

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

**Authority**

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

**Source and Effective Date**

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

**Chapter Expiration Date**

Chapter 23, Uniform Construction Code, expires on January 15, 2008.

**Chapter Historical Note**

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 Chapter 23, Uniform Construction Code, superseded N.J.A.C. 5:16, Standard Building Code and N.J.A.C. 5:20, Safety Glazing Materials, which were repealed by R.1978 d.360, effective October 6, 1978.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 Chapter 23, Uniform Construction Code, also superseded N.J.A.C. 5:21, Uniform Standards Code for Mobile Homes, which was repealed by R.1982 d.7, effective February 1, 1982.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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Cross References**

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

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

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

Residential child care facility maintenance and sanitation requirements, see N.J.A.C. 10:127-4.4.

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**5:23-1.1 Title; division into subchapters**

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

(b) The chapter consists of the following subchapters:

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

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

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

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

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

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

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

**5:23-2.7 Ordinary maintenance**

(a) Ordinary maintenance to structures may be made without filing a permit application with or giving notice to the construction official.

(b) Such maintenance shall not include any of the following:

1. The cutting away of any wall, partition or portion thereof;
2. The removal or cutting of any structural beam or bearing support;

3. The removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements;

4. Any work affecting structural or fire safety;

5. Any work that will increase the nonconformity of any existing building or structure with the requirements of the regulations;

6. Addition to, or alteration, replacement or relocation of:

- i. Any standpipe;

ii. Water supply, sewer, drainage, gas, soil, waste, vent or similar piping;

iii. Electrical wiring, other than wiring for a low voltage communication system in a one- or two-family dwelling; or

iv. Mechanical or other work affecting public health or general safety; or

7. Any work undertaken for the purpose of lead abatement.

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.

#### 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. Exception: No permit shall be required for ordinary maintenance as defined in N.J.A.C. 5:23-1.4 and 2.7.

(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. Permit requirements for tents and membraned structures shall be in accordance with N.J.A.C. 5:23-3.14(b)20ii. A temporary greenhouse meeting the criteria of N.J.A.C. 5:23-3.14(b)20ii(4) shall not require a permit except as otherwise provided in N.J.A.C. 5:23-3.14(b)20ii(5).

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, which are 100 square feet or less in area, 10 feet or less in height and accessory to buildings of Use Groups R-2, R-3 or R-4. Such garden type utility sheds and similar structures are required to comply with 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.

(c) An annual construction permit may be issued by the construction official to educational, industrial, institutional, mercantile, business and government facilities based upon submission of the following in duplicate:

1. Identification of the facility and the buildings covered by the application for the annual permit.

2. Identification of the location within the facility where the annual permit records will be maintained.

3. A listing of the names, titles and trade specialties of the facility's full-time maintenance staff.

4. The name of the person responsible for the maintenance logs, job assignments and quality control.

5. A statement from the management of the facility attesting that the maintenance staff performing work under the annual permit are under the direct supervision of a qualified individual, as set forth under N.J.A.C. 5:23-2.14(e)1, or are individually qualified in their respective trades.

i. Evidence of qualification shall be journeyman status, civil service status, trade experience, trade school certification, college degree, State licensure pursuant to law or other appropriate evidence of competence.

ii. No person employed on the maintenance staff of a facility shall be deemed to be qualified to engage in lead abatement unless he or she has been certified by the New Jersey Department of Health pursuant to section 3 of P.L. 1993, c.288 (N.J.S.A. 26:20-3) (see N.J.A.C. 8:62).

6. A statement from the management explaining their procedures for providing training at Department seminars on construction codes on a regular basis for at least one, but not more than three, individuals per subcode.

7. A statement from the management explaining the procedures of the applicant to ensure proper quality control of the work performed under the annual permit.

8. Receipt of the required annual permit fee and training registration fee.

(d) The Construction Official, upon review of the application may issue or deny an annual construction permit in whole or in part. The construction permit (Form F-170C) shall state that the permit is an annual permit and indicate the technical subcodes in which the facility is approved to do work under the annual permit. A copy of the annual permit shall be forwarded by the Construction Official to the Department of Community Affairs Training Section along with the appropriate training registration fee.

