single family dwellings.

4. Ordinary fire protection maintenance shall include:

i. The replacement of any sprinkler or smoke detector or heat detector head with a like device;

ii. The repair or replacement of any component of a fire alarm or smoke and heat detection equipment (other than the replacement of a fire alarm control panel);

iii. The installation of battery-powered smoke detectors; and

iv. The installation of battery-powered or plug-in type carbon monoxide alarms.

5. Ordinary heating, ventilation and air conditioning maintenance shall include:

i. Replacement of motors, pumps and fans of the same capacity;

ii. Repair and replacement of heating, supply and return piping and radiation elements, which does not require rearrangement of the piping system;

iii. Repair and replacement of duct work;

iv. Repair of air conditioning equipment and systems; and

v. Repair or replacement of control devices for heating and air conditioning equipment; and

vi. Replacement of kitchen range hoods in single family dwellings.

vii. Replacement of clothes dryers serving and located within dwelling units, provided that no change in fuel type or location or electrical characteristics is required.

viii. Replacement of stoves and ovens in dwelling units, provided no change in fuel type or location or electrical characteristics is required.

6. Ordinary elevator maintenance shall include:

i. The following work on elevator brakes:

(1) Installation of new linings;

(2) Replacement of brake switches, brake stand pivot bushings, and bearings or the reaming out and use of oversized pins. Replacement or repair of brake magnets, magnet coils and/or core sleeves;

(3) Renewal of phase splitting coils; and

(4) Re-babbiting of brake pin holes (gearless), and realigning of brake stands to pulleys.

ii. The following controller/selector repairs:

(1) Installation of overload relays and potential switches, and installation or replacement of reverse phase relays;

(2) Replacement of damaged resistance tubes, grids, broken controller panel sections, main power or brake rectifiers, power and light transformers, and microprocessor printed circuit boards. Replacement or reconditioning of dash pots and retarders. Replacement of a controller with a like or with the state of the art controller when only those features which are available on the existing controller will be made functional;

(3) Renewal of switch bases, armatures, hinge pins, coils, contacts and shunt leads; and

(4) Adjustment of controller to original design specifications.

iii. The following work on motor generators:

(1) Installation of four stem brush rigging on exciter, installation or renewal of bearing oil gauges, and renewal of sleeve or ball bearings;

(2) Replacement of generator armatures, commutators, commutator brushes, and turning down and undercutting of commutators;

(3) Rewinding of generator armatures, stators and field controls;

(4) Removal for testing on a work bench, reinsulating, banding and reinstallation of motor generators; and

(5) Repair of solid state drives and adjustments of generator compounding.

iv. The following work on hoist motors:

- (1) Installation or renewal of bearing oil gauges, renewal of sleeve or ball bearings, and re-babbiting of sleeve bearings (gearless);
- (2) Replacement of motor armatures, rotors, motor collector rings, commutators, commutator brushes, and turning down and undercutting of commutators;
- (3) Rewinding of stators, armatures, and field coils; and
- (4) Removal for testing on a work bench, re-insulation, banding and reinstallation of hoist motors and realignment of motors to worm shafts.

v. The following work on machines:

- (1) Installation of new demountable drive sheave rims, new drive shafts, new integral drive sheaves, split couplings;
- (2) Replacement of worms, gears, worm shaft housings, thrust bearings, thrust housings, external ring gears and pinions, machine drums, solid drive sheaves with demountable drive sheaves, and sheave bearing. Replacement or repair of stop motion switches, slack cable switches, replacement of drive sheave linings. Regrooving of drive sheaves;
- (3) Re-babbiting of main bearings, external gears and bearings, and worm shaft housings;
- (4) Renewal of sleeve bearings, drum buffers, and drum shafts;
- (5) Re-securing of loose brake pulleys and realignment of brake pulleys, with motor gear shaft; and
- (6) Removal of bearing shims.

vi. The following work on hoist ropes, compensating ropes and compensating chains:

- (1) Replacement or re-socketing of hoist ropes and replacement of compensating ropes or chains, governor ropes, and hitches; and
- (2) Shortening of hoist ropes due to a rope stretch.

vii. The following work on governors:

- (1) Re-calibration, sealing, and reconditioning of governors, or replacement of governors with like equipment; and
- (2) Replacement or reconditioning of governor rope tension sheaves.

viii. The following work on overhead, deflector, car and counterweight sheaves:

- (1) Replacement or repair of sheaves, sheave bearings and sheave shafts; and
- (2) Re-babbiting of sheave bearings.

ix. The following work on hoistways:

- (1) Replacement of traveling cables and other hoistway wiring;
- (2) Repair of counterweights, hoistway switches, hydraulic pistons, oil lines in the pit, and repacking of packing glands; and
- (3) Repair or replacement of hoistway door equipment, rollers relating cables, gibs, hall buttons, lanterns, position indicator stations, and all existing related equipment, selector tapes, cables, dust covers, toe guards and hoistway fascia, and repair or replacement of all existing pit equipment with like equipment.

x. The following work on rails and guides:

- (1) Realignment or replacement of main or counterweight rail sections with like products; and
- (2) Repair or replacement of guide shoe liners or car and counterweight guides with like product.

xi. The following work on cabs:

- (1) Installation or replacement of main and auxiliary car operating panels, emergency lighting, communication devices, door protective and reopening devices, car position indicators, and in-car lanterns;
- (2) Repair or replacement of operating station on top of cars, door operating devices, motors, linkages, hangers, etc., hoistway door drive mechanisms, clutches, etc., side emergency exit latching devices and electrical switches, floor leveling and selector drive devices, terminal slow down and limiting devices, load weighing devices (on top of car and under car isolation), keyless entry and security devices, top of car intrusion devices, closed-circuit TV surveillance devices, lighting fixtures in the car on top of the car and under the car; and
- (3) Replacement of ceilings with code approved materials, and of door saddles, cab flooring, walls and panels with materials equivalent to those being replaced in respect to weight and fire resistance.

Amended by R.1993 d.487, effective October 4, 1993.

See: 25 N.J.R. 2159(a), 25 N.J.R. 4592(a).

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

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

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

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

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

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

Substituted references to ordinary maintenance for references to ordinary repairs throughout; and in (a), substituted a reference to permit applications for a reference to applications.

Amended by R.2004 d.131, effective April 5, 2004.

See: 35 N.J.R. 5336(a), 36 N.J.R. 1755(a).

Recodified former 5:23-9.3(a) as new (c), and inserted "building" preceding "maintenance" in the introductory paragraph of 1, inserted "or replacement" preceding "of any non-structural member" in vi, substituted "shall" for "will" preceding "be permitted under" in viii and substituted "maintenance" for "repairs" in 3i.

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

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

In (b), substituted "Ordinary" for "Such" preceding "maintenance" in the introductory paragraph and rewrote 6iii; in (c), rewrote 3iii.

Amended by R.2007 d.39, effective February 5, 2007 (operative July 1, 2007).

See: 38 N.J.R. 3706(a), 39 N.J.R. 370(a).

In (c)3i, substituted ", including" for ". Replacement of" and deleted "in the electrical subcode, shall not be considered ordinary electrical maintenance" following "required".

Case Notes

Municipal order under zoning ordinance to remove sleeping trailers and disconnect utilities used by a refinery repair crew proper exercise of police power; action not preempted by Occupational Safety and Health Act. *Twp. of Greenwich v. Mobil Oil Corp.*, 504 F.Supp. 1275 (D.N.J.1981).

5:23-2.8 Installation of equipment

(a) When the installation, extension or alteration of mechanical equipment, refrigeration, air conditioning or ventilating apparatus, plumbing, gas piping, electric wiring, heating system or other equipment is specifically controlled by the provisions of this chapter, it shall be unlawful to use such equipment until a certificate of occupancy or certificate of approval, as the case may be, has been issued therefor by the construction official having jurisdiction. Use of elevator devices shall be subject to N.J.A.C. 5:23-12.9.

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

Amended by R.1991 d.509, effective October 7, 1991.

See: 23 N.J.R. 2236(a), 23 N.J.R. 3001(a).

Stylistic changes.

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

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

Amended by R.2003 d.384, effective October 6, 2003.

See: 35 N.J.R. 2422(a), 35 N.J.R. 4712(a).

Designated the existing paragraph as (a) and added (b).

5:23-2.9 Variations and exceptions

(a) No variations or exceptions from the requirements of any subcode of these regulations may be made, except upon the following findings:

1. That strict compliance with any specific subcode provision, if required, would result in practical difficulty to such owner; and
2. That the exception, if granted, will not jeopardize the health, safety and welfare of intended occupants and the public generally.

(b) Except as may be otherwise specified in this chapter, no variations shall be granted from any of the requirements of N.J.A.C. 5:23-2, 4 or 5.

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).

Added (b).

5:23-2.10 Applications for variations

(a) An application for a variation pursuant to this section shall be filed in writing with the construction official and shall state specifically:

1. A statement of the requirements of the subcode from which a variation is sought;
2. A statement of the manner by which strict compliance with said provisions would result in practical difficulties;
3. A statement of the nature and extent of such practical difficulties; and
4. A statement of feasible alternatives to the requirements of the subcode which would adequately protect the health, safety and welfare of the occupants or intended occupants and the public generally.

Administrative Correction to (a): Changed "set" to "state".

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

5:23-2.11 Review of variation applications

Within 20 business days next succeeding the receipt by the construction official of the application, it shall be denied or granted by written order stating the reasons therefor. The application shall be deemed denied for purposes of appeal if no decision is forthcoming within such 20-day period. Records of all applications for variation, and actions taken thereon shall be available for public inspection at the enforcing agency during normal business hours.

5:23-2.12 Final decision on variations

The appropriate subcode official(s) shall make the final determination with respect to matters within their jurisdiction. The construction official shall notify the applicant of that determination. Whenever an application for a variation shall result in contradictory or inconsistent determinations by different subcode officials having jurisdiction pursuant to N.J.A.C. 5:23-3, the construction official shall rule as to which subcode official's determination shall be final, and shall notify the applicant of that ruling. Whenever the construction official shall be certified in a particular subcode, he may modify the determination of the subcode official.

5:23-2.13 Authority to grant variations

The enforcing agency with plan review responsibility shall have the sole authority to grant variations.

5:23-2.14 Construction permits—when required

(a) It shall be unlawful to construct, enlarge, repair, renovate, alter, reconstruct or demolish a structure, or change the use of a building or structure, or portion thereof, or to install or alter any equipment for which provision is made or the installation of which is regulated by this chapter, or to undertake a project involving lead abatement in accordance with

N.J.A.C. 5:17, without first filing an application with the construction official, or the appropriate subcode official where the construction involves only one subcode, in writing and obtaining the required permit therefor.

1. Notwithstanding any provision of (b) below to the contrary, a permit shall be required for any work to abate violations cited in a Notice of Violation and Order to Terminate (F213) issued after a certificate of occupancy has been issued.

(b) The following are exceptions from (a) above:

1. Ordinary maintenance as defined in N.J.A.C. 5:23-2.7 shall not require a permit or notice to the enforcing agency;

2. Minor work as defined by N.J.A.C. 5:23-2.17A shall require a permit. However, work may proceed, upon notice to the enforcing agency, before the permit is issued;

3. Emergency work not involving lead abatement, except that a permit shall be applied for or notice given as soon thereafter as is practicable, but not later than 72 hours thereafter.

4. Exceptions to permit requirements for temporary structures, tents, tensioned membrane structures, canopies, and greenhouses are as follows:

i. Temporary structures: A construction permit is not required for the erection, operation or maintenance of any temporary structures (excluding tents, tensioned membrane structures, canopies, and greenhouses) covering an area less than 120 square feet, including all connecting areas or spaces with a common means of egress or entrance and which remain in place for less than 180 days;

ii. Tents, tensioned membrane structures, and canopies: A construction permit is not required for tents, tensioned membrane structures, and canopies that meet all of the criteria in (b)4ii(1) through (5) below. Tents, tensioned membrane structures, and canopies meeting the following criteria shall be subject to the permitting requirements of the Uniform Fire Code (N.J.A.C. 5:70-2.7).

(1) The tent, tensioned membrane structure, or canopy is 140 feet or less in any dimension and 16,800 square feet or less in area whether it is one unit or is composed of multiple units;

(2) The tent, tensioned membrane structure, or canopy remains in place or will remain in place for fewer than 180 days;

(3) The tent, tensioned membrane structure, or canopy is used or occupied only between April 1 and November 30;

(4) The tent, tensioned membrane structure, or canopy does not have a permanent anchoring system or foundation; and

(5) The tent, tensioned membrane structure, or canopy does not contain platforms or bleachers greater than 11 feet in height.

iii. A temporary greenhouse, also called a "hoop-house" or "polyhouse," meeting the criteria stated in N.J.A.C. 5:23-3.2(d), shall not require a permit.

iv. Regardless of whether the tent, tensioned membrane structure, canopy, or greenhouse requires a permit, a permit shall be required for any electrical equipment, electrical wiring or mechanical equipment that would otherwise require a permit.

5. Gas utility company shall not be required to obtain a permit or give notice to the enforcing agency for replacement of interior gas utility company-owned metering (meter and related appurtenances) by exterior gas utility company owned-metering if the work is performed by qualified employees of the gas utility company.

6. A permit shall not be required for a sign that meets all of the following conditions; provided, however, that the construction official shall have authority to require the removal of any sign that creates an unsafe condition or otherwise to require correction of any such condition:

i. It is supported by uprights or braces in or upon the ground surface;

ii. It is not served by an electrical circuit directly connected to the sign;

iii. It is not greater than 25 square feet in surface area (one side); and

iv. It is not more than six feet above the ground (mounted height).

7. Lead abatement work performed on a steel structure or other superstructure or in a commercial building.

8. A permit shall not be required for garden-type utility sheds and similar structures that are 100 square feet or less in area, 10 feet or less in height, and accessory to buildings of Group R-2, R-3, R-4, or R-5. Such garden-type utility sheds and similar structures are required to comply with the requirements at N.J.A.C. 5:23-9.9.

9. A permit shall not be required for fences six feet or less in height. This exception does not apply to barriers surrounding public or private swimming pools.

10. A construction permit is not required for an outdoor maze, unless it is six feet or greater in height or contains any electrical equipment. Outdoor mazes that do not require a permit are subject to the permitting requirements of the Uniform Fire Code (N.J.A.C. 5:70-2.7).

application for purposes of an appeal to the Construction Board of Appeals, unless such period of time has been extended with the consent of the applicant. Whenever plans have been rejected and are thereafter revised and resubmitted, the revised plans shall be released if the deficiencies that were stated as grounds for rejection have been corrected and code compliance has been demonstrated. In that case, a written notice of release shall be given to the applicant not later than seven business days after the resubmission of the revised plans. When the grounds for rejection have not been corrected or when code compliance has not been demonstrated, a written notice of rejection stating the grounds for rejection shall be given to the applicant not later than seven business days after the resubmission of the revised plans.

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

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

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

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

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

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

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

(f) Revocation of permits:

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

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

ii. If the project for which the permit was obtained is not completed by the third anniversary of the date of issuance of the permit or January 14, 2005, whichever is later. If a project is not completed by the such date, the permit holder may apply to the enforcing agency for a one-year extension of time for completion of the project. The enforcing agency shall not unreasonably withhold approval of any such extension request. If the project is not completed within the time allowed, the enforcing agency shall take such action under the code as may be appropriate, including, without limitation, demolition of the structure, in which case the legal authority of the jurisdiction shall institute appropriate action against the owner of the property for recovery of the costs incurred. The provisions of this subparagraph shall not apply to:

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

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

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

(g) Approval of part: The construction official shall issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of this code. The holder of such permit for the foundations or other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

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

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

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

1. The payment of appropriate fees;

2. That work will conform to the requirements of the code applicable to the work for which the permit has been

issued including prior approvals and any approved amendments thereto;

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

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

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

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

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

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

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

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

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

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

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

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

Amended by R.1998 d.36, effective January 5, 1998.

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

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

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

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

Rewrote the section.

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

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

In (a), rewrote 1 and added 2.

Amended by R.2004 d.364, effective October 4, 2004 (operative January 14, 2005).

See: 36 N.J.R. 2604(a), 36 N.J.R. 4440(a).

Rewrote (f).

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

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

In (j)4, substituted “; and” for a period at the end; and added (j)5.

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

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

In (a)2, deleted “prototype” preceding “plan”, inserted “provided that the permit is complete,” and substituted “five” for “seven”.

Administrative correction.

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

Case Notes

Construction permit could be voided by developer suspending construction for period of more than six months. *Palatine I v. Planning Bd. of Tp. of Montville*, 133 N.J. 546, 628 A.2d 321 (1993).

5:23-2.16A Records retention

(a) Copies of the following documents shall be retained by the construction official for the life of the building or structure:

1. Construction applications;

2. Permits;
3. Permit updates;
4. Decisions on applications for variations;
5. Decisions of the Construction Board of Appeals;
6. Certificates of occupancy;
7. Elevator inspections;
8. The ongoing inspection control card; and
9. Notices of unsafe structure.

(b) Permits that have been revoked shall be kept for at least three years, or until the building or structure is demolished, whichever comes first.

(c) Plans and specifications including amended drawings, shall be retained by the construction official for a period of at least 10 years unless litigation is pending.

1. Plans and specifications, including amended drawings, shall be retained for the life of the building or structure for the following:

- i. Hospitals and emergency care facilities;
- ii. Fire, rescue and police stations;
- iii. Designated emergency shelters;
- iv. Designated emergency preparedness, communication, and operation centers;
- v. Power generating stations;
- vi. Buildings of Groups H-1 or H-2;
- vii. Prisons;
- viii. Casino hotels;
- ix. Aviation control towers;
- x. Air traffic control centers; and
- xi. Emergency aircraft hangers.

2. Inspection and certificate logs shall be retained by the construction official for a period of at least 10 years.

(d) Copies of additional documents may be retained at the discretion of the construction official.

New Rule, R.2006 d.24, effective January 17, 2006.

See: 37 N.J.R. 2111(a), 38 N.J.R. 485(a).

5:23-2.17 Demolition or removal of structures; abandoned wells

(a) Service connections: Before a structure can be demolished or removed, the owner or agent shall notify all utilities having service connections within the structure, such as water, electric, gas, sewer and other connections. A permit to

demolish or remove a structure shall not be issued until releases are obtained from all utilities that provided service to the property, stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed or plugged in a safe manner.

(b) Abandoned wells:

1. In the event that there is a well on the property that has been abandoned, or that will be abandoned in conjunction with the proposed demolition, a permit to demolish or remove a structure on that property shall not be issued until a certification has been obtained from a well driller licensed by the Department of Environmental Protection indicating that the well has been sealed in accordance with N.J.A.C. 7:9-9. If such certification is not presented within 15 days of the application for the permit, the construction official shall give notice of the absence of such certification to the Bureau of Water Allocation, Department of Environmental Protection, PO Box 029, Trenton, NJ 08625-0029.

2. Notice shall also be given by the construction official to the Bureau of Water Allocation in the event of any

demolition activity found to have been undertaken without a permit at a building or premises currently or previously served by a well and in any other case in which no permit application for demolition has been made but the construction official becomes aware that a well has been, or is about to be, abandoned without having been sealed by a licensed well driller.

(c) Notice to adjoining owners: Only when written notice has been given by the applicant to the owners of adjoining lots and to the owners of wired or other facilities, of which the temporary removal may be necessitated by the proposed work, shall a permit be granted for the demolition or removal of a building or structure.

(d) Lot regulation: Whenever a structure is demolished or removed, the premises shall be maintained free from all unsafe or hazardous conditions by the proper regulation of the lot, restoration of established grades and the erection of the necessary retaining walls and fences in accordance with the provisions of the appropriate subcodes.

(e) Asbestos abatement: Before a structure can be demolished or removed, the owner or agent shall document that the

requirements of USEPA 40 CFR 61 subpart M have been or shall be met. A permit to demolish or remove the structure shall not be issued until the owner or agent notifies the enforcing agency that all friable asbestos or asbestos-containing material that will become friable during demolition or removal has been or will be properly abated prior to demolition.

Amended by R.1993 d.198, effective June 7, 1993.

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

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

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

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

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

Amended by R.1998 d.36, effective January 5, 1998.

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

Added (b); and recodified existing (b) through (d) as (c) through (e).

5:23-2.17A Minor work

(a) The issuance of a permit shall not be required before minor work may proceed. The owner, or an architect or contractor acting on behalf of the owner, shall, however, provide notice of the work to the enforcing agency before work begins.

(b) Notice of work; application:

1. Notice of minor work shall be a personal or telephoned oral notice before work commences. This oral notice shall be provided to the enforcing agency between 9:00 A.M. and 5:00 P.M., Monday through Friday, except holidays. In those cases where the local enforcing agency is not open and available to receive notice at those times then notice shall be provided to the municipal clerk;

2. In addition to oral notice, the owner or his agent shall be required to file an application. The completed application with the fee shall be delivered in person or by mail to the enforcing agency, within five business days from the date of the oral notice.