(e) Conditions of the annual permit are as follows:

1. The "annual permit" may be issued for building/fire protection, electrical, mechanical or plumbing work or any combination of those classifications of work, providing that the individual responsible for work done under the annual permit possesses knowledge as evidenced in accordance with N.J.A.C. 5:23-2.14(c)5, in the technical work classification for which the annual permit is sought.

i. An approved copy of the annual permit application shall be kept at a facility's maintenance office within the municipality having jurisdiction for review by the Construction Official and appropriate subcode official. The Construction Official shall be notified of the location of the facilities maintenance office.

2. The life of the annual construction permit shall be limited to one year;

3. The facility shall maintain a construction log of all work performed. The construction log shall contain the date, a brief description and estimated or actual cost of the project. This log shall be subject to a quarterly inspection by the construction official or his authorized representative. Any business record showing when and where work was done and the extent of such work shall be deemed to be a construction log. Applications for the renewal of the "annual permit" shall be filed with the Construction Official at least 60 days prior to the expiration of the current annual permit. The facility application shall make current the information previously submitted to the Construction Official. The application for renewal shall be accompanied by the established fee.

4. The annual permit covers all work subject to this chapter done by the facility's full-time maintenance staff, but shall not include work performed by outside contract even if the contractor is hired by the facility and is working under direct supervision of the facility's maintenance staff. Work performed by outside contract shall be subject to applicable UCC regulations and State Licensure Law.

5. A permanent work log, approved by the construction official, of all work done under the "annual permit" must be maintained at a facilities maintenance office on site or must be available at the time of the inspection upon 24 hours notice of such inspection. The log must contain the date, a brief description of the work, photographs for any work which was not inspected prior to

closing as set forth in (e)8 below, and the name of the person supervising the work. The log shall be retained for three years.

6. Architectural or engineering drawings, as required by law for work done under the annual permit, shall be prepared by a registered architect or licensed engineer as defined by the statutory requirements of the professional registration laws of this State and shall be kept permanently on file and be made available to the Construction Official and appropriate subcode official, for review upon request.

7. The appropriate subcode official, at least two (2) times a year, shall perform inspections of the facility for which an annual permit has been issued. The maximum time between inspections shall be a six month period.

8. Work that is normally inspected prior to closing shall be ordered to be reopened by the facility upon written notice from the Construction Official or appropriate subcode official if he has reason to believe that a violation is present. A photograph shall be taken of any work intended to be enclosed without inspection.

9. Any work that is done under the supervision of the facilities maintenance staff and under a regular construction permit shall be entered into the annual permit log. The construction permit number shall be listed as a part of the entry.

10. Training for annual permits shall be provided at the seminars for code officials.

i. The facility shall provide a list of at least one, but not more than three, individuals per subcode who are required to complete five hours of continuing education per year.

ii. The Department shall maintain the training records for each annual permit. The annual permit shall not be renewed unless the facility completes the training for each issued subcode.

iii. The Department shall notify the construction official who issued the permit if the training has not been completed.

11. Any changes to the annual construction permit application shall be forwarded to the Construction Official within 30 days of the change.

12. The following work is not permitted under an annual permit:

i. Any work done on a facility that would result in a change of use of a building or part of a building;

ii. New buildings and additions regardless of size;

iii. Renovation, alteration or reconstruction work completed between inspection periods in an area in excess of 5,000 square feet per building;

- iv. Any work done on a facility that would result in an increase to the area of a building;
- v. The installation or alteration of a sprinkler system;
- vi. Any work that affects the required means of egress;
- vii. Any modification work, other than routine maintenance, that affects life safety systems, such as, but not limited to:
  - (1) Emergency lighting systems;
  - (2) Smoke and heat detection systems;
  - (3) Stand-by generator systems;
  - (4) Emergency smoke evacuation systems.
- viii. Any work which would disturb asbestos and require a permit to perform.