(c) Minor work:

1. Minor work shall mean and include:

i. The construction or total replacement of any porch or stoop which does not provide structural support for any roof or portion of a building;

ii. Renovation or alteration work in an existing one or two-family dwelling, provided that no primary structural members are altered in any way, and further provided that the work does not constitute reconstruction; and

iii. The removal and replacement of more than 25 percent of the exterior siding of a one or two-family dwelling;

2. Minor work shall also mean and include the replacement of any existing plumbing piping work with new and approved material of like capacity; the installation of drinking fountains and condensate drains in existing struc-

tures; the replacement of existing low pressure hot water heaters with new ones of like capacity; and the new installation of lavatories, water closets, tubs, showers, washers or dishwashers, and garbage disposers in existing space of one and two-family dwellings where the new installation of additional fixtures can be accommodated with no increase in the size of the water distribution system, water service or house drain;

3. Minor work shall also mean and include new electrical work incidental to the installation of air conditioning, equipment, clothes dryers, and ranges or ovens in one and two-family dwellings; the installation of five or less 110 or 220 volt receptacles or fixtures where existing circuits and/or available space circuits and service are adequate to support the load; the replacement of existing wiring with new wiring of the same capacity provided that the new wiring shall be of a type approved for the use by the code;

4. Minor work shall also mean and include the following:

i. The installation of any fire detection or suppression device in any one-or two-family dwelling;

ii. The installation of a radon mitigation system in an existing one-or two-family dwelling;

iii. The installation of a burglar alarm or security system in any structure;

iv. The installation of communications wiring in any Class 1 or Class 2 structure or any Class 3 structure involving the penetration of a fire-resistance rated assembly.

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

5. Minor work shall not include lead abatement.

6. Minor work on elevator devices shall also mean and include work as outlined below and not involving any structural modification to a building and as scoped within the applicable sections of Part XII of ASME A17.1 referenced in the building subcode:

i. Alteration to hoistway enclosures (ASME A17.1 Part XII, Rule 1201.1a, 1203.1a);

ii. Alteration to construction at top of hoistways (1201.1c) and at bottom of hoistways (1201.1d);

iii. Alteration to hoistways which affects control of smoke and hot gases (1201.1e);

iv. Construction and alteration of machine room and machinery spaces (1201.2, 1203.1b);

- v. Installation and alteration of electrical equipment, wiring, pipes and ducts in hoistway and machine rooms (1201.3, 1203.1c);
- vi. Alteration to pits (1201.6, 1203.1f);
- vii. Alteration to bottom and top car counterweight clearances and runbys (1201.7, 1203.1g, 2508);
- viii. Alteration to horizontal car and counterweight clearances (1201.8, 1203.1h);
- ix. Additions, alterations or replacements of hoistway entrances (1201.10, 1203.1j);
- x. Installation or alteration of hoistway door locking devices, access switches, parking devices and unlocking devices (1201.11, 1203.1k);
- xi. Alteration or addition of power operation of hoistway doors (1201.12, 1203.1m);
- xii. Alteration of spring buffers and bumpers (1202.2, 1203.2b);
- xiii. Alteration of counterweights (1202.3; 1203.1d and 1203.2c);
- xiv. Alteration of car frames and platforms (1202.4a, 1203.2d);
- xv. Alteration of car enclosures, car doors, gates, and illumination of cars (1202.5 except installation of new cars, 1203.2e);
- xvi. Use of freight elevators to carry passengers, hydraulic elevators only (1203.2j);
- xvii. Relocation of power unit (1203.3f);
- xviii. Replacement of tanks (1203.6);
- xix. Addition or alteration of top-of-car operating devices (1202.12a, 1203.8a);
- xx. Addition or alteration or car-leveling or truck-zoning devices (1202.12b, 1203.8b);
- xxi. Alteration of anti-creep leveling devices (1203.8c);
- xxii. Change of power supply, hydraulic elevators only (1203.8d);
- xxiii. Addition of rope equalizers (1202.14c, 1203.9c);
- xxiv. Addition of auxiliary rope-fastening devices (1202.14d);
- xxv. Alteration of manual operating devices which are provided to manually operate elevators in case of power failure;
- xxvi. Alteration of handrails on escalators and moving walks (1207.6, 1208.6);

xxvii. Alteration or addition of lighting and access to interiors and related electrical work (1207.14, 1208.14); and

xxviii. Alteration of entrances or egresses on escalators (1207.15).

(d) Inspection of minor work:

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

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

Amended by R.1991 d.509, effective October 7, 1991.

See: 23 N.J.R. 2236(a), 23 N.J.R. 3001(a).

Stylistic changes.

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

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

Amended by R.1993 d.663, effective December 20, 1993.

See: 25 N.J.R. 4546(a), 25 N.J.R. 5927(a).

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

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

Amended by R.1995 d.476, effective September 5, 1995 (operative January 1, 1996).

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

Rewrote (d).

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

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

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

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

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

Amended (c)1i through (c)1iii.

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

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

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

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

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

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

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

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

In (c), rewrote 4.

5:23-2.18 Inspections

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

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

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

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

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

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

(A) Exception: A foundation location survey shall not be required for additions, decks, swimming pools, sheds as described in N.J.A.C. 5:23-9.9 or similar structures.

(2) For new construction and additions, the foundation location survey for a building that is located in a flood plain shall include flood hazard certificates as required by section 1612.5 of the building subcode or section R301.2.4 of the one-and two-family dwelling subcode.

iii. Utility services, including septic;

iv. Mid-point inspections shall include the following:

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

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

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

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

(D) The inspector shall use a Department approved checklist.

(E) Prior to inspection, the responsible person in charge of work shall provide to the building inspector a signed framing checklist to be verified and initialed by the inspector and then made part of the permit file.

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

(3) Plumbing Subcode: Rough piping.

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

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

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

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

(c) Notice for inspection:

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

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

(d) Final inspection: Upon completion of the building or structure, and before the issuance of a certificate of use and occupancy required herein, a final inspection shall be made, and any violations of the code shall be noted and the holder of

the permit shall be notified of any discrepancies by the construction official. The final inspection shall include:

1. Building and Fire Subcode: Installation of all interior and exterior finish materials, sealing of exterior joints, mechanical system and any other required equipment.
2. Electrical Subcode: Wiring, devices and fixtures.
3. Plumbing Subcode: Piping, trim and fixtures.
4. Tests required by any provision of the adopted subcodes.
5. A review for compliance with N.J.A.C. 5:23-7, the Barrier Free Subcode, for all buildings required by N.J.A.C. 5:23-7.1 to be accessible.
6. Verification of compliance with N.J.A.C. 5:23-3.5, Posting structures.

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

(f) Department inspections: At the request of an enforcing agency, the Department may assist the enforcing agency in the inspection of any construction, provided that the enforcing agency has submitted the plans and specifications for such construction to the Department.

(g) The construction official shall serve as an agent of the Bureau of Housing Inspection of the Department of Community Affairs for the purpose of inspecting newly constructed and altered hotels and multiple dwellings in order to enforce the provisions of the regulations for the maintenance of hotels and multiple dwellings (N.J.A.C. 5:10). Responsibility for inspection may be delegated to the appropriate subcode official(s).

(h) Periodic inspections: The building subcode official or fire protection subcode official may periodically inspect all existing buildings and structures, except one and two family dwellings, for compliance with the rules with respect to posting. Such inspection shall specify any violation of the rules with respect to the posting of floor load, occupancy load and use group of the building.

Amended by R.1981 d.182, effective June 4, 1981.

See: 13 N.J.R. 187(b), 13 N.J.R. 333(b).

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

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

Class I inspections added to (b)1iv.

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

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

Amended by R.1997 d.304, effective July 21, 1997.

See: 29 N.J.R. 2204(a), 29 N.J.R. 3248(a).

Added (b)1ii(1) and (d)1.

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

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

In (d), added 2; and added (h).

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

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

In (b), rewrote 1iv.

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

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

Rewrote the section.

Administrative correction.

See: 35 N.J.R. 3298(a).

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

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

Added (b)1iv(1)(E).

Amended by R.2007 d.46, effective February 5, 2007.

See: 38 N.J.R. 872(a), 39 N.J.R. 370(b).

In (c)1, added new third sentence, and recodified former third sentence as new (c)2.

Administrative correction.

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

Amended by R.2008 d.192, effective July 21, 2008.

See: 39 N.J.R. 4985(a), 40 N.J.R. 4314(b).

In the introductory paragraph of (b)1, substituted "one- and" for "one-and"; and in the introductory paragraph of (b)1ii(1), inserted "and the elevation of the top of the foundation wall", "or professional engineer" and "and elevation", and inserted the second sentence.

Administrative correction.

See: 40 N.J.R. 5579(a).

5:23-2.18A Utility load management device installation programs

(a) Whenever a public utility proposes to undertake a program of installing load management devices at the properties of a substantial number of service customers within a limited period of time, it may apply to the Department for permission to utilize the procedure set forth in this section.

(b) A utility with a program to install load management devices shall submit detailed information to the Department on the design of the device.

(c) The utility shall provide an educational program acceptable to the Department to acquaint any interested Department personnel and municipal subcode officials with the device and with installation and operating procedures.

(d) The utility shall insure that all devices to be installed are identical in design, listed and labeled or otherwise approved according to this chapter for their intended use.

(e) At least one month in advance of any installations, the utility shall submit to the Department, and to each affected municipality, notice of the anticipated number of installations to be performed in each municipality. A maximum and a minimum figure may be submitted where there is uncertainty about the number to be scheduled by customers. An approximate number of weeks for installations in that municipality shall be given along with an approximate number of installations per week.

1. Each week, in advance of installation, the utility shall notify the municipality of any change in the anticipated number of installations for that week. No weekly number of installations shall be so great that the cumulative number of installations in the municipality shall exceed the maximum anticipated number submitted.

2. Prior to the commencement of any installation, and as soon as may be practicable, the utility or its contractors will provide to each municipality notice of the actual sites of installations.

3. The Department and the municipalities shall be notified as soon as possible in the event of any change in existing schedules by the utility or its contractors.

(f) On the Monday following installations, the utility shall submit to each municipality a completed permit application for all installations completed in the municipality's jurisdiction during the preceding week.

1. A listing of all permits so delivered shall be filed by the utility with the Department.

2. All devices installed during that week, by a single contractor, shall be included on that application. The application shall include the Construction Permit Application and an Electrical Subcode Technical Section.

3. Since the permit is not, typically, for work at a single location, the block number shall be entered as "UCC 2.18" and the lot as "A." The work site location shall be the name of the municipality and the owner in fee shall be the utility.

4. In addition to the Construction Permit Application, the utility or contractor shall supply the municipality a complete listing of locations where the devices, listed on this permit, were installed. This list shall include owner's name, owner's address, block and lot, date of installation, type of device(s) installed, and the contractor's name.

(g) If, for any reason, a permit application, or any part, is found to have been submitted in error, the utility or its contractors shall notify the municipality as soon as possible.

(h) When all required municipal and utility inspections have been approved, a single certificate of approval, for that permit, shall be issued to the utility.

(i) If any municipality or the Department has reason to suspect that permit applications are being mishandled or carelessly accounted for, an investigation may be conducted of the utility's permit files for this project and of any permits in the possession of individual contractors in the utility's employ for this project.

(j) The utility shall pay to each municipality 30 percent of the permit fees otherwise due and owing.

(k) The municipality shall inspect 30 percent of the installations performed and shall record the results of those inspections. The utility shall inspect at least 10 percent of the installations performed and shall record the results of those inspections and forward those results concurrently to the municipality and to the Department weekly.

(l) If a municipality or a utility discovers a defect rate of not less than seven percent for any contractor employed by the utility, the Department shall be immediately notified. The Department shall investigate and, in the interest of public safety, shall be authorized to order that:

1. The offending contractor cease to be employed by the utility for this project;

2. The utility remit the fees necessary to inspect all existing installations of the offending contractor in all municipalities where that contractor has performed work;

3. That each municipality affected perform inspections of all the offending contractor's existing installations; and

4. That the utility or its designees correct or remove all defective installations to the satisfaction of the municipal officials.

(m) If, at any time, the Department tabulates a program-wide defect rate equal to or exceeding three percent, the utility shall be notified and the inspection rate and fee rate in (j) and (k) above shall rise to 50 percent.

1. Execution of work in accordance with the regulations;
2. Execution and control of all methods of construction in a safe and satisfactory manner;
3. Execution of all work in accordance with the code and those portions of the plans and specifications controlled by the code;
4. In general, render all such construction services as required to effect a safe and satisfactory installation of the project;
5. Upon completion of the construction, the contractor shall certify to the best of the contractor's knowledge and belief that such has been done substantially in accordance with the code and with those portions of the plans and specifications controlled by the code, with any substantial deviation specifically noted.

(f) The provisions of this section do not relieve the enforcing agency of any of the responsibilities required by the regulations.

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

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

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

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

Rewrote the section.

Administrative correction.

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

5:23-2.22 Premanufactured construction

(a) Premanufactured construction certified in accordance with N.J.A.C. 5:23-4A through 4D, as applicable, and carrying an appropriate label, shall be accepted as conforming to the requirements of the regulations to the extent provided for by the particular label for purposes of local construction inspection approval.

1. Prior to accepting the unit, the appropriate subcode official may require the performance of nondestructive tests.

2. In the case of visible signs of damage and/or any visible code violations, the construction official shall consider the seriousness of the nonconformance or damage and accordingly issue a Temporary Certificate of Occupancy or Certificate of Occupancy or deny such Certificate. If a Temporary Certificate is issued or a Certificate is denied, the construction official shall request that the label-issuing agency reaffirm in writing that the assembly still conforms to the regulations and notify the Department in writing.

3. No inspection requiring disassembly, damage to, or destruction of certified premanufactured construction shall be conducted.

(b) The appropriate subcode officials shall inspect the installation of any premanufactured unit or assembly and all work installed or completed on site to determine compliance with the regulations and the approved plans.

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

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

Amended by R.2008 d.213, effective August 4, 2008.

See: 39 N.J.R. 2411(a), 40 N.J.R. 4523(b).

In the introductory paragraph of (a), substituted "through 4D, as applicable" for "or 4B".

5:23-2.23 Certificate requirements

(a) New buildings: A building or structure hereafter erected shall not be used or occupied in whole or part until a form of certificate of occupancy shall have been issued by the construction official.

1. The enforcing agency shall upon application by the owner issue a certificate of occupancy when all requirements of the regulations have been met.

(b) Buildings hereafter renovated or altered: A building or structure hereafter renovated or altered shall not be occupied or used until the certificate of approval shall have been issued by the construction official, certifying that the work has been completed in accordance with the provisions of the code, except as is otherwise provided in the regulations. Any use or occupancy which was not discontinued during the work of renovation or alteration shall be discontinued within 30 calendar days after the completion of the alteration, unless the certificate of approval is secured from the enforcing agency.

(c) Building hereafter reconstructed: A building or structure, or portion thereof, hereafter reconstructed shall not be used until a certificate of occupancy shall have been issued for the entire building or structure or the portion being reconstructed, as the case may be, by the construction official, certifying that the work has been completed in accordance with the provisions of the code, except as otherwise provided in these rules.

(d) Building hereafter extended: No addition which increases the height or area of an existing building or structure shall be used until a certificate of occupancy shall have been issued by the construction official certifying that the work has been completed in accordance with the provisions of the code, except as otherwise provided in these rules.

(e) Existing buildings: Upon request of the owner of an existing building or structure, the construction official, with the approval of the subcode officials, shall issue a certificate of continued occupancy provided that there are not violations of law or orders of the construction official pending and it is established after inspection and investigation of available municipal records that the alleged use of the building or structure has lawfully existed. The certificate of continued occupancy shall evidence only that a general inspection of the visible parts of the building has been made, and that no violations of N.J.A.C. 5:23-2.14 have been determined to have occurred and no unsafe conditions violative of N.J.A.C. 5:23-2.32(a) have been found. Nothing in this subsection shall prevent the continued lawful use and occupancy of any such lawfully existing building or structure.

(f) Change of use: After a change of use has been made in a building or structure, the reestablishment of a prior use is prohibited unless the building complies with the provisions of N.J.A.C. 5:23-6, Rehabilitation Subcode, for the prior use.

(g) Temporary certificate of occupancy: Upon the written request for a temporary certificate of occupancy by the holder of a permit, the construction official shall issue, and may renew, a temporary certificate of occupancy for a building or structure or part thereof when the work covered by the permit shall have been substantially completed, provided that such portion or portions may be occupied safely prior to full completion of the building or structure without endangering health or safety.

1. The temporary certificate of occupancy and each subsequent renewal shall list the work to be completed and shall be valid for a reasonable period of time to complete the specified work, but not less than 60 days. The municipal tax assessor shall be notified when the temporary certificate of occupancy is issued.

2. The request for a temporary certificate of occupancy may be denied when there are outstanding fees or penalties, when the required warranties, licenses or registrations are not in place, or the conditions of prior approvals affecting health and safety of the building occupants have not been met.

i. In the case of soil conservation, a temporary certificate of occupancy shall be denied if a Report of Compliance or Report of Compliance with Conditions is not issued by the soil conservation district pursuant to N.J.A.C. 2:90.

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

(i) Application: A written application for a certificate of occupancy shall be filed with the enforcing agency by the owner or his agent. The application shall include the following:

1. The name and address of the owner or his agent;
2. The location of the building or structure;
3. If a change of use is contemplated, the current and proposed use groups;
4. The statement by the responsible person in charge of work, that to the best of his or her knowledge all work has been completed in accordance with the permit and the regulations;
5. A statement of the final cost of construction work, including the basic structure, all on-site improvements, built-in furnishings and fixtures and all integral equipment exclusive of process or manufacturing equipment;
6. A set of amended drawings, if required by the construction official and the appropriate subcode official(s), when the dimensions, lay out or appearance of the building or structure deviates substantially from the released plans

and specifications filed with the construction permit application; and

7. A test and balance report for mechanically ventilated Class I and II buildings of Use Groups B and E submitted by a licensed professional engineer or by a test and balance professional certified by the Associated Air Balance Council or the National Environmental Balancing Bureau. The signed report shall include:

- i. Minimum quantity of outdoor air required by code;
- ii. Minimum quantity of outdoor air specified in the design;
- iii. Actual measured outdoor cubic feet/minute (CFM) or a derived quantity, if actual measurement is not possible; and
- iv. Actual measured total CFM.

(j) Contents of certificate: When a building or structure is entitled thereto, the construction official shall issue a certificate of occupancy within 10 business days after written application therefor.

1. The certificate shall certify the purpose for which the building or structure may be used in its several parts.

2. The certificate of occupancy shall specify: the use group(s), in accordance with the provisions of the building subcode; the maximum live load on all floors as prescribed in the building subcode; the occupancy load in the building and all parts thereof as defined in the building subcode; and any special stipulations and conditions of the construction permit.

3. The construction official shall affix his signature to the certificate and, by so doing, shall certify that the building or structure has been approved for occupancy by all applicable subcode officials in accordance with the provisions of N.J.A.C. 5:23-3.

(k) No temporary or final certificate of occupancy shall be granted until all required utilities, including but not limited to water, sewer, electric and gas are installed and in service.

(l) Equipment listed below, which has been determined by the Department to create a significant potential hazard to public health and safety, shall be granted a certificate of compliance by the construction official based upon the findings of the appropriate subcode official or approved agency for the time period specified. Such equipment shall periodically be reinspected or tested in accordance with the provisions of the regulations, prior to the expiration of a certificate of compliance, and any violation shall be corrected before a new certificate may be issued. No device shall continue in operation unless a valid certificate of compliance has been reissued.

1. High pressure boilers: 12 months;
2. Refrigeration systems: 12 months;
3. Pressure vessels: 12 months;

(c) Certificates of occupancy or certificates of approval, as applicable, shall be issued for individual tenant spaces in multi-tenant buildings as follows:

1. A certificate of occupancy or certificate of approval shall be issued provided the work authorized by the construction permit has been completed in accordance with the Uniform Construction Code and all conditions of prior approvals, if applicable, have been met.

2. The construction official may issue a certificate of occupancy or certificate of approval for a portion(s) of the building provided all of the work authorized by the construction permit has been completed in accordance with the Uniform Construction Code and all conditions of prior approvals, if applicable, have been met and provided that the unfinished portions of the building do not present life safety hazards.

3. Certificates of occupancy or certificates of approval, as applicable, may be issued floor by floor or tenant space by tenant space.

(d) Construction permits, temporary certificates of occupancy, and certificates of occupancy shall be issued in accordance with the procedures set forth at N.J.A.C. 5:23-2.15 and 2.23, respectively.

New Rule, R.2007 d.125, effective May 7, 2007.
See: 38 N.J.R. 3707(a), 39 N.J.R. 1671(a).

5:23-2.24 Conditions of certificate of occupancy

(a) Certificate of occupancy shall be conditioned upon the following:

1. That the completed project meets the conditions of the construction permit, and all prior approvals and has been done substantially in accordance with the code and with those portions of the plans and specifications controlled by the code;

2. That all required fees have been paid in full;

3. That all necessary inspections have been completed and that the completed project meets the requirements of the regulations;

4. That all violations have been corrected and that any assessed penalties have been paid;

5. That all protective devices and equipment required to be installed by the regulations will continue to be operational as required by the regulations.

(b) No certificate of occupancy shall be issued for any new home, built by a builder, as such terms are defined in N.J.A.C. 5:25-1.3, except after filing by the builder with the construction official of proof that the new home has been enrolled in either the State New Home Warranty Security Plan or a private plan approved by the Department of Community Affairs. If the new home is enrolled in the State New Home Warranty Security Plan, proof shall be in the form of a

validated copy of the Certificate of Participation, required pursuant to N.J.A.C. 5:25-5.5, and proof of payment of the warranty premium.