(f) Construction requirements for commercial farm buildings shall be as set forth in N.J.A.C. 5:23-3.2(d).

As amended, R.1981 d.462, eff. December 7, 1981.

See: 13 N.J.R. 390(a), 13 N.J.R. 885(d).

(c)1i: added "under the control and supervision of a person"; (c)1iii: added "any business construction log."

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

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

Section substantially amended.

Amended by R.1986 d.213, effective June 16, 1986.

See: 17 N.J.R. 2490(a), 18 N.J.R. 1266(a).

Subsection (e) substantially amended.

Administrative Correction: "facility's" changed from "facilities" throughout.

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

Amended by R.1990 d.558, effective November 19, 1990.

See: 22 N.J.R. 1969(b), 22 N.J.R. 3483(a).

Conditional exemption for hoopouses or polyhouses added.

Amended by R.1991 d.60, effective February 19, 1991.

See: 22 N.J.R. 3609(a), 23 N.J.R. 405(b).

Gas utilities exempt from permit and notice requirements.

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

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

Mechanical work added to (c)1.

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 (d).

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.381, effective July 17, 1995.

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

Amended by R.1995 d.475, effective September 5, 1995 (operative January 1, 1996).

See: 27 N.J.R. 1716(a), 27 N.J.R. 3325(a).

Rewrote (c)6 and (e)10.

Amended by R.1996 d.297, effective July 1, 1996 (operative October 1, 1996).

See: 28 N.J.R. 1586(b), 28 N.J.R. 3301(a).

In (b) added exception for signs.

Amended by R.1997 d.302, effective July 21, 1997 (operative September 24, 1997).

See: 29 N.J.R. 2202(a), 29 N.J.R. 3242(b).

Added (b)7.

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

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

Rewrote (a); added (a)1 stating exception; amended (e)4 and (e)12iii. Administrative change.

See: 31 N.J.R. 135(b).

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)1 and (b)1, substituted references to ordinary maintenance for references to ordinary repairs.

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), added 8 and 9.

Administrative correction.

See: 34 N.J.R. 2965(a).

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 4.

### 5:23-2.15 Construction permits—application

(a) The application for a permit shall be submitted on the standard Construction Permit Application form prescribed by the Commissioner at N.J.A.C. 5:23-4.5(b)2 and shall be accompanied by the required fee, as provided for in this subchapter and N.J.A.C. 5:23-4. The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and all portions of the site or lot not covered by the building or structure, and such additional information as may be required by the construction official, which shall include, but not be limited to, the following:

1. The name and address of the owner: Where the owner is not a resident of the State, he shall designate a resident as agent for the purpose of service of any notices or orders which may be necessary. Such address shall not be limited to a post office box, but shall specify a physical location where such owner or agent may be found during normal business hours. Where the owner is a corporation, partnership or other business entity, the application shall indicate the names and addresses of the officers, or other responsible persons upon whom service may be made;
2. The street address and lot and block number of the property upon which the building or structure is proposed to be erected;
3. A description of the proposed work, including the use group classification, proposed construction type, lot ground coverage in square feet, total floor area in square feet, total building or structure volume in cubic feet, the total number of plumbing fixtures, the total number of electrical fixtures, outlets and major appliances, a description of the type of heating system, the source of water supply, the mode of sanitary waste disposal and a listing of any special, unusual or hazardous facilities proposed for inclusion in the building or structure;
4. The estimated cost of the work for which a permit is sought, including but not limited to building construction, on-site construction, and all integral equipment, built-in furnishings and finishes. Where any material or labor proposed for installation in the building or structure is furnished or provided at no cost, its normal or usual cost shall be included in the estimated cost;

**5:23-3.8 Products violating the Code**

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

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

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

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

**1. Building materials and supplies:**

i. Wood paneling being used as an interior finish not in conformance with section 803.2 of the building subcode. This section specifies that finish shall be classified in accordance with ASTM E84;

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

**2. Electrical materials/supplies:**

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

**3. Plumbing materials/supplies:**

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

- ii. Clear PB piping;
- iii. Flexible traps and tailpieces;
- iv. Sheet and tubular copper and brass trap and tailpiece fittings less than B & S 17 gauge (.045 in.);
- v. Water closets requiring in excess of an average of 1.6 gallons per flush, that either have a manufacturer's date stamp of July 1, 1991 or later or were not purchased by the distributor prior to July 1, 1991;
- vi. Plumbing fixtures that do not meet the standards listed in the plumbing subcode.