(c) No certificate of occupancy shall be issued for any new home built by an owner or in which any design, construction, plumbing or electrical work has been done by the owner unless the owner shall file with the construction official an affidavit in which he certifies that all work has been done in conformity with applicable law, acknowledges that work done by him or by any subcontractor working under his supervision, is not covered under the New Home Warranty and Builders' Registration Act (N.J.S.A. 46:3B-1 et seq.) and states that he will disclose this to any person purchasing the property from him within 10 years of the date of issuance of a certificate of occupancy. The affidavit shall be filed on a form prescribed by the Department of Community Affairs.

(d) No certificate of occupancy shall be issued for any building used or intended to be used as a rooming house or a boarding house, as such terms are defined in section 3 of the Rooming and Boarding House Act of 1979 (P.L. 1979, c.496; N.J.S.A. 55:13B-1 et seq.), except after filing by the owner with the construction official of a photocopy of a license to own a rooming or boarding house issued to the owner by the Department of Community Affairs.

(e) No certificate of occupancy shall be issued for a hotel or multiple dwelling, as defined in the Hotel and Multiple Dwelling Law (N.J.S.A. 55:13A-1 et seq.), except after filing by the owner with the construction official of a photocopy of a certificate of registration issued by the Bureau of Housing Inspection of the Department of Community Affairs.

(f) No certificate of occupancy shall be issued for any building containing one or more elevators unless all of the elevators in the building have been registered with the Department in accordance with N.J.A.C. 5:23-12.

(g) Whenever a liquefied petroleum gas installation subject to the Department's jurisdiction pursuant to N.J.A.C. 5:23-3.11(j) is part of a project that requires a construction permit, no certificate of occupancy or certificate of approval shall be issued except after filing by the owner with the construction official of a photocopy of a permit to operate and fill issued by the New Jersey Department of Community Affairs, Division of Codes and Standards, Bureau of Code Services, PO Box 816, Trenton, New Jersey 08625-0816.

(h) No certificate of occupancy shall be required in the case of minor work as provided for by N.J.A.C. 5:23-2.17A.

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

Text added at (f).
Amended by R.1995 d.476, effective September 5, 1995 (operative January 1, 1996).

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

Rewrote (f).

Amended by R.2001 d.141, effective May 7, 2001.

See: 32 N.J.R. 3917(a), 33 N.J.R. 746(a), 33 N.J.R. 1399(d).

Added new (g); recodified former (g) as (h).

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

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

Rewrote (a)1.

Amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

In (g), amended the N.J.A.C. reference and substituted "Bureau of Code Services" for "Bureau of Boiler and Pressure Compliance".

Administrative correction.

See: 35 N.J.R. 3608(a).

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

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

In (g), substituted "Whenever a liquefied petroleum gas installation subject to the Department's jurisdiction pursuant to N.J.A.C. 5:23-3.11(j) is part of a project that requires a construction permit, no" for "No" and "permit to operate and fill issued by" for "notice of LP gas installation filed, pursuant to N.J.A.C. 5:18-6.4(a), with" and deleted "for any building or project that includes a vapor delivery liquefied petroleum gas installation that is greater than 250 gallons, but not more than 2,000 gallons" following "shall be issued".

Case Notes

Citation to former N.J.A.C. 5:23-2.7; municipal requirement for payment of property taxes before permit issuance invalid as preempted by legislation. Home Builders League of South Jersey, Inc. v. Evesham Twp., 174 N.J.Super. 252, 416 A.2d 81 (Law Div.1980).

5:23-2.25 Establishment of fees

The municipality, in accordance with this chapter, shall establish by ordinance enforcing agency fees for the following activities: plan review; construction permits; certificate of occupancy; elevator device inspections and tests; demolition permit; moving of building permit; lead abatement clearance certificate; annual electrical inspection of swimming pools, spas and hot tubs; and sign permit. The fee shall be collected prior to the issuance of the permit or certificate. A schedule of such fees shall be posted in the office of the construction official and shall be accessible to the public.

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

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

Elevator activities added.

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

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

Administrative correction.

See: 29 N.J.R. 2267(a).

Administrative correction.

See: 29 N.J.R. 3721(a).

Deleted reference to certificate of compliance and certificate of approval.

Amended by R.2000 d.47, effective February 7, 2000.

See: 31 N.J.R. 2314(a), 32 N.J.R. 443(a).

Inserted a reference to annual electrical inspection of swimming pools, spas and hot tubs in the first sentence.

Case Notes

Citation to former N.J.A.C. 5:23-4.8 fee standards; municipal requirement for payment of property taxes before permit issuance invalid as preempted by legislation. Home Builders League of South Jersey, Inc. v. Evesham Twp., 174 N.J.Super. 252, 416 A.2d 81 (Law Div.1980).

5:23-2.26 (Reserved)

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

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

Section was "Plan Review Fees".

5:23-2.27 Refunds

In the case of discontinuance of a building project, the volume of the work actually completed shall be computed. Any excess for the uncompleted work shall be returned to the permit holder; except that all penalties that may have been imposed on the permit holder under the requirements of the regulations shall first be collected. Plan review fees are not refundable.

5:23-2.28 Volume computation

(a) General: For the determination of the permit fees, the volume of the structure shall be computed as provided in this section.

(b) Structures: The volume of the structure shall include all enclosed dormers, porches, penthouses and other enclosed portions of the structure measured from the top of the floor assembly of the first story above grade to the mean height of a pitched roof, or the average height of the top of the roof beams of a flat roof.

1. With a basement/cellar: When a basement/cellar is included in the design of a structure, the volume of the basement shall be measured from the basement/cellar floor to the top of the floor assembly of the first story above grade and added to the structure volume calculation from (b) above.

2. Without a basement/cellar: When a structure does not include a basement/cellar in the design, the volume of the space below the floor assembly of the first story above grade shall be measured by using the distance from the top of the floor assembly of the first story above grade to the bottom of the footings divided by five (one-fifth the total distance), but this distance is not to exceed 2½ feet below the top of the floor assembly of the first story above grade, and then added to the structure volume calculation from (b) above.

(c) Open sheds: For open sheds and structures of a similar character, the volume shall be measured within the perimeter of the roof for a height from the grade line to the mean roof level.

(d) No fee shall be required for premanufactured construction, assembly or components transported to a construction site. A fee shall be required for work performed at the site, including, but not limited to, foundation systems, structural installations and external utility connections.

(e) No fee shall be required for commercial farm buildings, or portions of, constructed of pre-engineered systems specified in N.J.A.C. 5:23-3.2(d) 3. A fee shall be required, unless exempted, for commercial farm building work performed at the site.

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

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

(e) added.

Amended by R.1995 d.603, effective November 20, 1995 (operative March 20, 1996).

See: 27 N.J.R. 2655(a), 27 N.J.R. 4699(a).

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

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

Deleted former (b) and (c); added new (b); recodified former (d)-(f) as (c)-(e).

5:23-2.29 Entry

(a) The owner of any premises upon which a building or structure is to be constructed shall be deemed to have consented to inspection, by the enforcing agency, of the entire premises and of any and all construction being performed on it until a certificate of occupancy has been issued.

(b) An inspector, or team of inspectors, on presentation of proper credentials, shall have the right to enter and inspect such premises, and any and all construction thereon, for purposes of insuring compliance with the provisions of the applicable construction permit, and the regulations. All inspection pursuant to the act and the regulations shall be between the hours of 9:00 A.M. and 5:00 P.M. on business days, or when construction is actually being undertaken; provided, however, that inspections may be conducted at other times if the enforcing agency has reasonable cause to believe that an immediate danger to life, limb or property exists, or if permission is given by an owner, or his agent, architect, engineer or builder. No person shall accompany an inspector or team of inspectors on any inspection pursuant to the regulations, unless his presence is necessary for the enforcement of the regulations, or unless consent is given by an owner or his agent, architect, engineer or builder.

(c) Any construction official, subcode official or any inspector, presenting themselves for inspection of any occupied building shall present to the owner the owner's agent or occupant their personal identification as provided by the municipality.

(d) After the certificate of occupancy shall have been granted, the construction official shall not enter upon such premises for purpose of inspection, unless upon reasonable grounds to believe that a condition of the certificate of occupancy has been violated, or in the case of equipment granted approvals of limited duration pursuant to this subchapter, or in the case of emergencies, or unsafe buildings, or upon reasonable cause to believe construction work is underway without a permit having been issued.

(e) Nothing herein is intended to limit the right of a municipality to adopt property maintenance regulations and provide for inspection, pursuant to any other law, ordinance or judicial decision of this State. However, no such regulation shall conflict with any provision of the regulations.

Administrative Correction to (b): Changed "than" to "that".
See: 22 N.J.R. 2503(b).

5:23-2.30 Violation, notice and orders

(a) Whenever the construction official or the appropriate subcode official shall determine that there exists a violation of the provisions of the regulations or where there exists a violation of a permit or certificate issued under the regulations, the appropriate subcode official shall issue a notice of violation and orders to terminate directing the discontinuance of the illegal action or condition and the correction of the violation.

(b) The notice and orders shall contain at least the following information:

1. The name and address of the owner; the address at which the violation occurred; the name and address of the person to whom the order is directed, and if it be other than the owner, a copy shall be delivered to the owner or his agent stating that the owner bears joint responsibility for bringing about compliance with the person named and that if a penalty is imposed, the enforcing agency will not issue a certificate of occupancy until such penalty has been paid; the permit number; a citation to the sections of the regulations violated; an order to terminate violations within a time specified in the order; the amount of penalty assessed, if any, and if cumulative, an explanation of the method of computation; and shall be signed by the appropriate subcode official or the construction official.

2. Unless an immediate hazard to health and safety is posed, the construction official or appropriate subcode official shall permit such time period for correction as is reasonable within the context of the situation.

(c) Extensions: The construction official may grant extensions of time whenever he shall determine that despite diligent effort, compliance cannot be accomplished within the time specified in the notice. If, however, such extension shall be for a period in excess of three business days, or if more than one extension of less than three business days is sought, the construction official shall require a written application of extension stating the need, upon which he shall rule in writing, and which shall be made a part of the permanent file of the project.

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

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

In (a), deleted ", or of a detailed statement or plan approved thereunder," following "provisions of the regulations".

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

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

In (a), substituted "appropriate subcode" for "construction" preceding "official shall issue"; in (b)1, substituted "or" for "and" following "subcode official"; and in (b)2, inserted "official or appropriate subcode".

Administrative correction.

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

Case Notes

Penalty assessed against property owners for violations of housing code; failure to request an extension of time for reinspection. *Piercy v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 27.

5:23-2.31 Compliance

(a) If the notice of violation and orders to terminate have not been complied with, the construction official in addition to any other available remedies likely to bring about compliance, may request the legal counsel of the municipality, or of the joint enforcement agency, or the Attorney General in the case of the State, to institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of the regulations or of the order or direction made pursuant thereto.

(b) Penalties:

1. Any person or corporation, including an officer, director or employee of a corporation, shall be subject to a penalty if that person:

- i. Violates any of the provisions of the act or the regulations;
- ii. Constructs a structure or building in violation of a condition of a building permit;
- iii. Fails to comply with any order issued by an enforcing agency or the department;
- iv. Makes a false or misleading written statement, or omits any required information or statement in any application or request for approval to an enforcing agency or the department.

2. Anyone who knowingly refuses entry or access to an inspector lawfully authorized to inspect any premises, building or structure pursuant to the act or the regulations, or who unreasonably interferes with such an inspection, shall be subject to a fine of not more than \$250.00.

3. With respect to (b)1iii above, a person shall be guilty of a separate offense for each day that he fails to comply with a stop construction order validly issued by an enforcing agency or the department and for each week that he fails to comply with any other order validly issued by an enforcing agency or the department. With respect to (b)1i and iv above, a person shall be guilty of a separate offense for each violation of any provision of the act or the regulations and for each false or misleading written statement or omission of required information or statement made in any application or request for approval to an enforcing agency or the department. With respect to (b)1ii above, a person shall be guilty of a separate offense for each violation of conditions of a construction permit.

4. No such penalty shall be assessed except upon notice of violation and orders to terminate and upon the expiration of the time period delineated in the notice; except that in the case of a false or misleading statement pursuant to (b)1iv above, the failure to obtain a construction permit or request required inspections, or allowance of occupancy prior to receipt of a certificate of occupancy, an order to

pay a penalty shall be issued immediately upon the discovery of the violation.

5. The construction official may separately serve a notice of penalty assessment and order to pay a penalty.

6. The penalties pursuant to this section may be collected pursuant to the "Penalty Enforcement Law of 1999" (N.J.S.A. 2A:58-10 et seq.). Jurisdiction to enforce such penalties is conferred upon judges of the municipal court and of the Superior Court. Suit may be brought by a municipality or the State of New Jersey. Payment of a money judgment pursuant hereto shall be remitted in the case of a suit brought by a municipality to the municipal treasurer and in the case of a suit brought by the State of New Jersey to the State Treasurer.

(c) The construction official may assess a monetary penalty whenever such shall be likely to assist in bringing about compliance.

(d) Stop construction order:

1. If the construction of a structure or building is being undertaken contrary to the provisions of the regulations, or other applicable laws or ordinances, the enforcing agency may issue a stop construction order in writing which shall state the reasons for such order and the conditions under which construction may be resumed and which shall be given to the owner or the holder of the construction permit or to the person performing the construction. If the person doing the construction is not known, or cannot be located with reasonable effort, the notice may be delivered to the person in charge of, or apparently in charge of, the construction.

2. If, at the time of inspections requested pursuant to N.J.A.C. 5:23-2.18(c), a pattern or practice is identified and documented in writing of the same code violation(s) occurring in most or all of the dwelling units inspected within a housing development, affecting framing, fire safety or structural safety, the construction official may issue a stop construction order for all buildings within the development. A copy of the supporting documentation, including the violations, citations, and blocks and lots, shall be given to the owner or responsible person in charge of the project. A copy of the stop construction order shall be forwarded to the Department as per N.J.A.C. 5:23-4.5(h)1xi. Relief from any such stop construction order may be conditioned upon submission to the enforcing agency of an acceptable supervision and management plan. This plan shall include the institution of quality controls to ensure that the pattern of violations does not continue and the identification of qualified personnel to implement the plan. If the plan is not submitted within five business days of the issue date of the stop construction order, the order shall take effect.

3. No person shall continue, or cause to allow to be continued, the construction of a building or structure in violation of a stop construction order, except with the

permission of the enforcing agency to abate a dangerous condition or remove a violation, or except by court order.

4. If an order to stop construction is not obeyed, the enforcing agency may apply to the appropriate court as otherwise established by law for an order enjoining the violation of the stop construction order. The remedy for violation of such an order provided in this subsection shall be in addition to, and not in limitation of, any other remedies provided by law.

(e) Penalties may be levied by an enforcing agency as follows:

1. Up to \$1,000 per violation for failure or refusal to comply with any lawful order, unless the failure or refusal to comply is done with the knowledge that it will endanger the life or safety of any person, in which case the penalty shall be up to \$2,000 per violation;

2. Up to \$2,000 per violation for failure to obtain a required permit prior to commencing construction or for allowing a building to be occupied without a certificate of occupancy;

3. Up to \$2,000 per violation for failure to comply with a stop construction order;

4. Up to \$2,000 per violation for willfully making a false or misleading written statement, or willfully omitting any required information or statement in any application or request for approval;

5. Up to \$500.00 per violation for any violation not covered under (e)1 through 4 above;

6. For purposes of this subsection, in an occupied building, a code violation involving fire safety, structural soundness or the malfunctioning of mechanical equipment that would pose a life safety hazard shall be deemed to endanger the life or safety of a person. In an unoccupied building, a code violation of a requirement intended to protect members of the public who are walking by the property shall be deemed to endanger the life or safety of a person.

Amended by R.2004 d.365, effective October 4, 2004.
See: 36 N.J.R. 2605(a), 36 N.J.R. 4441(a).

In (b), inserted "of 1999" following "Penalty Enforcement Law", amended the N.J.S.A. reference in (6), and substituted "and of the Superior Court" for "in addition to the courts specified by N.J.S.A. 2A:58-2"; added (e).

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

Rewrote (d).

Amended by R.2007 d.124, effective May 7, 2007.
See: 38 N.J.R. 3708(a), 39 N.J.R. 1669(a).

In the introductory paragraph of (b), substituted a colon for a semicolon at the end; and in (b)5, deleted ", whenever he shall not have done so in the original notice and orders" following "pay a penalty".

Administrative correction.

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

Case Notes

Civil rights action challenging township actions regarding use of property as church were not ripe for adjudication until township planning board decided site plan application and any need for variance. *Trinity Resources, Inc. v. Township of Delanco*, D.N.J.1994, 842 F.Supp. 782.

5:23-2.32 Unsafe structures

(a) All buildings or structures that shall become unsafe, or unsanitary, or that contain deficient or blocked exitway facilities, or which constitute a fire hazard or are otherwise dangerous to human life or the public welfare, or that by reason of illegal or improper use or occupancy shall be deemed unsafe buildings or structures, shall be taken down and removed or made safe and secure. A vacant building that is unguarded or open at door or window shall be deemed a fire hazard and unsafe within the meaning of this chapter.

1. Examination and record of damaged structure: The appropriate subcode official shall examine every building or structure reported as dangerous, unsafe structurally, unsanitary or constituting a fire hazard and shall prepare a report to be filed in a docket of unsafe structures and premises, stating the use of the structure, the nature of the hazard, the nature and estimated amount of damages, if any, caused by collapse or failure.

unrelated to an action for, or an appeal of, enforcement of the Code.

5. This section shall not apply to:

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

ii. Any such business or employment outside the State;

iii. Dual employment by two or more enforcing agencies;

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

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

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

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

Amended by R.1983 d.611, eff. January 3, 1984.

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

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

Amended by R.1984 d.303, effective July 16, 1984.

See: 16 N.J.R. 950(a), 16 N.J.R. 1968(b).

Added (g)2.

Amended by R.1990 d.61, effective February 5, 1990.

See: 21 N.J.R. 3346(b), 22 N.J.R. 351(b).

Form numbers updated, new (d)2. added and reference made to reports and fees being submitted quarterly.

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

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

Radon mitigation added to (f)1xviii.

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

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

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

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

See: 23 N.J.R. 3440(a), 24 N.J.R. 405(a).

Electronic monthly reporting added at (d)2.-4.

Amended by R.1992 d.230, effective June 1, 1992.

See: 24 N.J.R. 168(a), 24 N.J.R. 2052(a).

Form numbers changed in (b).

Amended by R.1992 d.243, effective July 6, 1992.

See: 24 N.J.R. 678(a), 24 N.J.R. 2422(a).

Conflict of interest and exception provisions added.

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

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

Report form number changed at (e).

Amended by R.1993 d.581, effective November 15, 1993.

See: 25 N.J.R. 3693(a), 25 N.J.R. 5146(a).

Amended by R.1994 d.323, effective July 5, 1994 (operative January 1, 1995).

See: 25 N.J.R. 2162(a), 26 N.J.R. 2780(a).

Amended by R.1995 d.249, effective June 5, 1995, (operative October 1, 1995).

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

In (b)2 added Form No. F-370.

Amended by R.1996 d.512, effective November 4, 1996.

See: 28 N.J.R. 3697(a), 28 N.J.R. 4782(a).

Amended by R.1997 d.64, effective February 18, 1997 (operative May 19, 1997).

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

In (b)2, amended form references.

Amended by R.1997 d.378, effective September 15, 1997.

See: 29 N.J.R. 2742(a), 29 N.J.R. 4103(a).

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

Amended by R.1997 d.419, effective October 6, 1997.

See: 29 N.J.R. 3406(a), 29 N.J.R. 4287(a).

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

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

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

In (b)2, inserted a reference to Form No. F380.

Amended by R.2000 d.413, effective October 16, 2000.

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

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

Amended by R.2003 d.363, effective September 15, 2003.

See: 35 N.J.R. 2426(a), 35 N.J.R. 4281(a).

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

Amended by R.2003 d.385, effective October 6, 2003.

See: 35 N.J.R. 2423(a), 35 N.J.R. 4713(a).

In (h), added 3.

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

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

Added (h)1xxii.

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

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

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

Administrative correction.

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

In (h)1xxii, substituted “818” for “817” to correct PO Box number.

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

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

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

Amended by R.2007 d.46, effective February 5, 2007.

See: 38 N.J.R. 872(a), 39 N.J.R. 370(b).

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

Administrative correction.

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

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

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

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

Administrative correction.

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

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

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

Added (k).

Administrative correction.

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

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

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

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

Case Notes

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

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

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

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

5:23-4.5A (Reserved)

Repealed by R.2006 d.128, effective April 3, 2006.
See: 37 N.J.R. 4106(a), 38 N.J.R. 1573(a).

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

5:23-4.6 Interlocal enforcing agencies—establishment

(a) Parties: Any two or more municipalities may, by ordinance, join to administer and enforce the regulations and any subcode under the regulations. Any municipalities party to an agreement establishing one enforcing agency consisting of all subcodes may further provide for the establishment of a joint board of appeals.

(b) Agreement: Except as the section may add or substitute requirements, the procedures for the execution of any agreement pursuant to this section, shall be governed by the Interlocal Services Act (N.J.S.A. 40:8A-1 et seq.).

1. Upon the final adoption of an ordinance pursuant to the Interlocal Services Act, a copy of such ordinance, the contract, and any other pertinent information shall be forwarded to the department;

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

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

4. Such contract shall provide a mechanism for administration and enforcement within each of the contracting municipalities by one or more of the contracting municipalities, on an interim or emergency basis, should such agreement be invalidated by a court of competent jurisdiction or prove otherwise unenforceable.