**4. Miscellaneous materials and supplies:**

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

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

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

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

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

(d) added.

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

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

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

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

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

Text conformed to BOCA National Code/1990.

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

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

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

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

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

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

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

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

Recodified from N.J.A.C. 5:23-3.8A by R.2003 d.384, effective October 6, 2003.

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

Former N.J.A.C. 5:23-3.8, Department approval of nonconforming materials, repealed.

**5:23-3.9 Interpretations and opinions**

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

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

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

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

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

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

Section substantially amended.

Administrative Correction: Name change.

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

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

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

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

Administrative correction.

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

### 5:23-3.10 (Reserved)

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

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

Substantially amended.

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

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

Text conformed to BOCA National Code/1990.

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

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

Section was "Enforcing agency classification".

### 5:23-3.11 Enforcement activities reserved to the Department

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

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

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

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

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

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

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

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

(g) The Department of Community Affairs shall be the sole agency for the enforcement of the Barrier Free Recreation Standards (N.J.A.C. 5:23-7.15 through 7.31). Any complaint of noncompliance with these rules shall be forwarded to the Department.

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

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

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

1. Amusement rides;
2. Ski lifts;
3. High pressure boilers;
4. Refrigeration systems;
5. Pressure vessels; and
6. Liquefied petroleum gas installations, except one- and two-family residential (building subcode Use Group R-3/R-4) or vapor delivery installations utilizing containers with an aggregate water capacity of 2,000 gallons or less, which jurisdiction is retained by the municipal enforcing agency.

Amended by R.1981 d.455, effective December 7, 1981.  
See: 13 N.J.R. 561(b), 13 N.J.R. 886(b).  
Correction: Codification error and (a)6 was missing.  
See: 16 N.J.R. 1621(a).  
Administrative Change: This section has been divided into 3.11 and 3.11A administratively.  
See: 18 N.J.R. 1842(a).

Amended by R.1988 d.352, effective August 1, 1988.  
See: 19 N.J.R. 1270(a), 20 N.J.R. 1873(b).

Added (f).

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

Industrialized/modular buildings requirements added to (a)7.

Amended by R.1990 d.507, effective October 15, 1990.  
See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.

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

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

Enforcement of elevator, moving walk and escalator requirements for other than R-3 and R-4 reserved to Department.

Amended by R.1992 d.147, effective April 6, 1992.

See: 24 N.J.R. 170(a), 24 N.J.R. 1397(a).

Elevators wholly within R-2 residences exempt.

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

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

Enforcement of public employees' indoor air quality subcode assigned to DCA.

Amended by R.1994 d.28, effective January 18, 1994.

See: 25 N.J.R. 4546(b), 26 N.J.R. 352(a).

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

See: 26 N.J.R. 1073(a).

Amended by R.1997 d.377, effective September 15, 1997.

See: 29 N.J.R. 2741(b), 29 N.J.R. 4102(b).

In (g), amended N.J.A.C. references; deleted (g)1; and substantially amended (h).

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

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

In (a), inserted "Except as otherwise provided . . . and (d),"; added

(a)8 and 9; and in (g), amended N.J.A.C. references.

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

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

Added (i).

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

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

In (a), changed N.J.A.C. reference; and added (j).

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

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

In (g), amended the N.J.A.C. reference.

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).

In (j)6, inserted "or vapor delivery installations utilizing containers with an aggregate water capacity of 2,000 gallons or less," following "(building subcode Use Group R-3/R-4)".