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

5:23-4.7 Interlocal enforcing agencies—organization

(a) General: Except as is provided in this section, enforcing agencies organized pursuant to this section shall, insofar

as is practicable, be organized in the same manner as are municipal enforcing agencies.

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

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

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

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

5:23-4.9 State enforcing agencies—establishment

(a) Department of Community Affairs:

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

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

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

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

Administrative Correction to (a)1.

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

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

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

In (a)1, changed enforcing agency and amended N.J.A.C. references; deleted (a)1i and (c); inserted (a)2; and recodified former (d) as (c).
Amended by R.2000 d.166, effective April 17, 2000.

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

In (b)1, substituted "performing plan review" for "administering and enforcing the regulation" following "purpose of"; and deleted a former (c).

Administrative correction.

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

Amended by R.1991 d.325, effective July 1, 1991.
 See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).
 Reference to Subchapter 12 added.
 Amended by R.1992 d.272, effective July 6, 1992.
 See: 24 N.J.R. 1446(a), 24 N.J.R. 2424(a).
 Stylistic changes.

Law Review and Journal Commentaries

Municipal employees—Construction Code Officials. Judith Nallin, 135 N.J.L.J. No. 14, 50 (1993).

Case Notes

Legislature sought to establish uniform statewide construction standards. *Voges v. Borough of Tinton Falls*, 268 N.J.Super. 279, 633 A.2d 566 (A.D.1993), certification denied 135 N.J. 466, 640 A.2d 848.

Uniform Construction Code Act preempted field of code enforcement. *Voges v. Borough of Tinton Falls*, 268 N.J.Super. 279, 633 A.2d 566 (A.D.1993), certification denied 135 N.J. 466, 640 A.2d 848.

5:23-5.2 Licensing unit; hearings

(a) There is hereby established in the Bureau of Code Services, Division of Codes and Standards, a Licensing Unit. The unit shall enforce this subchapter.

(b) The unit shall have the following responsibilities in addition to all others provided in this subchapter:

1. To issue such licenses as may be called for herein when warranted;
2. To keep accurate records of all applications for a license and any official action thereon and to make such records available for inspection by the public at all reasonable times;
3. To suspend or revoke a license provided for herein upon the establishment of good cause.

(c) Any person aggrieved by any notice, action, ruling or order of the Commissioner, with respect to this subchapter, shall have a right to a hearing before the Office of Administrative Law. The final decision in any such case shall be issued by the Commissioner.

1. The aggrieved person must request a hearing in writing. The request must be filed within 15 days after receipt of the notice, order, action or ruling being appealed.
2. The request shall be filed with the Hearing Coordinator, Division of Codes and Standards, PO Box 802, Trenton, NJ 08625-0802.
3. The request for hearing shall set forth all issues that will be raised at the hearing.

As amended, R.1980 d.316, eff. July 17, 1980.
 See: 12 N.J.R. 303(b), 12 N.J.R. 452(d).
 As amended, R.1981 d.134, eff. May 7, 1981.
 See: 13 N.J.R. 119(a), 13 N.J.R. 258(c).

(b)2 concerning licensure advisory board deleted and (b)3 renumbered as (b)2.

As amended, R.1982 d.436, eff. December 20, 1982.
 See: 14 N.J.R. 734(a), 14 N.J.R. 1449(a).

Added to (b)1 that cases to be heard by the OAL with final decision by the Commissioner. Deleted old text concerning hearings.

Amended by R.1987 d.509, effective December 7, 1987.
 See: 19 N.J.R. 1264(a), 19 N.J.R. 2270(a).

Deleted text in (b)2i "Responsibility to request . . .".
 Administrative Corrections to section heading, (a), (a)1, (b)2i.
 See: 22 N.J.R. 2503(b).

Amended by R.1992 d.272, effective July 6, 1992.
 See: 24 N.J.R. 1446(a), 24 N.J.R. 2424(a).

Stylistic changes.

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

Substantially amended section.

5:23-5.3 Types of licenses

(a) Rules concerning code enforcement licensure categories are:

1. Technical licenses: Subject to the requirements of this subchapter, persons may apply for and may be licensed in the following specialties:

i. Building inspector: Building inspectors are authorized to carry out field inspection and plan review work pursuant to the regulations subject to the limitations specified herein.

(1) Building inspector with a specialty in high-rise and hazardous structures (H.H.S.): Building inspectors H.H.S. are authorized to review plans and carry out field inspection activities for structures in classes I, II and III.

(2) Building inspector with a specialty in industrial and commercial structures (I.C.S.): Building inspectors I.C.S. are authorized to review plans for structures in classes II and III, and to carry out field inspection activities for structures in classes I, II and III.

(3) Building inspector with a specialty in residential and small commercial structures (R.C.S.): Building inspectors R.C.S. are authorized to review plans for structures in class III and to carry out field inspection activities for structures in classes I, II and III.

ii. Electrical inspector: Electrical inspectors are authorized to carry out field inspection and plan review work pursuant to the regulations subject to the limitations specified herein.

(1) Electrical inspector with a specialty in high-rise and hazardous structures (H.H.S.): Electrical inspectors H.H.S. are authorized to review plans and carry out field inspection activities for structures in classes I, II and III.

(2) Electrical inspector with a specialty in industrial and commercial structures (I.C.S.): Electrical inspectors I.C.S. are authorized to review plans for structures in classes II and III, and to carry out field inspection activities for structures in classes I, II and III.

iii. Fire protection inspector: Fire protection inspectors are authorized to carry out field inspection and plan review work pursuant to the regulations subject to the limitations specified herein.

(1) Fire protection inspector with a specialty in high-rise and hazardous structures (H.H.S.): Fire protection inspectors H.H.S. are authorized to review plans and carry out field inspection activities for structures in classes I, II and III.

(2) Fire protection inspector with a specialty in industrial and commercial structures (I.C.S.): Fire protection inspectors I.C.S. are authorized to review plans for structures in classes II and III, and to carry out field inspection activities for structures in classes I, II and III.

(3) Fire protection inspector with a specialty in residential and small commercial structures (R.C.S.): Fire protection inspectors R.C.S. are authorized to review plans for structures in class III and to carry out field inspection activities for structures in classes I, II and III. This license will no longer be available after July 31, 1991, and all licenses issued on or before that date shall cease to be valid after July 31, 1993.

iv. Plumbing inspector: Plumbing inspectors are authorized to carry out field inspection and plan review work pursuant to the regulations subject to the limitations specified herein.

(1) Plumbing inspector with a specialty in high-rise and hazardous structures (H.H.S.): Plumbing inspectors H.H.S. are authorized to review plans and carry out field inspection for structures in classes I, II and III.

(2) Plumbing inspector with a specialty in industrial and commercial structures (I.C.S.): Plumbing inspectors I.C.S. are authorized to review plans for structures in classes II and III, and to carry out field inspection activities for structures in classes I, II and III.

v. Inplant inspector: Inplant inspectors are authorized to carry out field inspections and plan review work of premanufactured components pursuant to this subchapter.

vi. Elevator inspector with a specialty in high-rise and hazardous structures (H.H.S.): Elevator inspectors H.H.S. are authorized to review plans and carry out the elevator device inspections, or to witness tests required by this chapter in all structures.

vii. Mechanical inspector: Mechanical inspectors are authorized to carry out field inspection and plan review work for all work under the mechanical subcode in structures of Group R-3 or R-5. Only a person already holding a valid inspector's license may apply for a mechanical inspector's license.

2. Administrative licenses: In addition to the basic required technical licenses specified in N.J.A.C. 5:23-5.3(b)1, a person may apply for the administrative licenses specified herein.

i. Construction official: A construction official is authorized to act as the chief administrator of the enforcing agency as required by N.J.A.C. 5:23-4.4.

ii. Building subcode official: A building subcode official is authorized to act as the administrator of the building subcode as required by N.J.A.C. 5:23-4.4.

iii. Electrical subcode official: An electrical subcode official is authorized to act as the administrator of the electrical subcode as required by N.J.A.C. 5:23-4.4.

iv. Fire protection subcode official: A fire protection subcode official is authorized to act as the administrator of the fire protection subcode as required by N.J.A.C. 5:23-4.4.

v. Plumbing subcode official: A plumbing subcode official is authorized to act as the administrator of the plumbing subcode as required by N.J.A.C. 5:23-4.4.

vi. Elevator subcode official: An elevator subcode official is authorized to act as the administrator of the elevator safety subcode, as required by N.J.A.C. 5:23-4.4.

3. State-jurisdiction licenses: Subject to the requirements of this subchapter, persons may apply for and may be licensed in the following specialties:

i. Amusement rides subcode official: An amusement rides subcode official is authorized to act as an administrator in the enforcement by the Department of the amusement rides subcode;

ii. Amusement ride inspector H.H.S.: An amusement ride inspector H.H.S. is authorized to carry out field inspection, accident investigation and plan review work in the enforcement by the Department of the amusement rides subcode;

iii. Amusement ride inspector I.C.S.: An amusement ride inspector I.C.S. is authorized to carry out field inspection and plan review work in the enforcement by the Department of the amusement rides subcode;

iv. Boiler, pressure vessel and refrigeration subcode official: A boiler, pressure vessel and refrigeration subcode official is authorized to act as an administrator in the enforcement by the Department of the boiler, pressure vessel and refrigeration subcode;

v. Boiler, pressure vessel and refrigeration inspector H.H.S.: A boiler, pressure vessel and refrigeration inspector H.H.S. is authorized to carry out field inspections and shop inspections and plan review work in the enforcement by the Department of the boiler, pressure vessel and refrigeration subcode;

7. No credit shall be given by the Department for any journeyman experience unless documentation of the completion of a formal or informal apprenticeship program, or its equivalent, as determined by the Department, is provided. In general, the Department makes reference to the U.S. Department of Labor's National Apprenticeship Program for assigning the length of time required to complete an apprenticeship program in a given trade.

8. Credit for part-time work experience shall be given by the Department on a proportional basis. The Department has established a 35-hour work-week as the standard full time equivalent. No additional credit will be given for hours in excess of 35 per week, regardless of any amount of overtime which an applicant claims to have worked.

(c) A person licensed by the Department on the basis of having had a license, tenure or permanent civil service status prior to January 1, 1978 who subsequently loses his or her license as a result of revocation or of failure to renew within three years of lapsing must reapply for licensure under the requirements in effect at the time of reapplication.

(d) Special provisions:

1. An applicant who is licensed as a building inspector, electrical inspector, fire protection inspector or plumbing inspector shall be eligible for licensure as an inspector at the same level or lower in any other subcode, other than the elevator safety subcode or a State-jurisdiction subcode, upon satisfactory completion of the approved educational program, if applicable, and the examination for licensure as an inspector in that other subcode, provided that the applicant has at least the number of years experience required for that other subcode inspector's license.

2. An applicant licensed as an inspector may apply for a mechanical inspector's license to perform mechanical inspections in structures of Group R-3 or R-5.

3. An applicant who is licensed as an elevator inspector and who holds valid certification by the National Association of Amusement Ride Safety Officials (NAARSO) as a Level I (Basic) Inspector shall be eligible to be licensed as an amusement ride inspector I.C.S.

Amended by R.1981 d.462, effective December 7, 1981.
See: 13 N.J.R. 390(a), 13 N.J.R. 885(d).

(b)9 through 9ii added.

Amended by R.1981 d.463, effective December 7, 1981.
See: 13 N.J.R. 635(a), 13 N.J.R. 886(c).

(c) added "no credit shall be given ... building".

Amended by R.1982 d.8, effective February 1, 1982.

See: 13 N.J.R. 799(b), 14 N.J.R. 143(a).

(b)liii and v: "such" added after "provided that"; "24" was "12"; and deleted "and further provided that's"; (b)5iii(3) deleted.

Amended by R.1982 d.19, effective February 1, 1982.

See: 13 N.J.R. 801(a), 14 N.J.R. 143(b).

(b) Substantially amended.

(c) "and" added between "application" and "review"; "alternative" deleted before "experience"; "pursuant to ... N.J.A.C. 5:23-5.9" deleted.

Amended by R.1982 d.56, effective March 1, 1982.

See: 14 N.J.R. 8(a), 14 N.J.R. 237(a).

(b)li: added "provided ... 52:27D-126(b);".

Amended by R.1983 d.641, effective January 17, 1984.

See: 15 N.J.R. 1911(a), 16 N.J.R. 129(b).

Substantially amended.

Amended by R.1984 d.425, effective October 1, 1984.

See: 16 N.J.R. 1644(a), 16 N.J.R. 2520(b).

Section substantially amended.

Amended by R.1985 d. 612, effective January 6, 1986.

See: 17 N.J.R. 1821(a), 18 N.J.R. 80(a).

Substantially amended.

Amended by R.1986 d.255, effective July 7, 1986.

See: 18 N.J.R. 594(a), 18 N.J.R. 1373(a).

Deleted "satisfies the experience requirements for licensure" and substituted "is licensed" in (d)5.

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

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

Substantially amended.

Administrative Correction to (a).

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

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

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

Test result and licensure requirements specified further at (b)4 and (c)3.

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

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

Work week set at 35 hours; (d)1-4 deleted.

Amended by R.1993 d.105, effective March 1, 1993.

See: 24 N.J.R. 4309(a), 25 N.J.R. 920(b).

Persons serving as elevator inspectors when licensing rules proposed have an opportunity to qualify for licenses.

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

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

Added (d)2.

Administrative correction.

See: 26 N.J.R. 1495(a).

Amended by R.1996 d.53, effective February 5, 1996.

See: 27 N.J.R. 4056(a), 28 N.J.R. 815(b).

Amended by R.1996 d.544, effective December 2, 1996 (operative February 1, 1997).

See: 28 N.J.R. 3996(a), 28 N.J.R. 5071(a).

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

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

In (b)4, deleted exception for tests taken prior to July 1, 1991; and substantially amended (c).

Amended by R.2001 d.303, effective September 4, 2001.

See: 33 N.J.R. 1991(a), 33 N.J.R. 2989(a).

In (d)1, inserted "or a State-jurisdiction subcode" following "safety subcode"; added (d)3.

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

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

In (d)2, substituted "mechanical inspections in structures of Group R-3 or R-5" for "mechanical inspections of Use Group R-3 or R-4 structures".

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

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

In (b)1, inserted "or if an application was denied within the prior three years by reason of any act or omission that would constitute grounds for revocation".

Case Notes

Under N.J.A.C. 5:23-5.5 and 5:23-5.21, after a revocation or for any loss of license or lapse of licensure for more than three years, an applicant shall be treated as a new applicant and cannot rely on courses more than five years old or on tests more than three years from the application. *Bureau of Code Services v. Gitto*, OAL Dkt. No. CAF 83-08, 2008 N.J. AGEN LEXIS 281, Initial Decision (April 8, 2008).

5:23-5.6 Construction official requirements

(a) A candidate for a license as a construction official shall meet the following qualifications:

1. Possession of the qualifications established for at least one of the following subcode official licenses: build-

ing, fire protection, electrical, plumbing or elevator; provided, however, that any person qualified as a fire protection subcode official must also have experience for the

applicable period of time specified by N.J.S.A. 52:27D-126b; and

5:23-5.25 Revocation of licenses and alternative sanctions

(a) The Department may revoke or suspend a license, and/or assess a civil penalty in accordance with N.J.A.C. 5:23-2.31, if the Department determines that the person involved, at any time during the preceding 10-year period:

1. Has violated the provisions of the Uniform Construction Code regulations;
2. Has obtained a license by fraud or misrepresentation, or the person named in the licensed has obtained it by fraud or misrepresentation;
3. Has aided or abetted in practice as a licensed code enforcement official any person not authorized to practice as a licensed code enforcement official under the provisions of these regulations;
4. Has fraudulently or deceitfully practiced as a licensed code enforcement official;
5. Has been grossly negligent or has engaged in misconduct in the performance of any of his duties;
6. Has failed, over a period of time, to maintain a minimally acceptable level of competence;
7. Has been found to have failed to report an offer or bribe or other favor in a proceeding under this act or other appropriate law of this or any other state or jurisdiction;
8. Has failed to comply with any order issued by the department;
9. Has made a false or misleading written statement, or has made a material omission in any submission to the department;
10. Has engaged in any conduct which demonstrates incompetency or dishonesty; or
11. Has failed to enforce the Uniform Construction Code Act or regulations.

(b) The Department, in addition or as an alternative, as the case may be, to revoking or suspending a license, or assessing a penalty, may issue a letter of warning, reprimand, or censure with regard to any conduct which, in the judgment of the Department, warrants a letter of warning, reprimand or censure. Such letters, in addition to any other filing of requirements, shall be made a part of the licensing file of the individual.

(c) Conviction of a crime, or conviction of an offense in connection with one's performance as a licensed code enforcement official or inspector, or a determination by the Department that a licensee has engaged in conduct constituting a conflict of interest under N.J.A.C. 5:23-4.5(j)2, shall constitute grounds for revocation of a license.

(d) The Commissioner shall appoint review committees to advise the Department concerning the appropriateness of

sanctions that the Department proposes to take against persons licensed under the respective subcodes who are alleged to have done any act or omission proscribed by (a) above. The Department shall provide necessary staff for the review committees.

1. Each review committee shall consist of three persons who are licensed as subcode officials in the subcode, and are currently employed by municipalities as subcode officials in the subcode and/or as construction officials. To be eligible for appointment to a review committee, a construction official shall have had experience as a subcode official employed by a municipality in that subcode. Of the persons appointed, at least two shall also be licensed as construction officials and at least one shall be employed by at least one enforcing agency for a total of not more than 20 hours per week.

2. Members of the review committees shall be appointed by the Commissioner and shall serve for terms of three years, and until their successors shall have been appointed; except that, of those members first appointed, one shall serve for one year, one shall serve for two years, and one shall serve for three years.

3. The Commissioner shall also appoint two alternate members of each committee, who shall be persons licensed as subcode officials in the subcode and currently employed by municipalities as subcode officials in the subcode and/or as construction officials. To be eligible for appointment as an alternate member of a review committee, a construction official shall have had experience as a subcode official employed by a municipality in that subcode. The Commissioner shall designate each alternate as either a first or a second alternate. Alternates shall serve for two years, and until their successors shall have been appointed, except that, of the alternates first appointed to each review committee, one shall serve for two years and one shall serve for one year.

4. The Commissioner shall give the State organizations of officials and inspectors in each subcode an opportunity to comment on persons proposed to serve as members or alternate members of each review committee prior to their appointment.

5. No review committee shall hear any case or issue any recommendation without three members, who may be either regular or alternate members, being present.

6. In any case in which the Department makes a preliminary finding that a licensee has done any act or omission proscribed under (a) above, it shall have the case reviewed by the appropriate review committee prior to the issuance of any order revoking or suspending the license or assessing a civil penalty.

7. The Department shall present whatever evidence it may have to the review committee. The licensee shall be given notice of the meeting of the review committee and may appear before the review committee to present his or

her position, but there shall be no cross-examination of either the licensee or any representative of the Department. Nothing said by the licensee or by any other persons at the meeting of the review committee shall be used in any way, nor shall any member of a review committee be required to testify concerning proceedings before the review committee, in any subsequent proceeding.

8. The review committee shall submit its recommendations as to the sanctions, if any, that ought to be imposed, to the Assistant Director for Construction Code Enforcement within 20 business days following the meeting. No sanctions shall then be imposed without the express approval of the Assistant Director for Construction Code Enforcement. Failure of a review committee to submit a timely recommendation shall be deemed to be concurrence with the action proposed to be taken by the Department. Notice of the review committee's recommendation, or failure to issue a recommendation, shall be given to the licensee.

9. A meeting of the review committee shall not be deemed to be a hearing or an adversarial proceeding and the findings of the advisory committee shall be deemed to be only a recommendation that is not binding on the Department.

10. A licensee shall be entitled to contest any order imposing sanctions in an administrative hearing, pursuant to N.J.A.C. 5:23-5.2, regardless of whether he or she has exercised the option of appearing before a review committee.

(e) If a mechanical inspector loses any licensure, through any circumstances, mechanical licensure shall be terminated at the same time, whether or not the loss of the other licensure is in any way related to the performance of mechanical inspection duties.

As amended, R.1978 d.350, effective October 1, 1978.
See: 10 N.J.R. 378(a), 10 N.J.R. 469(f).

As amended, R.1981 d.134, effective April 10, 1981.
See: 13 N.J.R. 119(a), 13 N.J.R. 258(b).

(b) added, and old (b) renumbered as (c).

As amended, R.1982 d.8, effective February 1, 1982.
See: 13 N.J.R. 799(b), 14 N.J.R. 143(a).

Catchline: added "and alternative sanctions".

(a): added "or assess ... \$500.00"; (a)8-10 added.

(b): added "or assessing a penalty"; deleted "does not warrant ... suspension"; added "warrants ... censure"; deleted "of warning ... censure".

As amended, R.1982 d.436, effective December 20, 1982.
See: 14 N.J.R. 734(a), 14 N.J.R. 1449(a).

Added "of a crime, or conviction of an offense" and "shall constitute" to (c).

Amended by R.1985 d.528, effective October 21, 1985.
See: 17 N.J.R. 1705(a), 17 N.J.R. 2535(b).

Added test in (a) "suspend a license for not more than 60 days and/".

Amended by R.1985 d.612, effective January 6, 1986.
See: 17 N.J.R. 1821(a), 18 N.J.R. 80(a).

Was 5:23-5.11.

Amended by R.1986 d.173, effective May 19, 1986.
See: 18 N.J.R. 16(b), 18 N.J.R. 1099(b).

(a)10 added; old (a)10 renumbered (a)11. This amendment was proposed under the old citation 5:23-5.11.

Amended by R.1987 d.509, effective December 7, 1987.
See: 19 N.J.R. 1264(a), 19 N.J.R. 2270(a).

This section recodified from section 26.

Amended by R.1992 d.68, effective February 3, 1992.
See: 23 N.J.R. 3441(a), 24 N.J.R. 406(a).

Text on review committees added at (d).

Amended by R.1992 d.272, effective July 6, 1992.
See: 24 N.J.R. 1446(a), 24 N.J.R. 2424(a).

Stylistic changes.

Amended by R.1993 d.187, effective May 3, 1993.
See: 25 N.J.R. 624(a), 25 N.J.R. 1875(a).

Added (e).

Amended by R.1996 d.545, effective December 2, 1996.
See: 28 N.J.R. 3997(a), 28 N.J.R. 5071(b).

Amended by R.2004 d.365, effective October 4, 2004.
See: 36 N.J.R. 2605(a), 36 N.J.R. 4441(a).

In (a), substituted "in accordance with N.J.A.C. 5:23-2.31" for "of not more than \$500.00" in the introductory paragraph.

Amended by R.2004 d.366, effective October 4, 2004.
See: 36 N.J.R. 2606(a), 36 N.J.R. 4442(a).

In (d)2, deleted the second sentence.

Amended by R.2008 d.273, effective September 15, 2008.
See: 40 N.J.R. 2630(a), 40 N.J.R. 5195(c).

In (c), inserted "or a determination by the Department that a licensee has engaged in conduct constituting a conflict of interest under N.J.A.C. 5:23-4.5(j)2," and deleted "or suspension" following "revocation".

Amended by R.2008 d.332, effective November 3, 2008.
See: 40 N.J.R. 4270(a), 40 N.J.R. 6439(a).

In the introductory paragraph of (a), inserted "or suspend" and " , at any time during the preceding 10-year period", and deleted "suspend a license for not more than 60 days," following "a license,".

Case Notes

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

Elevator inspector's misconduct warranted revocation of elevator subcode official and elevator inspection license. *Garcia v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 63.

False information on applications for electrical inspector, fire protection inspector, plumbing inspector, and subcode official warranted revocation. *Department of Community Affairs v. Zieniuk*, 93 N.J.A.R.2d (CAF) 35.

Appearance of conflict of interest was ground for revocation of license of fire protection subcode official. *Wood v. Bureau of Regulatory Affairs*, 92 N.J.A.R.2d (CAF) 133.

Construction official who was convicted of theft by deception forfeited his licenses to practice under the Uniform Construction Code. *Bureau of Regulatory Affairs v. Gaipa*, 92 N.J.A.R.2d (CAF) 129.

Licenses of construction and fire protection subcode official of Class II municipality were revoked for violations of provisions of the New Jersey Administrative Code. *Stankard v. Department of Community Affairs, Bureau of Regulatory Affairs*, 92 N.J.A.R.2d (CAF) 77.

SUBCHAPTER 6. REHABILITATION SUBCODE

5:23-6.1 Introduction; using this subcode

(a) This section is a guide to the use of the rehabilitation subcode. It should not be interpreted as containing substantive requirements and it is not intended to be cited for enforcement purposes.

1. The provisions of the other subcodes of the Uniform Construction Code do not apply to work in existing buildings, changing the use of an existing building or work in an existing building related to an addition unless the provisions of this subcode specifically reference them and make them applicable.

2. Traditionally, the New Jersey Uniform Construction Code has made the requirements that are applicable to new buildings also apply to buildings whose use is changed; applicable to buildings undergoing rehabilitation with the extent of the requirements depending on the amount of money being spent on the building; and to some extent applicable to existing buildings that have an addition constructed. Buildings whose use was changed and buildings receiving rehabilitation costing more than 50 percent of the replacement cost of the building were required to comply with all the provisions of the Uniform Construction Code for new buildings.

3. This subcode takes a new approach. The requirements that apply to a project are based upon the type of work being done rather than on the extent of the work. There is only one exception to this rule. In the case of reconstruction work, as the term reconstruction is defined in this subcode, there are some requirements which must be met when the project is a large one in floor area.

4. In this subcode, work is classified into six categories. Each category has a separate section which describes the requirements for that category of work. The categories are repair, renovation, alteration, reconstruction, change of use and additions. These terms are defined in N.J.A.C. 5:23-6.3. The definitions are critical to understand the distinctions between these six categories of work. Where a project contains more than one category of work, each applicable category must be consulted for the requirements for that category of work.

(b) Repair Work: The requirements that apply to repair work are in N.J.A.C. 5:23-6.4. The requirements for repairs are brief due to the limited nature of the work. There is a short list of materials that may not be used for repair work

due to their inherently hazardous nature and another list of materials which must be used in connection with repair work where applicable. These lists should be used when planning the repair components of any project.

1. This subcode does not establish when a permit is required for a project. Those requirements are in N.J.A.C. 5:23-2. Although it is generally true that repair work undertaken by itself does not require a construction permit, it is important to understand that any repair work undertaken in connection with a project that involves other categories of work is required to meet only the provisions for the repair category established by this subcode. There is no limit to the amount of repair work which may be undertaken. The decision to renovate rather than repair is made only by the owner.

(c) Renovation Work: The requirements that apply to renovation work are in N.J.A.C. 5:23-6.5. Renovation is defined in N.J.A.C. 5:23-6.3.

1. There are short lists of materials that may not be used and materials or practices which must be used, where applicable, when renovation work is undertaken. These lists should be used when planning a project which involves renovation work.

2. The installation of smoke detectors is required in any building of Group R-3 and R-5 which undergoes a renovation.

3. Renovation work must comply with N.J.A.C. 5:23-6.8, Materials and methods. All materials used for the renovation work must meet the standards for those materials established by N.J.A.C. 5:23-6.8 and methods of installation must comply with that section. N.J.A.C. 5:23-6.8, Materials and methods, references and makes applicable to renovation work certain specified subsections of the other subcodes of the Uniform Construction Code. Only those subsections specifically referenced in N.J.A.C. 5:23-6.8 apply to renovation work. All materials and methods used in renovation work must comply with the requirements of that section.

3. Where the work consists solely of the reconstruction of materials or systems listed in (k)2 above, the path of travel requirements shall not apply.

4. Where the work is for the primary purpose of increasing the accessibility of the building or tenancy, the requirement to further improve the path of travel shall not apply.

5. Where it is technically infeasible to comply with the technical standards of ICC/ANSI A117.1-2003, the work must comply to the maximum extent feasible.

Amended by R.2000 d.492, effective December 18, 2000.

See: 32 N.J.R. 3219(a), 32 N.J.R. 4437(b).

In (c), rewrote 2 and added 4; in (d), added 5; in (e), amended the N.J.A.C. reference in 5, rewrote 8iii, and substituted "Section 250-140" for "Section 250-60" in 8v.

Amended by R.2002 d.5, effective January 7, 2002.

See: 33 N.J.R. 3392(a), 34 N.J.R. 267(a).

In (d), added new 6; in (e), added new 11.

Amended by R.2003 d.137, effective April 7, 2003.

See: 34 N.J.R. 4277(a), 35 N.J.R. 1558(c).

Deleted (e)11; added a new (f); recodified former (f) through (j) as (g) through (k).

Amended by R.2003 d.218, effective May 19, 2003.

See: 35 N.J.R. 29(a), 35 N.J.R. 2209(a).

Rewrote the section.

Administrative correction.

See: 35 N.J.R. 4861(a).

Amended by R.2004 d.145, effective April 5, 2004.

See: 35 N.J.R. 5190(a), 36 N.J.R. 1758(a).

Deleted references to use preceding references to group throughout and substituted references to automatic sprinkler for references to fire suppression throughout; in (g)2ii, amended the N.J.A.C. reference.

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

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

In (e), added 11.

Amended by R.2005 d.4, effective January 3, 2005.

See: 36 N.J.R. 4049(a), 37 N.J.R. 47(a).

Added (e)12.

Amended by R.2006 d.120, effective April 3, 2006.

See: 37 N.J.R. 3753(a), 38 N.J.R. 1567(a).

In (e)1, deleted the N.J.A.C. reference and added "by the plumbing subcode".

Amended by R.2007 d.122, effective May 7, 2007.

See: 38 N.J.R. 4951(a), 39 N.J.R. 1673(a).

In (e) and (k)5, substituted "2003" for "1998" throughout; in (e)2ii, inserted "ICC/ANSI A117.1-2003, Chapter 10"; in (e)6, substituted "2406.3" for "2406.2"; added new (e)11 and (e)12; recodified former (e)11 and (e)12 as (e)13 and (e)14; and in (g)3, substituted "1009.10, 1010.8, 1012" for "1003.3.3.11, 1003.3.4.7" and "1013.1" for "1003.2.12".

5:23-6.8 Materials and methods

(a) The following requirements shall be met for materials and installation methods for all items that are part of the applicant's proposed project for all categories of work other than repair as defined in N.J.A.C. 5:23-6.3.

1. Where sections listed below reference other sections not listed below, those sections shall apply within that limited context.

(b) Building and Fire Protection Materials and Methods: The following sections of the building subcode (N.J.A.C. 5:23-3.14) shall constitute the building and fire protection materials and methods requirements for this subchapter:

1. The following sections of Chapter 5 entitled "General Building Height and Areas":

i. Section 505 shall apply to newly constructed "Mezzanines";

2. The following sections of Chapter 7 entitled "Fire-Resistance-Rated Construction":

i. Subsections 703.2, 703.3, 703.4;

ii. Subsection 704.2.1, 704.2.2, 704.2.3, 704.4, 704.13, 704.14;

iii. Subsections 705.3, 705.8, 705.9, 705.10, 705.11;

iv. Section 706.7, 706.8, 706.9, 706.10;

v. Section 707.7, 707.8, 707.9, 707.10, 707.13.2;

vi. Subsections 708.2, 708.6, 708.7, 708.8, 708.9;

vii. Subsections 709.2, 709.5, 709.6, 709.7, 709.8;

viii. Subsections 711.2, 711.5, 711.6, 711.7;

ix. Section 712;

x. Section 713;

xi. Subsections 715.2, 715.4.5, 715.4.6, 715.4.7, 715.4.8, 715.4.9, 715.5.1, 715.5.3, 715.5.4, 715.5.5, 715.5.6, 715.5.7, 715.5.8;

xii. Subsections 716.2, 716.3, 716.4, 716.7;

xiii. Subsections 717.2.1, 717.3.1;

xiv. Subsections 718.2, 718.4, 718.5;

xv. Section 719;

xvi. Section 720; and

xvii. Section 721;

3. All of Chapter 8 entitled "Interior Finishes" except 802;

4. All of Chapter 9 entitled "Fire Protection Systems" except 901, 902, 903.2, 904.2, 905.3, 908.1, 908.2, 910.2, 911;

5. The following sections of Chapter 10 entitled "Means of Egress":

i. Subsection 1011.2, 1011.4, 1011.5, 1011.5.1, 1011.5.3;

ii. Subsections 1013.2, 1013.3;

iii. Subsections 1008.1.3.1, 1008.1.3.2, 1008.1.3.3, 1008.1.3.4, 1008.1.3.5, 1008.1.8; and

iv. Subsections 1012.2, 1012.3, 1012.4, 1012.5, 1012.6, 1012.8;

6. The following sections of Chapter 12 entitled "Interior Environment":

- i. Section 1203.4.2 shall apply to new sources of contaminants; and
 - ii. Section 1210;
7. All of Chapter 14 entitled "Exterior Walls" except 1401, 1402, 1403.2;
 8. All of Chapter 15 entitled "Roof Assemblies and Rooftop Structures" except 1501.1, 1502.0, 1503.4, 1503.5;
 9. All of Chapter 16 entitled "Structural Design," except 1601, 1604, 1608, 1609, 1610, 1611, 1612, 1613, shall apply to new or replaced structural members. The referenced sections of Chapter 16 shall not be used to analyze any existing structural members, except as otherwise provided by this subcode;
 10. All of Chapter 18 entitled "Soil and Foundations" except sections 1801, 1802, 1803, 1804, 1805, 1807;
 - i. Additionally, the following sections of 1807 shall be included as part of Materials and Methods: 1807.2.1, 1807.2.2, 1807.3.1, 1807.3.2, 1807.3.3, 1807.4.1, 1807.4.2, 1807.4.3;
 11. All of Chapter 19 entitled "Concrete" except 1901, 1902;
 12. All of Chapter 20 entitled "Aluminum";
 13. All of Chapter 21 entitled "Masonry";
 14. All of Chapter 22 entitled "Steel";
 15. All of Chapter 23 entitled "Wood";
 16. All of Chapter 24 entitled "Glass and Glazing";
 17. All of Chapter 25 entitled "Gypsum Board and Plaster";
 18. All of Chapter 26 entitled "Plastic"; and
 19. For the applicability of Chapter 30 entitled "Elevators and Conveying Systems," refer to (i) below, Elevator Devices.
 - (c) Plumbing Materials and Methods: The following sections of the plumbing subcode (N.J.A.C. 5:23-3.15) shall constitute the plumbing materials and methods requirements for this subchapter:
 1. All of Chapter 2 entitled "General Regulations" except 2.19 and 2.24:
 - i. Section 2.19 for mandatory connections to the public water supply and sewer shall apply when existing septic or water supply facilities are no longer suitable for use as determined by the local health inspector, and public facilities are available within the meaning of 2.19.
 2. All of Chapter 3 entitled "Materials."
 3. All of Chapter 4 entitled "Joints and Connections."
 4. All of Chapter 5, entitled "Traps, cleanouts and backwater valves."
 5. Chapter 6, entitled "Interceptors" except sections 6.1.1, 6.3.1 and 6.4.1:
 - i. Section 6.1.1, 6.3.1, 6.4.1 for when interceptors are required shall not apply. However, when new fixtures, or devices are installed that will produce wastes that need to be separated, an interceptor shall be required.
 6. Chapter 7, entitled "Plumbing Fixtures, Fixture Fittings and Plumbing Appliances" except section 7.21 and table 7.21.1.
 7. Chapter 8 entitled "Hangers and Supports."
 8. Chapter 9 entitled "Indirect Wastes Piping and Special Waste."
 9. Chapter 10 entitled "Water Supply and Distribution" except for sections 10.3, 10.6.5, 10.8.1, 10.14 and 10.15.9:
 - i. Water shall be supplied so that fixtures within a building are provided with an adequate supply of water so that they are functional.
 - ii. Section 10.6.5 shall apply to all newly-installed or completely replaced water services.
 - iii. Section 10.8.1 shall apply, where there is not sufficient pressure for proper functioning of fixtures, a water pressure booster system shall be required.
 - iv. Section 10.14 for sizing water distribution systems shall apply when the proposed work will impose additional loads on the system. Where the proposed work does not increase or decreases the load on the existing system, no increase in size shall be required. All new piping associated with the installation of additional fixtures shall comply with the sizing requirements of Chapter 10.
 10. All of Chapter 11, entitled "Sanitary Drainage Systems" except 11.2.2, 11.2.3, 11.5, and 11.6:
 - i. Section 11.2.3 for sizing building sewers shall apply when the proposed work will impose additional loads on the sewer. Where the proposed work does not increase or decreases the load on the existing system, no increase in size shall be required.
 - ii. Section 11.5 for sizing drainage systems shall apply when the proposed work will impose additional loads on the system. Where the proposed work does not increase or decreases the load on the existing system, no increase in size shall be required. All new piping associated with the installation of additional fixtures shall comply with the sizing requirements of 11.5.
 - iii. Section 11.6 for sizing offsets in drainage systems shall apply when the proposed work will impose additional loads on the system. Where the proposed

- i. Section 307.2;
 - ii. Section 308;
 - iii. Section 314;
 - iv. Section 316;
 - v. Section 319; and
 - vi. Section 320;
2. The following sections of Chapter 4 entitled “Foundations”:
- i. Section 402; and
 - ii. Section 407;
3. The following sections of Chapter 5 entitled “Floors”:
- i. Sections 502.1, 502.8, 502.11, 502.12.1;
 - ii. Sections 503.2.1, 503.2.3, 503.3.1, 503.3.3;
 - iii. Sections 504.1, 504.3; and
 - iv. Sections 505.2.1, 505.2.2, 505.2.3, 505.2.4, 505.3.5, 505.3.6;
4. The following sections of Chapter 6 entitled “Wall Construction”:
- i. Sections 602.1, 602.2, 602.6, 602.8.1;
 - ii. Sections 603.2.1, 603.2.2, 603.2.3, 603.2.4, 603.3.4, 603.3.5;
 - iii. Sections 604.1, 604.3;
 - iv. Section 605;
 - v. Section 606.1, 606.15;
 - vi. Section 607.1;
 - vii. Section 608.1;
 - viii. Section 609.1;
 - ix. Sections 610.1, 610.2, 610.3;
 - x. Section 611.1;
 - xi. Section 612.1; and
 - xii. Section 613.1;
5. All of Chapter 7 entitled “Wall Covering”;
6. The following sections of Chapter 8, entitled “Roof-Ceiling Construction”:
- i. Section 802.1, 802.7, 802.10;
 - ii. Section 803.2.1;
 - iii. Sections 804.2.1, 804.2.2, 804.2.3, 804.2.4, 804.3.5, 804.3.6; and
 - iv. Section 805.1;
7. The following sections of Chapter 9 entitled “Roof Assemblies”:
- i. Section 902.1;
 - ii. Section 903.1;
 - iii. Section 904;
 - iv. Section 905;
 - v. Section 906; and
 - vi. Section 907;
8. All of Chapter 10 entitled “Chimneys and Fireplaces”;
9. All of Chapter 13, entitled “General Mechanical System Requirements”, except M1305;
10. All of Chapter 14, entitled “Heating and Cooling Equipment”, except M1401.2;
11. All of Chapter 15, entitled “Exhaust Systems”;
12. All of Chapter 16, entitled “Duct Systems”;
13. All of Chapter 17, entitled “Combustion Air”;
14. All of Chapter 18, entitled “Chimneys and Vents”;
15. All of Chapter 19, entitled “Special Fuel-Burning Equipment”;
16. All of Chapter 20, entitled “Boilers and Water Heaters”;
17. All of Chapter 21, entitled “Hydronic Piping”;
18. All of Chapter 22, entitled “Special Piping and Storage Systems”;
19. All of Chapter 23, entitled “Solar Systems”;
20. All of Chapter 24, entitled “Fuel Gas,” except G2404.7, G2404.8, G2412.8 and G2413.3.
- (i) Elevator Devices Materials and Methods: The following sections of the elevator subcode (N.J.A.C. 5:23-12) shall constitute the elevator device materials and methods requirements for this subchapter:
1. All of ASME A17.1 Part XII except Section 1206 as referenced by the adopted building subcode.
 2. The following sections of Chapter 30 of the building subcode: Section 3002.1.2—“Hoistway Enclosures, Hardware” and Section 3005.3—“Conveying Systems, Conveyors.”
 3. The requirements of ASME A17.1 Rule 102.2(c)4, as referenced by the adopted building subcode, when an automatic sprinkler system is provided in an elevator hoistway, machine room and/or machinery space.
- (j) Manufactured Home Materials and Methods: The following sections of the manufactured home subcode (N.J.A.C.

5:23-3.19) shall constitute the manufactured home materials and methods requirements for this subcode:

1. All of Part 3280 of Title 24 of the Code of Federal Regulations except 3280.1, 3280.5, 3280.6, 3280.7, and 3280.8.

Amended by R.1999 d.424, effective December 6, 1999.
See: 31 N.J.R. 2428(a), 31 N.J.R. 4001(c).

In (b), inserted a reference to fire protection materials the introductory paragraph, inserted 4i and 4ii, inserted a new 5iii, and recodified former 5iii and 5iv as 5v and 5v; and in (c), changed chapter 5 reference in 4, substituted a reference to section 7.21 for a reference to 7.24 in 6, substituted a reference to section 11.2.3 for a reference to 11.2.2 in 10i, changed chapter 14 reference in 13, and changed section 16.1.7 reference in 15.

Administrative correction.

See: 32 N.J.R. 688(a).

Amended by R.2000 d.492, effective December 18, 2000.

See: 32 N.J.R. 3219(a), 32 N.J.R. 4437(b).

In (b), rewrote 15 and 21; in (d), rewrote 2 through 4; and added (h).

Amended by R.2002 d.5, effective January 7, 2002.

See: 33 N.J.R. 3392(a), 34 N.J.R. 267(a).

In (b), added new 5vi.

Amended by R.2003 d.218, effective May 19, 2003.

See: 35 N.J.R. 29(a), 35 N.J.R. 2209(a).

Rewrote the section.

Amended by R.2004 d.145, effective April 5, 2004.

See: 35 N.J.R. 5190(a), 36 N.J.R. 1758(a).

Deleted references to use preceding references to group throughout; in (b), substituted "906.1" for "906" in the introductory paragraph of 4 and inserted "1003.3.1.3.1" in 5iii; in (i), substituted a reference to automatic sprinkler for a reference to fire suppression in 3.

Administrative correction.

See: 36 N.J.R. 2490(b).

Amended by R.2005 d.82, effective March 7, 2005.

See: 36 N.J.R. 4222(a), 37 N.J.R. 771(a).