#### Case Notes

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

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

(a) Plan review for the following types of projects shall be performed by the Department of Community Affairs. Prior to the release of plans for the following types of projects, the Department of Education shall ensure that the plans meet the standards for educational adequacy set forth in N.J.A.C. 6A:26:

1. New public school buildings, including the creation of a new public school building through the change of use of an existing building;
2. Additions to existing public school buildings;

3. Alterations changing the total number of instructional spaces, the size of any such spaces or type of any such spaces;

4. Installations of mobile units; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Pursuant to Reorganization Plan No. 114-1996, the Department or the municipal code enforcing agency shall have authority to enforce and cite violations of N.J.A.C. 6A:26-6.2.

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

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

New (a)7; old (a)7 through 9 renumbered (a)8.-10.

Administrative Change: This section was originally part of N.J.A.C. 5:23-3.11.

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

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

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

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

Administrative Correction to (c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rewrote the section.

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

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

In (a)3, substituted "instructional spaces, the size of any such spaces" for "units" and substituted "such" for "instructional".

Administrative change.

See: 33 N.J.R. 4101(a).

### 5:23-3.11B Underground storage tank systems

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

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

to submit engineering drawings of the secondarily contained systems and to certify that the underground storage tank system meets all requirements of N.J.A.C. 7:14B.

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

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

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

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

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

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

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

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

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

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

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

### 5:23-3.12 Amended rules

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

Amended by R.1995 d.544, effective October 16, 1995.  
 See: 27 N.J.R. 2827(a), 27 N.J.R. 3933(a).  
 Amended by R.2000 d.413, effective October 16, 2000.  
 See: 32 N.J.R. 2278(a), 32 N.J.R. 3783(a).  
 Rewrote the section.

### 5:23-3.13 State-sponsored code change proposals

(a) Any municipality, other political subdivision, or agency of the State seeking to submit a "State-sponsored code change proposal" shall do so not less than 90 days prior to the code change meeting of the model code adoption agency for which the amendment is proposed.

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

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

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

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

### 5:23-3.14 Building subcode

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

1. Pursuant to authority of P.L. 1975, c.217, as modified by P.L. 1996, c.53, the Commissioner hereby adopts the model code of the International Code Council, International Building Code, known as the "IBC/2000." This code is hereby adopted by reference as the building subcode for New Jersey subject to the modifications stated in (b) below.

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

ii. The IBC/2000, as amended, may be known and cited as the "building subcode."

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

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

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

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

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

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

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

iv. The definition of "building" shall be deleted and the following shall be inserted: "BUILDING. A structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing shelter, enclosure and support of individuals, animals or property of any kind. When used herein, building and structure shall be interchangeable except where the context clearly indicates otherwise."

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

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

vii. The definitions of "existing structure," "historic building," and "jurisdiction" shall be deleted.

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

ix. The definitions of "permit," "person," and "repair" shall be deleted.

x. The definition of "structure" shall be deleted and the following shall be inserted: "STRUCTURE. A combination of materials to form a construction for occupancy, use, or ornamentation, whether installed on, above, or below the surface of a parcel of land; provided the word "structure" shall be construed when used herein as though followed by the phrase "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning.

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

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

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

Rewrote the section.

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

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

Added (c).

#### Case Notes

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

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

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

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

i. International Building Code/2000 of the International Code Council, Inc. (N.J.A.C. 5:23-3.14):

(1) Chapter 3—Use and Occupancy Classification;

(2) Chapter 4—Special Detailed Requirements Based on Use and Occupancy;

(3) Chapter 7—Fire Resistance—Rated Construction;

(4) Chapter 8—Interior Finishes;

(5) Chapter 9—Fire Protection Systems and N.J.A.C 5:23-3.5(d) entitled "Posted Hydraulic System Data Plate";

(A) Section 907.2.6 shall be amended as follows: Add the following text to the end of this section: "Alarms activated by smoke detectors required by this section shall be activated by either two cross-zoned smoke detectors with a single protected area or a single smoke detector monitored by an alarm verification zone or an approved equivalent method."