In (b), substituted "906.2" for "906.1" in the introductory paragraph of 4, and deleted i, substituted "1614" for "1613" in 9; in (c), deleted "and" following "108.1" and inserted "and 10.15.9" following "10.14" in 9.

Administrative change.

See: 37 N.J.R. 1016(a).

Amended by R.2006 d.120, effective April 3, 2006.

See: 37 N.J.R. 3753(a), 38 N.J.R. 1567(a).

In (b)19, a correction is made to a cross reference; in (c)5, deletes reference to section 6.1.7; in (e)1, section 301.16 is replaced with section 301.15; added (f)5 and (h)9 through 20.

Amended by R.2007 d.122, effective May 7, 2007.

See: 38 N.J.R. 4951(a), 39 N.J.R. 1673(a).

Rewrote (b); in the introductory paragraph of (c), substituted "materials and methods" for "material and method"; added (d)2i; rewrote (d)3; in (d)4, inserted "and materials"; in (d)5, substituted "408.18" for "408.8"; in (f)4, deleted "and" from the end; in (f)5, substituted "; and" for the period at the end; added (f)6; in the introductory paragraph of (g), substituted "2003" for "1998"; and rewrote (h).

Administrative correction.

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

5:23-6.9 New building elements

(a) When the rehabilitation of an existing building creates or includes any building element of a type listed in this section, then the new element shall comply with the requirements for such an element established by this section.

1. The installation of a floor system which did not previously exist, shall be constructed utilizing the live load requirements as specified in Section 1607 of the building

subcode, or with Section R301.5 of the one- and two-family dwelling subcode, as applicable.

2. When the number of stories in a building is increased without increasing the height of the building, the building shall comply with the story requirements of Table 503 of the building subcode.

i. Buildings of group R-5 shall comply with N.J.A.C. 5:23-3.21(c)3i of the one-and two-family dwelling subcode.

3. Newly created floor openings shall comply with the requirements of Section 707 of the building subcode.

4. Newly created atriums shall comply with the requirements of Section 404 of the building subcode.

5. Newly created door openings shall comply with Section 1008.1.1 of the building subcode. Additionally, newly created door openings in walls which are fire-resistance rated shall comply with Section 715 of the building subcode.

i. Newly created exit doors in buildings of Group R-5 shall comply with Section R311.4.2 of the one- and two-family dwelling subcode.

6. Newly created openings in fire resistance rated assemblies shall be protected in accordance with Section 712 of the building subcode, or with Section R317.3 of the one- and two-family dwelling subcode, as applicable.

7. Newly created exit discharge passageways used as exit elements shall comply with the requirements of Section 1021 of the building subcode. However, the fire resistance rating of the discharge passageway shall not be required to exceed the fire resistance rating of the exit element that discharges into the passageway.

8. Newly created exit stairways shall comply with Sections 1018, 1020, 1021, 1022, and 1023 of the building subcode, or with Sections R311.5.1, R311.5.2, R311.5.3, and R311.5.8 of the one- and two-family dwelling subcode as applicable.

9. Newly installed fire escapes shall be constructed in accordance with FTO-3 of the Uniform Construction Code as permitted in the basic requirements of this subcode. (Building)

10. Newly installed elevator devices (not replacing an existing device) and other newly installed (not replacement) equipment within the scope of Chapter 30 shall conform to the requirements of Chapter 30 of the building subcode.

i. Exception: Newly installed devices shall not be required to comply with part XXIV of ASME A17.1 adopted by reference in the building subcode.

11. Newly created corridors shall comply with Sections 1017.1, 1017.3, 1017.4, and 1017.5 of the building subcode.

12. Newly constructed mezzanines shall comply with Section 505 of the building subcode.

13. Newly created covered mall buildings shall comply with Section 402 of the building subcode.

14. Newly created motion picture projection rooms, screening rooms and sound stages shall comply with Section 409 of the building subcode.

15. Newly created stages and platforms shall comply with Section 410 of the building subcode.

16. Newly created spaces which are utilized for the application of flammable finishes shall comply with Section 416 of the building subcode.

17. At least one newly created window opening in sleeping rooms below the fourth story in occupancies in Groups R or I-1 shall:

- i. Be operable;
- ii. Have a sill height of not more than 44 inches;
- iii. Have a width of at least 20 inches, a height of at least 24 inches and a minimum total area of 5.7 square feet measured from head to sill and from side to side. (Building)
- iv. New window openings in sleeping rooms shall not be required to meet these requirements in buildings where the sleeping room is provided with a door to a corridor having access to two remote exits or in buildings equipped throughout with an automatic sprinkler system.
- v. Basement windows in buildings of Group R-2 shall comply with the requirements of N.J.A.C. 5:23-6.26(b)3 where the window serves as the second means of egress from the dwelling unit.

18. Newly created specific occupancy areas shall comply with the following:

- i. Paint shops in other than Group F which contain chemicals below the exempt amount for Group H, waste and soiled linen collection rooms and chute termination rooms shall be separated from other portions of the building by a one-hour fire partition or provided with an automatic sprinkler system.
- ii. Incinerator rooms in all groups shall be separated from other portions of the building by a two-hour fire separation assembly and provided with an automatic sprinkler system.
- iii. In Groups I-2 and I-3, physical plant maintenance shops, laundries in excess of 100 square feet in area and padded cells shall be separated from other

portions of the building by a one-hour fire partition or provided with an automatic sprinkler system. (Plan review—Building, Fire, Inspection—Fire)

19. Newly installed (not replacing an existing device) electrical service equipment, switchboards, panelboards, motor control centers and other electrical equipment containing overcurrent, switching or control devices likely to require examination, adjustment, servicing or maintenance while energized shall conform with the requirements specified in N.J.A.C. 5:23-6.8, Materials and methods, and, in addition, shall conform with Sections 110.26 (Space About Electrical Equipment—600 Volts, Nominal or Less), 110.32 (Work Space About Equipment—Over 600 Volts, Nominal), 110.33 (Entrance and Access to Work Space), 404.8 (Accessibility and Grouping) and 408.18 (Clearances), as applicable, of the electrical subcode. (Electrical)

20. Newly installed (not replacing an existing device) heating, air conditioning or refrigeration equipment likely to require examination, adjustment, servicing or maintenance shall conform with the requirements of N.J.A.C. 5:23-6.8, Materials and methods, and, in addition, shall conform with Section 210.63 Heating, Air Conditioning, and Refrigeration Equipment Outlet and, if newly installed in an attic, underfloor space, utility room or basement, 210.70 Lighting Outlets Required, as applicable, of the electrical subcode.

21. Newly created dwelling unit separation and guest-room separation assemblies shall comply with the requirements of Section 708 of the building subcode, as appropriate, based on the construction type of the existing building, or with Section R317 of the one- and two-family dwelling subcode, as applicable.

22. In occupancies of Group A, newly created assembly aisles and aisle accessways shall comply with Section 1025 of the building subcode.

23. Newly created openings in exterior walls shall comply with the table in N.J.A.C. 5:23-6.31(f)2.

i. Exception: Newly created openings in buildings of Group R-2, R-3, R-4 or R-5 with a fire separation distance of three feet or less shall be provided with opening protectives.

24. Newly created stairs not required for purposes of egress shall comply with Sections 1009.2, 1009.3, 1009.10, 1012, and 1013, as amended at N.J.A.C. 5:23-3.14, of the building subcode or with Sections R311.5.1, R311.5.2, R311.5.3, and R311.5.8 of the one- and two-family dwelling subcode, as applicable.

25. Newly created passageways, aisle accessways and aisles in Group M shall comply with the minimum width requirements of Section 1017.2 of the building subcode.

Administrative correction.

See: 30 N.J.R. 539(a).

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

See: 31 N.J.R. 2428(a), 31 N.J.R. 4001(c).
 In (a), inserted new 6 and 7, recodified former 6 through 17 as 8 through 19, and added 20.
 Amended by R.2000 d.492, effective December 18, 2000.
 See: 32 N.J.R. 3219(a), 32 N.J.R. 4437(b).
 In (a), rewrote 19 and 20, and added 21 and 22.
 Amended by R.2002 d.5, effective January 7, 2002.
 See: 33 N.J.R. 3392(a), 34 N.J.R. 267(a).
 In (a), inserted new 10i, and added new 23 and 24.
 Amended by R.2003 d.218, effective May 19, 2003.
 See: 35 N.J.R. 29(a), 35 N.J.R. 2209(a).
 Updated building subcode section citations throughout.
 Amended by R.2004 d.145, effective April 5, 2004.
 See: 35 N.J.R. 5190(a), 36 N.J.R. 1758(a).
 Deleted references to use preceding references to group throughout and substituted references to automatic sprinkler for references to fire suppression throughout; in (a), amended the N.J.A.C. reference in 17v and inserted "(not replacing an existing device)" in 19.
 Amended by R.2005 d.82, effective March 7, 2005.
 See: 36 N.J.R. 4222(a), 37 N.J.R. 771(a).
 Rewrote the section.
 Amended by R.2006 d.120, effective April 3, 2006.
 See: 37 N.J.R. 3753(a), 38 N.J.R. 1567(a).
 In (a)20, deleted "tenant separation."
 Amended by R.2007 d.122, effective May 7, 2007.
 See: 38 N.J.R. 4951(a), 39 N.J.R. 1673(a).
 Rewrote the section.

5:23-6.10 Basic requirements and supplemental requirements—general

(a) The basic requirements, set forth in N.J.A.C. 5:23-6.11 for all groups and for individual groups in N.J.A.C. 5:23-6.12 through 6.28, shall be met within or with regard to the work area in all reconstruction projects. (These requirements are in addition to the requirements contained in N.J.A.C. 5:23-6.8, Materials and methods.)

(b) The supplemental requirements, set forth in N.J.A.C. 5:23-6.11A for all groups and for individual groups in N.J.A.C. 5:23-6.12A through 6.28A, shall be met in all buildings where there are reconstruction projects that meet or exceed the stated threshold for each requirement.

1. All reconstruction work begun within a single 12 month period shall be considered for determining the applicability of the supplemental requirement.

2. If a project falls under the threshold for a supplemental requirement by a de minimis amount, the construction official may require that the supplemental requirement be met.

(c) Reconstruction projects contained in mixed use buildings shall comply with the requirements of N.J.A.C. 5:23-6.29 as applicable.

(d) Special technical specifications for windowless stories, the supervision of automatic sprinkler systems, automatic sprinkler system risers, acceptances of existing alarm and automatic sprinkler systems, smoke barriers, elevators and specific occupancy areas are established in N.J.A.C. 5:23-6.30. The windowless story, supervision of automatic sprinkler systems and smoke barrier special technical requirements shall apply only in those uses where specified by this subcode.

Amended by R.2004 d.145, effective April 5, 2004.
 See: 35 N.J.R. 5190(a), 36 N.J.R. 1758(a).
 Deleted references to use preceding references to group throughout; in (d), substituted references to automatic sprinkler for references to fire suppression throughout.

5:23-6.11 Basic requirements in all Groups

(a) This section shall apply within the work area for all reconstruction projects.

(b) Capacity of Means of Egress: The capacity of the means of egress in each work area shall be sufficient for the maximum permitted occupant load of the work area and any adjacent spaces served by that means of egress as calculated on a per floor basis. Means of egress shall be measured in units of exit width of 22 inches.

1. The maximum permitted occupant load of a space shall be determined by the capacity of the means of egress serving the space as calculated in accordance with Table 1. Building owners shall have the option of establishing a reasonable restriction on the occupant load of the space based on the existing capacity of the means of egress or of providing additional egress capacity. (Plan review—Building, Fire, Inspection—Building)

i. Exception: For nightclubs, the occupant load of the space shall be determined in accordance with the building subcode. The occupant load for dance floors shall be calculated at seven square feet of floor area per occupant. (Plan review—Building, Fire, Inspection—Building)

Table 1

CAPACITY PER UNIT EGRESS WIDTH

Group	Without automatic sprinkler system		With automatic sprinkler system	
	Stairways	Doors, Ramps and Corridors	Stairways	Doors, Ramps and Corridors
A	75	100	113	150
B	60	100	90	150
E	75	100	113	150
F	60	100	90	150
H	—	—	60	100
I-1	60	100	90	100
I-2 / I-4	22	30	35	45
I-3	60	100	90	150
M	60	100	90	150
R	75	100	113	150
S	60	100	90	150

Note: The occupant load may be equal to the total number of occupants for which exit capacity is provided as determined by Table 1 above. For Group A occupancies, the resulting total occupant load shall not exceed one occupant per five square feet of net floor area over the entire use.

Interpolation shall be allowed in determining capacity of egress width.

Unit of egress width = 22 inches

Added new definitions for: EPA; Local education agency; Miscellaneous asbestos-containing material; Non-friable; PCM; Public building; Removal; Repair; Surfacing asbestos-containing material; TEM and Thermal system insulation.

Amended by R.1993 d.198, effective June 7, 1993.

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

5:23-8.3 Enforcement; licensing; special technical services

(a) Except as is otherwise provided in (b)1 below, the provisions of this subchapter shall be enforced by municipal enforcing agencies utilizing asbestos safety control monitors or by the New Jersey Department of Community Affairs, hereafter cited as the Department, if applicable, and shall be administered and enforced uniformly throughout the State. This subchapter shall be in addition to existing regulations already adopted pursuant to the Uniform Construction Code Act (P.L.1975, c.217 as amended) and known as the Regulations for the Uniform Construction Code (N.J.A.C. 5:23). This subchapter contains administrative procedures for the inspection of asbestos abatement work involving removal, encapsulation, enclosure, repair, renovation, or demolition work which disturbs asbestos.

1. Rules concerning exceptions are as follows:

i. State-owned, State-managed or State-leased buildings: The Department utilizing asbestos safety control monitors shall be the sole enforcing agency to administer and enforce the Asbestos Hazard Abatement Subcode with respect to State-owned, State-leased or State-managed buildings.

(b) The joint regulations adopted by the New Jersey Departments of Health and Labor, which are cited as N.J.A.C. 8:60 and N.J.A.C. 12:120, respectively, provide the licensing requirements of contractors who perform any of the functions of application, enclosure, removal or encapsulation.

1. Rules concerning licenses are as follows:

i. A licensed contractor shall be required for an asbestos hazard abatement project.

ii. A licensed contractor shall not be required for an operations and maintenance activity.

2. Nothing herein shall be construed as limiting the ability of the Department of Labor to cite contractors for violations of the provisions of this subchapter.

(c) Whenever the Asbestos Safety Control Monitor determines that the need for interpretations and/or assistance exists with regard to a particular project, the asbestos safety control monitor shall contact the department who shall make such determination deemed necessary. Such may include, but not be limited to:

1. Plan and specification services;
2. Site investigation;
3. Site inspections.

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

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

Substantially amended.

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

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

Added State-leased.

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

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

Recodified old 8.3 as new 8.4 with minor stylistic changes. Section 8.4 was formerly "Minor asbestos hazard abatement job."

In (b)1i and ii: changed "job" to "project".

Recodified from 5:23-8.4 and amended by R.1993 d.198, effective June 7, 1993.

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

Prior text at section, "Pre-project procedures," recodified as 5:23-8.13.

Case Notes

Evidence was sufficient to find failure to comply with New Jersey asbestos containment procedures. N.J.S.A. 52:27D139. McLaughlin v. Bureau of Code Services, 91 N.J.A.R.2d (CAF) 11.

5:23-8.4 Variations

(a) No variations from the requirements of this subchapter shall be made except upon written approval from the Department. The application for a variation shall be filed by the owner or the agent of the owner and forwarded to the Department with the recommendation of the asbestos safety control monitor. Any variation shall be consistent with N.J.A.C. 5:23-2 and the intent of this subchapter.

(b) An application for a variation pursuant to this section shall be filed in writing with the Department and shall include specifically:

1. A statement of the requirements of this subchapter from which a variation is sought;

2. A statement of the manner by which strict compliance with said provisions would result in practical difficulties;

3. A statement of the nature and extent of such practical difficulties;

4. A statement of feasible alternatives to the requirements of this subchapter which would adequately protect the health, safety and welfare of the occupants or intended occupants and the public generally and which would adequately prevent contamination of the environment. Plans describing any relevant aspects of the variation requested, as pertaining to the layout of the work area, work procedures, exit requirements, or safety, shall be submitted with the statement of feasibility; and

5. The appropriate fee.

(c) The fee for an application for a variation from this subchapter shall be \$560.00 and shall be paid by check or money order payable to the "Treasurer, State of New Jersey."

(d) The validity of an approved variation shall be determined as follows:

1. Any approved variation shall become invalid if the authorized work is not commenced within 12 months after the approval of the variation, or if the authorized work is suspended or abandoned for a period of 12 months after the time of commencing the work.

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

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

Substantially amended.

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

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

Recodified old 8.5 as new 8.6. Section 8.6 was formerly "Construction permit for asbestos abatement".

In (a): changed "approval" to "recommendation regarding the asbestos safety control monitor firm".

In (a)l: deleted "and Health and New Jersey Department of Higher Education" from text, and added (a)li.

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

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

In (a)li, increased fee from \$325.00 to \$432.00.

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

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

Fee increased at (a)li.

Recodified from 5:23-8.6 and amended by R.1993 d.198, effective June 7, 1993.

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

Prior text at section, "Enforcement; licensing; special technical services," recodified as 5:23-8.3.

Administrative Correction.

See: 25 N.J.R. 2862(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 (a) and (b), substituted "Department" for "enforcing agency"; in (a), added "and the intent of this subchapter"; and in (c), deleted "When the Department is the enforcing agency," preceding "The fee".

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

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

In (c), substituted "\$560.00" for "\$467.00".

5:23-8.5 Construction permit for asbestos abatement

(a) It shall be unlawful to undertake an asbestos hazard abatement project unless the owner of the facility, or an authorized representative on behalf of the owner, first files an application in writing with the enforcing agency and obtains the required permit. This permit shall serve as notice for public record in the office of the enforcing agency. All work shall be monitored and controlled by the asbestos safety control monitor who will advise the enforcing agency of its findings.

1. The enclosure of any amount of asbestos-containing material used to cover pipes shall not require a permit for asbestos abatement pursuant to this subchapter, but it may be considered construction work.

2. A construction permit shall be obtained when required by the enforcing agency pursuant to N.J.A.C. 5:23-2.

(b) All asbestos abatement work shall be conducted in unoccupied buildings, unless a written statement signed by the asbestos safety control monitor denoting portions of the building that may be occupied is filed as required by N.J.A.C. 5:23-8.19(c)8.

1. The asbestos safety control monitor shall not be required to file such a written statement denoting the occupancy of the building by maintenance personnel who are properly trained and/or security personnel essential to the building operation.

2. The asbestos safety control monitor shall not be required to file such written statement denoting occupied portions of the building for a cleared area in a multi-phase project that has received a Temporary Certificate of Occupancy from the enforcing agency when such occupancy applies to contractors or related personnel involved with post-abatement activity.

(c) The Department or a municipality utilizing an asbestos safety control monitor which has been authorized by the Department to enforce the Asbestos Hazard Abatement Subcode within its jurisdiction shall be the sole enforcing agency for asbestos hazard abatement work.

(d) The application for a construction permit for asbestos abatement shall be subject to the following:

1. The application for a permit shall be submitted in such form as the department may prescribe and shall be accompanied by the required fee as provided for in this subchapter.

2. The application for a construction permit for asbestos abatement shall be required to include the following:

i. The name, address and license number of the asbestos contractor pursuant to N.J.A.C. 12:120 Asbestos Licenses and Permits under the jurisdiction of the New Jersey Department of Labor;

ii. The asbestos hazard assessment, which shall be prepared by the New Jersey Department of Health, or by a county or local department of health or a private individual who has received accreditation as an inspector under the United States Environmental Protection Agency's Model Accreditation Program as referenced in 40 CFR 763. The accreditation will be issued by an EPA-approved training agency, and that accreditation will include the place of training, accreditation number and expiration date. Accreditations are issued for one year. This assessment shall be required unless the requirement for an assessment has been waived in writing by the New Jersey Department of Health;

iii. The name and address of the private air monitoring firm, hired by the building owner, who shall act as the asbestos safety control monitor authorized by the New Jersey Department of Community Affairs and shall be responsible for continuously monitoring the asbestos abatement project;

iv. Four sets of plans and specifications indicating: the scope of the proposed work; type and percentage of the asbestos; the total amount of square and/or linear footage of asbestos-containing material to be abated; the provisions proposed to contain the asbestos-containing material during abatement work including, but not limited to, separation barriers, critical barriers, and the route of travel for removing asbestos waste from the work area; a copy of the site plan; and a floor plan indicating exits. The approved plans and specifications shall be distributed as follows: one set each to the construction official, asbestos safety control monitor, building owner, and project site;

v. Documentation that all buildings will be unoccupied at the time an asbestos abatement project takes place, except as approved by the asbestos safety control monitor as delineated in N.J.A.C. 5:23-8.19;

vi. The name and address of the New Jersey Department of Environmental Protection and Energy registered waste hauler and of the New Jersey Department of Environmental Protection and Energy registered landfill where asbestos waste will be deposited;

vii. The scheduled starting and completion dates for the asbestos abatement project;

viii. The method of air analysis used pursuant to N.J.A.C. 5:23-8.21 for determining the final clearance level in order to reoccupy the building.

3. It shall be the responsibility of the owner or his agent to file with the enforcing agency, in the event of any change in (d)2i, iii and vi above. Such change shall be filed as an amendment to the application and shall be forwarded to the Department as set forth in (h) below. The replacement firm shall assume all responsibilities for the asbestos abatement work to continue, while the preceding firm still bears responsibility for its action.

(e) The issuance of a construction permit for asbestos abatement shall be subject to the following:

1. Submission of a completed application;

2. The described work and containment measures shall conform to the requirements of this subchapter and the requirements of any other applicable law or rule adopted or enforced by any other State agency;

3. A written release of the plans and specifications by the asbestos safety control monitor.

4. Cursory plan review shall be done by the enforcing agency to determine the need of replacement material for maintaining the structural integrity of a building; if required, a separate construction permit shall be issued by the enforcing agency. In addition, a review shall be done to ensure that means of egress are maintained in occupied buildings.

(f) The issuance of the construction permit for asbestos abatement authorizes preparation of the work area. This initial preparation of the work area shall be observed by the asbestos safety technician to ensure compliance with this subchapter. No actual asbestos abatement work shall commence until a pre-commencement inspection has been conducted and approved by the asbestos safety technician.

(g) A permit, once issued, shall remain valid only as long as all of the information contained in the application remains correct and is adhered to. Any change shall require an amendment to the application before the change takes place. Failure to adhere to these requirements may result in a stop work order.

(h) The owner or his or her agent shall notify the Department in writing within three business days of the issuance of the construction permit for asbestos abatement, if the enforcing agency is a municipal enforcing agency and not the Department. Such notice shall be supplied in the form of a copy of the completed application for a construction permit for asbestos abatement and a copy of the permit.

1. Notification shall be sent to:

New Jersey Department of Community Affairs
Bureau of Code Services
Asbestos Safety Unit
CN 816
Trenton, New Jersey 08625-0816

(i) The owner or his or her agent shall notify the following in writing as required in NESHAPS (40 CFR Part 61, Subpart M):

1. Notification shall be sent to:

i. U.S. Environmental Protection Agency
Region II NESHAP
26 Federal Plaza, Room 1033
New York, New York 10278; and
ii. New Jersey Department of Community Affairs
Bureau of Code Services
Asbestos Safety Unit
CN 816
Trenton, New Jersey 08625-0816

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

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

Substantially amended.

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

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

Substantially amended.

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

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

Recodified old 8.6 as new 8.7 with stylistic changes. Section 8.7 was formerly "Inspections; violations".

In (a): deleted "Health and New Jersey Department of Education ..." from text.

In (b)2ii: Added text regarding required accreditation of an asbestos hazard assessor.

In (b)2iv-v: revised text to clarify plans and specifications and added new (b)2viii.

In (f)1: changed address and name of "Asbestos Safety Unit."

In (g): deleted "10 days prior to the start of the asbestos abatement project" and added text requiring compliance with Federal register.

Added new (g)1ii.

Recodified from 5:23-8.7 and amended by R.1993 d.198, effective June 7, 1993.

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

Prior text at section, "Minor asbestos hazard abatement project," recodified as 5:23-8.14.

5:23-8.6 Coordination with other permits

(a) When a building owner or an authorized representative on behalf of the owner submits an application for a construction permit for repair, renovation, or demolition work, the following information shall be required to be given to the construction official having jurisdiction before a construction permit is issued:

1. An architect/engineer certification concerning whether asbestos will be disturbed and to what extent it will be disturbed during the planned construction work.

i. Where any work not requiring an architect/engineer is involved then this certification will be required of the contractor undertaking the work.

(b) When it is certified that asbestos may become disturbed in a building or structure subject to this subchapter, an assessment performed by the New Jersey Department of Health, county or local health department, or by a private business entity authorized by the New Jersey Department of Health shall be required, unless the requirement for an assessment has been waived.

1. Boiler and water storage tank removal projects which require the removal of asbestos insulation from the boiler, water storage tank and piping shall not require an assessment before a permit is issued by the enforcing agency.

2. If the assessment indicates that the work and the disturbance which will result from it has made asbestos hazard abatement work necessary, then the construction official shall inform the building owner, or his agent, that all asbestos abatement work shall conform to this subchapter.

i. The work which will cause the disturbance will not be permitted to proceed until the hazard abatement work is complete or the asbestos-containing material clearly presents no further hazard.

ii. The construction official shall issue a partial permit for work which clearly will not disturb or interfere with the asbestos hazard abatement work.

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

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

Recodified from 8.15 and (b) substantially amended. Old 8.16 has been repealed.

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

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

Added text in (b) "county or local ..."; added new (b)1 and renumbered old (b)1 to 2.

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

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

Recodified old 8.17 as new 8.18. Section 8.17 was formerly "Asbestos safety control monitor".

Recodified from 5:23-8.17 by R.1993 d.198, effective June 7, 1993.

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

Prior text at section, "Variations," recodified as 5:23-8.4.

5:23-8.7 Inspections; violations

(a) Pre-commencement inspections shall be conducted as follows:

1. Notification in writing to the Asbestos Safety Control Monitor shall be made by the applicant or contractor to request a pre-commencement inspection at least 48 hours in advance of the desired date of inspection. This inspection shall be requested each time another work area is started in a multi-phase project.

2. The asbestos safety technician shall ensure that:

i. The work area is properly prepared and that all containment measures are in place pursuant to this subchapter;

ii. All workers shall present to the asbestos safety technician a valid work permit issued by the New Jersey Department of Labor;

iii. Measures for the disposal of removed asbestos material are in place and shall conform to the adopted standards;

iv. The contractor has a list of emergency telephone numbers at the work area which shall include the asbestos safety control monitor firm employed by the building owner and telephone numbers for fire, police, emergency squad, local hospital and health officer, New Jersey Department of Labor and New Jersey Department of Health and New Jersey Department of Community Affairs.

3. If all is in order, the asbestos safety technician, shall issue a written notice to proceed with the asbestos abatement in the field. If the project site is not in order, then any needed corrective action must be taken before any work is to commence. Conditional approval shall not be granted.

4. The Department reserves the right to make a pre-commencement inspection in addition to the required pre-commencement inspection conducted by the asbestos safety technician before a written notice to proceed is issued.

(b) Progress inspections shall be conducted as follows:

1. Primary responsibility for ensuring that the asbestos abatement work progresses in accordance with this subchapter rests with the asbestos safety technician. This asbestos safety technician shall continuously be present to observe the progress of work and perform required inspections and tests.

2. If the asbestos safety technician observes irregularities at any time, the asbestos safety technician shall direct such corrective action as may be necessary.

3. Where a sealant is required to be applied after removal, a pre-sealant inspection shall be conducted to ensure that all asbestos-containing material has been removed properly before the sealant is applied. If the pre-sealant inspection is acceptable to the asbestos safety technician, he should indicate this acceptance in writing.

(c) Clean-up inspections shall be conducted as follows:

1. Notice for clean-up inspection shall be requested by the contractor at least 48 hours in advance of the desired date of inspection;

2. The clean-up inspection shall be conducted prior to the removal of the critical barriers;

4. Wet clean with amended water or a removal encapsulant all walls, floors, woodwork, ceilings, electric light fixtures and other surfaces. Allow all surfaces to dry and repeat procedure. Cloths or sponges used in the cleaning operation shall be disposed of as contaminated waste.

5. The polyethylene sheeting used to maintain critical barriers between work areas and clean areas such as those in doorways, windows and air vents shall be sprayed with encapsulant, but not removed until air monitoring is completed and satisfactory results have been obtained.

6. After completion of the cleaning operations the contractor shall:

- i. Notify the asbestos safety technician that a clean-up inspection can be performed to ensure all visible asbestos has been removed and the area is dust free;
- ii. Request final air clearance monitoring of the work area.

7. After the work area is found to be in compliance with the acceptance criteria, the following tasks shall be performed by the contractor:

- i. All critical barriers shall be removed and bagged in polyethylene bags for disposal;
- ii. The inside of windows shall be washed;
- iii. Any walls, floors, trim, doors, furniture or other items damaged during the work shall be repaired and refinished to match existing material;

8. Notice for a final inspection shall be made by the owner or contractor to the asbestos safety control monitor.

9. Upon receiving a satisfactory final inspection, application for a Certificate of Completion may be made.

(i) Special precautions shall be implemented, where appropriate, including, but not limited to, the following examples:

1. Asbestos abatement projects involving ceiling tile and T-grid components, elevators, carpet, contaminated soil and projects in tunnels, crawl spaces, plumbing access panels, and/or involving live electrical panels or live steam lines are likely to present unique conditions that will require special precautions in addition to the procedures described in this section. In instances where special precautions need to be instituted, they shall be described in plans and specifications approved by the asbestos safety control monitor firm.

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

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

Substantially amended.

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

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

Substantially amended.

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

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

Recodified old 8.10 to new 8.11, changing abatement "job" to "project" throughout with stylistic changes. Section 8.11 formerly was "Precautions and Procedures during a small hazard abatement job".

In (g): deleted old 7 regarding air monitoring results and recodified old 8 through 10 as new 7 through 9 with no change in text.

Recodified from 5:23-8.11 and amended by R.1993 d.198, effective June 7, 1993.

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

Prior text at section, "Disposal of asbestos waste", recodified as 5:23-8.22.

Case Notes

Evidence supported finding that company violated law by failing to use amended water at asbestos hazard abatement project. Contamination Control Engineering, Inc., v. Bureau of Code Services, 96 N.J.A.R.2d (CAF) 45.

Asbestos safety rules violated when asbestos-containing materials removed without wetting down. Contamination Control Engineering, Inc. V. Community Affairs Department, 96 N.J.A.R.2d (CAF) 25.

Revocation of asbestos safety technician's license; allowing job to go forward without asbestos safety control monitoring firm representative. Rosnagel v. Bureau of Code Services, 95 N.J.A.R.2d (CAF) 11.

5:23-8.16 Asbestos encapsulation and enclosure

(a) Encapsulation constitutes spraying friable asbestos-containing material with a liquid sealant (not including paint) that helps bind the asbestos together with other material components to adhere it firmly to the building structure.

1. The requirements of this section are set forth in order to prevent the contamination of the building environment which may be caused by improperly performed asbestos encapsulation work.

i. Encapsulation shall not be performed where:

(1) Asbestos-containing material is friable, damaged, or deteriorating;

(2) Effective long-term inspection of the encapsulated site cannot be assured;

(3) The source of asbestos is highly accessible to building occupants and damage to material is possible;

(4) The asbestos-containing material does not adhere well to the substrate;

(5) There is existing or potential water damage to asbestos containing material;

(6) The asbestos-containing material is more than one inch thick; and is used to cover ceilings, walls, beams, or other structural members;

(7) The asbestos-containing material is subject to high vibration.

ii. Encapsulation may be performed when:

(1) Damage to the material is improbable;

(2) The asbestos-containing material is granular or cementitious;

(3) The encapsulating material is known to bond asbestos to the subsurface and asbestos-containing material and also retains its bonding integrity;

(4) Asbestos-containing material has been removed and loose fibers remain which should be bonded.

iii. If encapsulation is used as a method of asbestos abatement the following maintenance procedures shall be employed:

(1) A periodic monitoring and maintenance program consisting of inspection at least annually to check for damage to all encapsulated surfaces;

(2) Maintenance of records by the building owner, on the locations and condition of the encapsulated material;

(3) The removal of encapsulated asbestos when conditions change, making encapsulation no longer an appropriate method of asbestos abatement.

iv. Sealants considered for use in encapsulation shall first be tested to ensure that the sealant is adequate for its intended use. A section of the asbestos-containing material shall be evaluated following this initial test application of the sealant to quantitatively determine the sealant's effectiveness in terms of penetrating and hardening the asbestos-containing material, its toxicity, its flammability, its tolerance to disturbance or abuse, its solubility (dissolvability) in water, its effects on the acoustical properties of the asbestos-containing material, and its tolerance to top-covering paints. The United States Environmental Protection Agency, Office of Toxic Substances, has developed guidelines for the use of encapsulants on asbestos-containing materials which discuss advantages and disadvantages of encapsulation. The American Society of Testing and Materials (ASTM) Committee E06.21.06E on Encapsulation of Building Materials has developed a guidance document to assist in the selection of an encapsulant once a decision to encapsulate has been made. When a choice of an encapsulant has been made, written justification of this choice (based on the characteristics of the encapsulant, the asbestos-containing material to be encapsulated, and the substrate surface underneath the asbestos-containing material) shall be included in the job specifications, and a copy of this justification shall be available for review at the job site.

v. Before encapsulation is performed, all loose and hanging asbestos-containing material shall be removed while damp, and disposed of in accordance with this subchapter.

vi. Filler material used to repair damaged and missing areas of asbestos-containing material shall contain no asbestos, shall adhere well to the substrate and shall provide an adequate base for the encapsulating agent.

vii. Encapsulated asbestos containing materials shall be identified by signs, labels, color coding or some other mechanism to warn persons who may be required to disturb the material that asbestos is present.

viii. Where encapsulants are sprayed on asbestos-containing materials:

(1) Low pressure airless spray shall be used. The airless spray gun shall have an appropriately sized tip which shall be tested by briefly spraying the encapsulant onto a surface from approximately 12 inches away. An appropriately sized tip will spray the encapsulant in a fan approximately eight inches wide; it will also distribute the encapsulant uniformly within the fan, giving even coverage.

(2) A suitable quantity of HEPA filtration units shall be used during the encapsulation process which shall have sufficient capacity to cause one complete air exchange every 30 minutes.

(3) At least three coats of the encapsulant shall be applied to the surface of the asbestos-containing material. Each coat shall be applied in a two-step procedure. The first step is to apply a light mist coat to moisten and seal any loose fibers and keep them from breaking away from the surface. This mist coat should be applied in three or four quick passes with the gun held 18 to 24 inches from the surface. After an area of 16 to 20 square feet has been given the mist coat, a heavier coating is applied, using 8 or 10 passes with the gun held 10 and 12 inches from the material. The gun should be kept in constant motion to create a smooth and even coat. This two-step application shall be considered one coat of encapsulant. Each subsequent coat shall be applied at a 90 degree angle to the direction of the preceding coat application, to ensure complete coverage of the asbestos-containing material. When questions rise regarding drying time, curing time, dilution, or use under different weather conditions, the manufacturer's recommendations and instructions shall be consulted.

(4) All other preparation, decontamination, and work requirements and procedures used in encapsulation projects shall be the same as those used in removal projects.

ix. Sealants used in the encapsulation shall not alter the existing fire rating and shall be flame resistant and meet the flame spread and smoke generation requirements of N.J.A.C. 5:23-3 of the Uniform Construction Code.

(b) Enclosure constitutes construction of a permanent (that is, for the life of the building), air-tight, impact-resistant, solid structure of new construction materials which must be built around the asbestos covered pipe or structure to prevent the release of asbestos-containing materials into the area beyond the enclosure and to prevent these materials from casual contact during future maintenance operations. The enclosure shall not alter the existing fire rating and shall be flame resistant and meet the flame spread and smoke generation requirements of N.J.A.C. 5:23-3 of the Uniform Construction Code.

1. The requirements of this section are set forth in order to prevent the contamination of the building environment which may be caused by improperly performed asbestos enclosure work. The following procedures shall be adhered to:

i. Before constructing the enclosure, all electrical conduits, telephone lines, recessed lights, and pipes in

the area shall be moved to ensure that the enclosure will not have to be reopened later for routine or emergency maintenance. If for any reason, lights or other equipment cannot be moved, removal of the asbestos-containing materials rather than enclosure shall be the appropriate control method to use;

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

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

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

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

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

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

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

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

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

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

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

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

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

Prior text at section, "Appeals", repealed.

5:23-8.22 Disposal of asbestos waste

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

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

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

Recodified from 8.13 and substantially amended.

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

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

Substantially amended.

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

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

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

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

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

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

SUBCHAPTER 9. CODE INTERPRETATIONS

5:23-9.1 Interpretations: Plumbing Subcode

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

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

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

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

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

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

Amended by R.1995 d.647, effective December 18, 1995 (operative March 18, 1996).

See: 27 N.J.R. 3517(a), 27 N.J.R. 5012(a).

Amended by R.2002 d.319, effective October 7, 2002.

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

Rewrote the section.

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

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

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

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

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

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

1. Site diagram consisting of a site plan showing size and location of all new and existing construction on the site

with distances from lot lines and indicating new building services, location and size.

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

3. The following details and submissions shall be required:

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

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

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

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

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

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

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

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

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

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

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

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

Amended by R.2003 d.216, effective May 19, 2003.
See: 35 N.J.R. 16(a), 35 N.J.R. 2203(a).

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

Administrative correction.

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

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

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

Rewrote (b)6.

Administrative correction.

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

5:23-9.3 Interpretation: Recreational park trailers

(a) This is a binding, prospective interpretation of the Uniform Construction Code (UCC) issued pursuant to the Uniform Construction Code Act, N.J.S.A. 52:27D-124.

1. The Uniform Construction Code Act gives the Commissioner the authority to issue such prospective interpretations to resolve inconsistent or conflicting code interpretations.

2. With regard to recreational park trailers, the Construction County Board of Appeals of Sussex County rendered a decision that no permit is required for the installation of these structures. This is inconsistent with the Uniform Construction Code Act itself and with the application of the Uniform Construction Code to recreational park trailers by the Department and by local enforcing agencies around the State.

14. Electrical junction boxes shall be installed near the provided area, such as an accessible attic space, where a future in-line vent pipe fan and system failure alarms may be installed.

15. In combination basement/crawl space or slab-on-grade/crawl space buildings a three-inch minimum solid vent pipe shall be provided between the areas and interconnected into the independent vent stack to permit use of a single in-line vent pipe fan if activation of the system is desired.

16. In order to reduce stack effect, air passages that penetrate the conditioned envelope of the building, such as attic access openings, or other openings installed in top-floor ceilings, shall be closed, gasketed or otherwise sealed with materials approved for such applications.

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).

APPENDIX 10-A

New Jersey Municipalities in Tier 1

<u>County</u>		<u>Municipality</u>
Burlington	Chesterfield Mansfield	Washington
Camden	Magnolia Runnemede	Somerdale
Cumberland	Bridgeton	Greenwich
Gloucester	Deptford East Greenwich Greenwich Harrison	Swedesboro Wenonah Woolwich
Hunterdon	All municipalities except Kingswood and Union	
Mercer	Ewing Hopewell Borough Hopewell Township Lawrence	Pennington Princeton Borough Princeton Township
Middlesex	Highland Park North Brunswick	Piscataway
Monmouth	Allentown Colts Neck Freehold Borough Freehold Township Holmdel Little Silver	Marlboro Roosevelt Shrewsbury Borough Shrewsbury Township Upper Freehold
Morris	Chester Borough Chester Township Dover Harding Jefferson Long Hill Mendham Borough Mendham Township Mine Hill Morris	Morris Plains Morristown Mount Olive Randolph Riverdale Roxbury Victory Gardens Washington Wharton
Passaic	Pompton Lakes	West Milford
Salem	Pilesgrove	Woodstown
Somerset	Bernardsville Bernards	Montgomery Peapack & Gladstone

County

Municipality

Branchburg
Far Hills
Hillsborough
Franklin
Millstone
Rocky Hill
Somerville
Warren
Watchung

Sussex All municipalities
Warren All municipalities

Public Notice.
See: 23 N.J.R. 3745(a).
Revised Tier I list issued.
Administrative change.
See: 26 N.J.R. 3707(b).
Administrative change.
See: 27 N.J.R. 3600(a).
Administrative change.
See: 28 N.J.R. 4783(a).
Administrative change.
See: 37 N.J.R. 885(b).

SUBCHAPTER 11. PLAYGROUND SAFETY
SUBCODE

5:23-11.1 Subcode adopted

(a) Pursuant to authority of P.L. 1999, c.50 (N.J.S.A. 52:27D-123.9 et seq.), the Commissioner hereby adopts the playground safety guidelines of the United States Consumer Product Safety Commission, known as the 1997 edition of the "Handbook for Public Playground Safety" (Pub. No. 325). These guidelines are hereby adopted by reference as the Playground Safety Subcode for New Jersey.

1. Copies of these guidelines may be obtained from the United States Consumer Product Safety Commission, Office of Information and Public Affairs, Washington, DC 20207.

2. The "Handbook for Public Playground Safety" may be known and cited as the "Playground Safety Subcode."

(b) Only those guidelines that govern design, installation, inspection and maintenance of playgrounds and playground equipment shall be deemed to be mandatory. Guidelines concerning supervision and training of personnel shall be deemed to be advisory only.

5:23-11.2 Definition

For purposes of this subchapter, "playground" shall mean an improved area designed, equipped, and set aside for play of six or more children, which is not intended for use as an athletic playing field or athletic court, and shall include any play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

5:23-11.3 Enforcement of subcode

(a) No permit shall be required for any element of playground construction that is not otherwise subject to the

permit requirements of the State Uniform Construction Code.

(b) Compliance with the requirements of this subcode shall be the responsibility of the manager of the facility, of the owner of the facility and of the agency responsible for the administration of the facility.

(c) The facility manager and/or facility owner or agency responsible for administration of the facility shall certify in writing that any work performed complies with, and the facility is maintained in accordance with, all applicable provisions of this subcode and shall retain this certification on file.

(d) Complaints regarding lack of compliance with this subcode shall be in writing and shall be directed to the facility manager and the facility owner or agency responsible for administration of the facility. The facility manager or owner or administering agency shall respond in writing within 30 days to any written complaint received detailing the position taken with respect to the complaint. If the facility manager or owner or administering agency fails to respond in a manner satisfactory to the party registering the complaint, then the party shall have recourse to the appeals process as set forth at N.J.A.C. 5:23-2.38.

5:23-11.4 Compliance schedule

(a) All governmental and for-profit private entities operating playgrounds shall upgrade their playgrounds by replacement or improvement as necessary to comply with this subcode by October 18, 2004 for surfacing and by October 18, 2007 for all other elements, or, in the case of governmental entities, at such earlier date as State funds are made available for such purpose.

(b) All nonprofit entities operating playgrounds shall upgrade their playgrounds by replacement or improvement as necessary to comply with this subcode by October 18, 2004 for surfacing and by October 18, 2014 for all other elements.

(c) All newly constructed playgrounds built, and all new and replacement equipment installed, by a governmental, nonprofit or private for-profit entity more than six months after October 18, 1999 shall conform to the requirements of this subcode.

(d) All construction or alteration of playgrounds, playground equipment and surfacing that are subject to the Playground Safety Subcode shall comply with the applicable provisions of the Barrier-Free Subcode (N.J.A.C. 5:23-7).

1. In accordance with N.J.A.C. 5:23-7.18(d) and ICC/ANSI A117.1, Sections 302 and 303, surfaces of all routes and spaces required to be accessible shall be stable, firm and slip-resistant. Sand and gravel shall therefore not be used as surfacing materials when new equipment is being installed, or a new safety surface is being put in place, and the barrier-free subcode is therefore applicable.

Administrative correction.
Sec: 36 N.J.R. 170(a).

SUBCHAPTER 12. ELEVATOR SAFETY SUBCODE

5:23-12.1 Title; scope; intent

(a) This subchapter of the rules adopted pursuant to the authority of the Uniform Construction Code Act, entitled "Elevator Safety Subcode," shall be known and cited throughout this chapter as subchapter 12 or N.J.A.C. 5:23-12, and when referred to in this subchapter may be cited as "this subchapter."

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

(c) This subchapter shall control all matters relating to administration of tests and inspections of elevator devices as defined in (e) below.

(d) It is the purpose of this subchapter to enhance the public safety, health and welfare by ensuring that elevator devices as defined in this subchapter are periodically inspected and maintained in accordance with nationally recognized, referenced standards.

(e) For purposes of this subchapter, "elevator" or "elevator device" means a hoisting and lowering device equipped with a car or platform which moves in guides for the transportation of individuals or freight in a substantially vertical direction through successive floors or levels of a building or structure; or, a power driven, inclined, continuous stairway used for raising or lowering passengers; or, a type of passenger carrying device on which passengers stand or walk, and in which the passenger carrying surface remains parallel to its direction of motion and is uninterrupted. This includes, without limitation, elevators, escalators, moving walks, dumbwaiters, wheelchair lifts, manlifts, stairway chairlifts and any device within the scope of ASME A17.1 (Safety Code for Elevators and Escalators) or ASME A90.1 (Safety Standard for Belt Manlifts).

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

5:23-12.2 Referenced standards

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

(b) All operating and electrical parts and accessory equipment or devices for elevator devices shall be maintained in safe operating condition. The maintenance of elevators, dumbwaiters and escalators shall conform to the most recent edition of ASME A17.1 referenced in the building subcode.

(c) (Reserved)

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

(e) Inspection and testing procedures for equipment within the scope (section 1) of the ASME A17.1 Safety Code for Elevators and Escalators shall be performed in accordance with the latest edition of ASME A17.2.

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

Amended by R.1993 d.662, effective December 20, 1993.
See: 25 N.J.R. 3891(a), 25 N.J.R. 5918(a).
Amended by R.1995 d.564, effective November 6, 1995 (operative March 1, 1996).
See: 27 N.J.R. 2829(a), 27 N.J.R. 4281(a).
Amended by R.2004 d.67, effective February 17, 2004.
See: 35 N.J.R. 4627(a), 36 N.J.R. 949(b).
In (a), added R-5 to the list of groups.

5:23-12.3 Inspection and test schedule

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

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

2. Routine tests shall be made and periodic tests shall be witnessed at intervals not exceeding those set forth in the most recent edition of ASME A17.1 referenced in the building subcode.

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

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

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

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

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

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

Amended by R.1995 d.476, effective September 5, 1995 (operative January 1, 1996).
See: 27 N.J.R. 1846(a), 27 N.J.R. 3325(b).

Added (a)4 and 5.

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

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

5:23-12.4 Registration of elevator devices

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

(b) The owner of every new structure containing one or more elevator devices, other than a structure of Group R-3, R-4, or R-5, shall register each elevator device with the Department, on a form provided by the Commissioner, prior to the issuance of a certificate of occupancy.

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

1. The identification or code number for each individual device;
2. The name, and the address of the New Jersey office or New Jersey residence, of the device's owner or the owner's representative; the owner or the owner's representative must reside or have an office in the State of New Jersey to accept service of process;
3. The mailing address and phone number of the person listed in (c)2 above;
4. The street address of the building or structure, including lot and block number, where the device is located;
5. The type of device;
6. The vertical travel of the device in number of feet and stories, or horizontal feet of travel of the walk or other device;
7. The rating load of the device in pounds;
8. The occupancy load in number of persons;
9. The speed of the elevator in feet per minute;
10. The manufacturer of the device;
11. The date of installation, if known, and date of last inspection performed; and
12. Special devices, such as, but not limited to, oil buffers, counterweights, governors and safeties, and auxiliary power generators.

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

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

(e) If the ownership of a structure containing one or more elevator devices, other than a structure of Group R-3, R-4, or R-5, or a device in a structure of Group R-2 exempted under (a) above, is transferred, whether by sale, gift, assignment, interstate succession, testate devolution, reorganization, receivership, foreclosure or execution process, the new owner shall file a notice of change of ownership, with the appropriate re-registration fee, with the Department within 60 days of the date of transfer. A device in a structure of Group R-2 exempted by (a) above, which, because of alterations in design or changes in ownership or management, is no longer wholly within one residential unit, or which otherwise becomes accessible to the general public, shall be registered within 60 days of its change in status.

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

(g) Each construction official shall review the list of the registered buildings/devices provided by the Department, and shall notify the Department of any changes that need to be made.

(h) It shall be the responsibility of the owner to notify the Department of any change in the identity, mailing address, office or residence address or phone number of the owner or representative. Any change shall be reported to the Department in writing within 30 days of the change.

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

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

Added (f) and (g).

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

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

Inserted references to Group R-5 throughout.

Amended by R.2004 d.270, effective July 19, 2004.

See: 36 N.J.R. 1635(a), 36 N.J.R. 3397(c).

In (c), rewrote 2; added (h).

5:23-12.5 Registration fee

The initial registration fee for each elevator device in any structure that is not of Group R-3, R-4, or R-5, or that is not an exempted structure of Group R-2, shall be \$54.00. A re-registration fee of \$54.00 shall be required for each structure containing one or more elevator devices, upon change of ownership.

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.392, effective October 5, 1992.
See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).
Fees increased by \$4.00.
Amended by R.2004 d.67, effective February 17, 2004.
See: 35 N.J.R. 4627(a), 36 N.J.R. 949(b).

Added R-5 to the list of groups.

5:23-12.6 Test and inspection fees

(a) The Departmental fees for witnessing acceptance tests and performing inspections on new, and altered elevator devices shall be as follows:

1. The basic fees for elevator devices in structures not of Group R-3, R-4, or R-5, or in an exempted structure of Group R-2, shall be as follows:

- i. Traction and winding drum elevators:
 - (1) One to 10 floors \$243.00;
 - (2) Over 10 floors \$405.00;
- ii. Hydraulic elevators \$216.00;
- iii. Roped hydraulic elevators \$243.00;
- iv. Escalators, moving walks \$216.00;
- v. Dumbwaiters \$ 54.00;
- vi. Stairway chairlifts, inclined and vertical wheelchair lifts and manlifts \$ 54.00.

2. Additional charges for devices equipped with the following features shall be as follows:

- i. Oil buffers (charge per oil buffer) \$ 43.00;
- ii. Counterweight governor and safeties \$108.00;
- iii. Auxiliary power generator \$ 81.00.

3. The Departmental fee for elevator devices in structures of Group R-3, R-4, or R-5, or otherwise exempt devices in structures of Group R-2, shall be \$162.00. This fee shall be waived when signed statements and supportive inspection and acceptance test reports are filed by an approved qualified agent or agency in accordance with N.J.A.C. 5:23-2.19 and 2.20.

4. The fee for performing inspections of minor work shall be \$54.00.

(b) The Departmental fees for routine and periodic tests and inspections for elevator devices in structures not of Group R-3, R-4, or R-5, or otherwise exempt devices in structures of Group R-2, shall be as follows:

1. The fee for the six month routine inspection of elevator devices shall be as follows:

- i. Traction and winding drum elevators:
 - (1) One to 10 floors \$151.00;
 - (2) Over 10 floors \$194.00;
- ii. Hydraulic elevators \$108.00;
- iii. Roped hydraulic elevators \$151.00;
- iv. Escalators, moving walks \$151.00.

2. The fee for the one year periodic inspection and witnessing of tests of elevator devices, which shall include a six month routine inspection, shall be as follows:

- i. Traction and winding drum elevators:
 - (1) One to 10 floors \$216.00;
 - (2) Over 10 floors \$259.00;
- ii. Hydraulic elevators \$162.00;
- iii. Roped hydraulic elevators \$216.00;
- iv. Escalators, moving walks \$346.00;
- v. Dumbwaiters \$ 86.00;
- vi. Manlifts, stairway chairlifts, inclined and vertical wheelchair lifts \$130.00.

3. Additional yearly periodic inspection charges for elevator devices equipped with the following features shall be as follows:

- i. Oil buffers (charge per oil buffer) \$ 43.00;
- ii. Counterweight governor and safeties \$ 86.00;
- iii. Auxiliary power generator \$ 54.00.

4. The fee for the three year or five year inspection of elevator devices shall be as follows:

- i. Traction and winding drum elevators:
 - (1) One to 10 floors (five year inspection) \$367.00;
 - (2) Over 10 floors (five year inspection) \$410.00;
- ii. Hydraulic and roped hydraulic elevators:
 - (1) Three-year inspection \$270.00;
 - (2) Five-year inspection \$162.00.

(c) When the Department is the enforcing agency, the fees set forth in (b) above shall be paid annually in accordance with the following schedule, which is based on the average of the fees to be collected over a five year period:

1. Basic annual fee as follows:

- i. Traction and winding drum elevators:
 - (1) One to 10 floors \$400.00;
 - (2) Over 10 floors \$486.00;
- ii. Hydraulic elevators \$292.00;
- iii. Roped hydraulic elevators \$324.00;
- iv. Escalators, moving walks \$497.00;
- v. Dumbwaiters \$ 86.00;
- vi. Stairway chairlifts, inclined and vertical wheelchair lifts, manlifts \$130.00.

2. Additional charges for devices equipped with the following features as follows:

- i. Oil buffers (charge per oil buffer) \$ 43.00;
- ii. Counterweight governor and safeties \$ 86.00;
- iii. Auxiliary power generator \$ 54.00.

3. Annual fee for inspections at seasonal facilities shall be as follows:

- i. Traction and winding drum elevators:
 - (1) One to 10 floors \$246.00;
 - (2) Over 10 floors \$289.00;
- ii. Hydraulic elevators \$184.00;
- iii. Roped hydraulic elevators \$216.00;
- iv. Escalators, moving walks \$346.00;
- v. Dumbwaiters \$ 86.00;
- vi. Stairway chairlifts, inclined and vertical wheelchair lifts, manlifts \$130.00.

4. Additional charges for devices equipped with the following features as follows:

- i. Oil buffers (charged per oil buffer) \$ 43.00;
- ii. Counterweight governor and safeties \$ 86.00;
- iii. Auxiliary power generator \$ 54.00.

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.392, effective October 5, 1992.
See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).

Fees increased.

Administrative Correction.

See: 27 N.J.R. 321(a).

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

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

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

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

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

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

Inserted references to R-5 throughout.

5:23-12.7 Licensing

(a) All elevator subcode officials and inspectors shall be licensed according to N.J.A.C. 5:23-5.5.

(b) Any person aggrieved by any decision of the Department under these rules shall be entitled to a hearing pursuant to N.J.A.C. 5:23-5.2.

(c) A licensed elevator subcode official or inspector shall be responsible for completing any continuing educational requirements imposed by the Department pursuant to this chapter prior to license renewal pursuant to N.J.A.C. 5:23-5.

5:23-12.8 Alterations, replacements, damages, increases in size, changes in use group, minor work, ordinary repairs

(a) In complying with this chapter, calculations concerning alterations, replacements, damages, increases in size and changes in use group, in N.J.A.C. 5:23-2, shall be performed using data for entire structures. The alteration provisions applicable to the whole structure and/or calculations in N.J.A.C. 5:23-2 shall not be applied to individual elevator devices.

(b) For purposes of this subchapter, alteration of an elevator device means any change to equipment other than minor work and ordinary repair, as defined in N.J.A.C. 5:23-2.17A and 5:23-9.3. When work that includes the alteration of an elevator device has a total cost of less than 50 percent of the physical value of the building, the alteration of the elevator device shall comply only with the applicable requirements of Part XII (Alterations, Repairs, Replacements and Maintenance) of the most recent edition of ASME A17.1 referenced in the building subcode.

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

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

5:23-12.9 Certificate of compliance requirements

(a) A device shall be granted a certificate of compliance by the construction official for the time period specified based upon N.J.A.C. 5:23-12.3. No device shall be operated unless a valid certificate of compliance has been issued except for the initial period after work under a permit has been completed as per (f) below. Any violation shall be corrected before a new certificate of compliance may be issued.

(b) A temporary certificate of compliance may be issued by the construction official for a device in order to keep the device in operation on which work, as a result of violations, is being diligently performed, if the elevator subcode official finds that no hazard to the public is thereby created. A temporary certificate of compliance may be issued for no longer than 180 days, even if the device is inspected on an annual basis.

(c) The elevator subcode official shall provide written notice to the construction official whenever a temporary certificate of compliance or certificate of compliance is granted by the construction official.

(d) No certificate of compliance shall be issued for any elevator device in use on or before July 1, 1992 that is subject to these rules and is not registered with the Department in accordance with N.J.A.C. 5:23-12.4, except elevator devices in structures classified as Group R-3, R-4, or R-5 shall be exempt from registration. Elevator devices wholly within dwelling units in structures of Group R-2 and not accessible to the general public shall also be exempt.

(e) No certificate of compliance or temporary certificate of compliance shall be issued for any elevator device, as required by this section, which has been approved to operate during the initial period, after a permit, in accordance with (f) below if the device has not been registered pursuant to this subchapter by its first routine inspection, even if a certificate of occupancy, temporary certificate of occupancy or certificate of approval has been issued.

(f) Except as otherwise provided in (e) above, a new device or an existing device which has had work done under a permit shall be issued a certificate of compliance upon the first cyclical inspection based on the following:

1. A device has been approved following the inspection and witnessing of an acceptance test, as required by N.J.A.C. 5:23-12.2, by the application of an Inspection Sticker Approval for Elevator and a recommendation by the elevator subcode official on an Elevator Subcode Technical Section form for a certificate of occupancy or approval, as the case may be.

- i. The date of the approval shall begin the cycle of inspections and tests for new devices in a new building and for new devices in an existing building which did not have elevator devices previously.

- ii. The date of the approval of an existing device in an existing building shall not change the device's existing cycle of inspections and tests. The cycle shall remain consistent with the inspection cycle in the building, except the device shall not be subject to the five year test before it is due as long as the acceptance test performed under the permit was a full five year test.

2. A device has been approved following the inspection process, as required for minor work by N.J.A.C. 5:23-2.17A(d)2 and 12.2, by the application of an Inspection Sticker Approval for Elevator and a recommendation by the elevator subcode official on an Elevator Subcode Technical Section form for a certificate of approval.

i. The device may operate under the approval given under the permit until the next cyclical inspection, as determined by the inspection cycle of the building, and then shall be subject to a routine or periodic inspection the same as all other elevator devices in the building.

New Rule, R.1995 d.476, effective September 5, 1995 (operative January 1, 1996).

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

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

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

Amended by R.1996 d.512, effective November 4, 1996.

See: 28 N.J.R. 3697(a), 28 N.J.R. 4782(a).

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

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

In (d), added R-5 to the list of groups in the first sentence and rewrote the second sentence.

5:23-12.10 Inspections in seasonal facilities

(a) For purposes of this subchapter, a "seasonal facility" is defined as a building that is open, and available for use by members of the public, employees or maintenance personnel or any occupants, for a period of not more than 184 consecutive days and is then closed and not available for such use for at least 181 consecutive days.

(b) Elevator devices in seasonal facilities shall be subject only to the applicable periodic inspections and tests (one, three and five year). Such inspections and tests shall be performed prior to the building being used by employees, maintenance personnel, members of the public or occupants. A certificate of compliance or temporary certificate of compliance shall be granted only for the time period during which the device is allowed to operate in the seasonal facility.

1. The fees for performing such inspections and witnessing tests shall be in accordance with such provisions of N.J.A.C. 5:23-12.6 as may be applicable.

(c) An owner of a building with one or more elevator devices may obtain classification of the building as a "seasonal facility" from the local enforcing agency. A request for such classification shall contain the information in (d) below and shall be signed by the owner.

(d) An application for classification of a building as a seasonal facility shall include the following information:

1. The owner's name and address, the building address, the registration number, the device identification number(s), and the date of the last inspection;

2. That the total number of consecutive calendar days per year when the building is in use by the public, employ-

ees, maintenance personnel or occupants does not exceed 184 days and that the building is then closed for such use for at least 181 consecutive calendar days;

3. That the elevator devices in the building are not accessible to members of the public, employees, maintenance personnel or building occupants during the time in which the building is closed; and

4. That the disconnects located in elevator device machine rooms and machinery spaces are, during the time in which the building is closed, in the "off" position and locked; and that the access to the keys is secured.

(e) The seasonal facility classification shall become invalid when the conditions of the classification are no longer met. The owner shall immediately notify the enforcing agency of any change in the conditions upon which the approval of classification as a seasonal facility was based.

1. Classification of a building as a seasonal facility shall not be renewed if the classification became invalid as a result of a violation of any conditions of the approval of the classification.

(f) During the period of time in which any device in seasonal facility is in operation, it shall be subject to all applicable code requirements in the same manner as any other device subject to this subchapter.

New Rule, R.1996 d.323, effective July 15, 1996 (operative January 1, 1997).

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

5:23-12.11 Notice concerning accidents

(a) Following an accident involving an elevator device, the owner of the building shall immediately notify the construction official, who shall immediately notify the elevator subcode official and the Department, when the accident meets at least one of the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Administrative correction.

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

5:23-12.12 Special safety equipment

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

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

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

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

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

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

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

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

(e) A sign stating "DO NOT USE A STANDING ESCALATOR AS A BUILDING STAIR" shall be permanently placed where it is readily visible to the general public at the top and bottom landings of an escalator. Each sign shall comply with the applicable requirements of ASME A17.1-93-95, Rule 805.2.b. This requirement shall apply to new escalator installations and to existing escalators. All existing escalators shall be required to comply with this subsection by August 18, 2004.

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

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

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

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

Rewrote the section.

Administrative correction.

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

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

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

Added (e).

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

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

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

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

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

Added (b)li.

SUBCHAPTER 12A. OPTIONAL ELEVATOR INSPECTION PROGRAM

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

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

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

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

(d) For purposes of this subchapter, "elevator" or "elevator device" means a hoisting and lowering device equipped with a car or platform which moves in guides for the transportation of individuals or freight in a substantially vertical direction through successive floors or levels of a building or structure. The term shall include, without limitation, elevators, dumbwaiters, wheelchair lifts, manlifts, stairway chairlifts and any device within the scope of ASME A17.1 (Safety Code for Elevators and Escalators) or ASME A90.1 (Safety Standard for Belt Manlifts), except escalators and moving walks.

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

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

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

1. The application shall contain information relating to the financial integrity of the firm, as evidenced by a reviewed financial statement prepared by an independent certified public accountant.

2. The application shall contain the names and addresses and home phone numbers of all persons who hold at least a ten percent interest in the qualified firm and/or are corporate officers.

3. Each applicant for registration as a qualified firm shall disclose in the application any subsidiary or parent

relationship with any other qualified firm or other entity regulated by the State Uniform Construction Code and shall further disclose all interests of any officer, partner, or stockholder of the firm in any other qualified firm or other entity regulated by the State Uniform Construction Code.

4. Each application shall include a sample form of the contract of full service needs to be used for the purposes of this subchapter.

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

1. The certificate of registration shall remain valid, unless revoked in accordance with (c) below, for two consecutive years following the date of registration; provided, however, that the certificate of registration shall become inactive for any period of time during which the firm ceases to engage in the business of maintaining, inspecting and testing elevator devices or ceases to employ at least one qualified elevator device inspector. It shall be the responsibility of the qualified firm to inform the Department within 30 days of any changes to the status of the qualified firm during the two-year registration period. It shall be the responsibility of the firm to reapply for registration at least two months prior to the renewal date to make current the information contained in the original application by submission of a completed reapplication form, as prescribed by the Commissioner.

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

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

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

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

1. Seven years of experience consisting of one or a combination of the following:

- i. Experience in construction, design, or supervision as a journeyman in a skilled trade currently regulated by the elevator subcode;
- ii. Experience as an elevator inspector; or
- iii. Experience as a construction contractor in a field of construction currently regulated by the elevator subcode; and

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

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

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

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

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