(B) Section 907.2.8 shall be amended as follows: Add the following text to the end of this section: "Alarms activated by smoke detectors required by this section shall be activated by either two cross-zoned smoke detectors with a single protected area or a single smoke detector monitored by an alarm verification zone or an approved equivalent method."

(6) Chapter 10—Means of Egress;

(7) Sections 2111 through 2113 of Chapter 21—Masonry;

(8) Sections 2603 through 2607 of Chapter 26—Plastic;

(9) Section 3104 of Chapter 31—Special Construction;

(10) Section 3309, 3311 and 3312 of Chapter 33—Safeguards During Construction;

ii. National Electrical Code/2002 of the National Fire Protection Association (N.J.A.C. 5:23-3.16).

(1) Section 300.21 of Chapter 3—Wiring Methods and Materials;

(2) Article 450, Part III—Transformer Vaults of Chapter 4—Equipment for General Use;

(3) Chapter 5—Special Occupancies;

(4) Article 695—Fire Pumps of Chapter 6—Special Equipment;

(5) Article 760—Fire Alarm Systems of Chapter 7—Special Conditions;

iii. International Mechanical Code/2000 of the International Code Council (N.J.A.C. 5:23-3.20):

(1) Chapter 3—General Regulations;

(2) Chapter 5—Exhaust Systems;

(3) Chapter 6—Duct Systems;

(4) Chapter 7—Combustion Air;

(5) Chapter 8—Chimneys and Vents;

(6) Chapter 9—Specific Appliances, Fireplaces and Solid Fuel Burning Equipment;

(7) Chapter 13—Fuel Oil Piping and Storage;

iv. International Fuel Gas Code/2000 of the International Code Council (N.J.A.C. 5:23-3.22):

(1) Chapter 3—General Regulations;

(2) Chapter 5—Chimneys and Vans;

(3) Chapter 6—Specific Appliances.

2. The model code portions listed above may be known as "the fire protection subcode."

(b) Rules concerning modifications to subcodes are as follows:

1. The modifications made to the appropriate portion of the adopted model code in N.J.A.C. 5:23-3.14 (Building Subcode), N.J.A.C. 5:23-3.16 (Electrical Subcode), N.J.A.C. 5:23-3.20 (Mechanical Subcode) and N.J.A.C. 5:23-3.22 (Fuel Gas Subcode) will apply also to those portions as regards this adoption.

Amended by R.1981 d.132, effective May 7, 1981.  
 See: 13 N.J.R. 121(a), 13 N.J.R. 258(d).  
 Amended by R.1984 d.314, effective August 6, 1984.  
 See: 16 N.J.R. 1139(a), 16 N.J.R. 2084(b).  
 Section substantially amended.  
 Amended by R.1986 d.380, effective September 22, 1986.  
 See: 18 N.J.R. 1235(a), 18 N.J.R. 1931(a).  
 Substantially amended.  
 Amended by R.1987 d.374, effective September 21, 1987.  
 See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).  
 Model subcode revisions.  
 Amended by R.1990 d.253, effective May 21, 1990.  
 See: 22 N.J.R. 909(b), 22 N.J.R. 1554(a).  
 Reference to 1989 Supplement added; (a)1i(7) amended.  
 Amended by R.1990 d.507, effective October 15, 1990.  
 See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).  
 Text conformed to BOCA National Code/1990.  
 Amended by R.1993 d.662, effective December 20, 1993.  
 See: 25 N.J.R. 3891(a), 25 N.J.R. 5918(a).  
 Amended by R.1998 d.332, effective July 6, 1998.  
 See: 30 N.J.R. 1377(a), 30 N.J.R. 2421(b).  
 Rewrote (a).  
 Amended by R.2000 d.166, effective April 17, 2000.  
 See: 31 N.J.R. 4151(a), 32 N.J.R. 1376(a).  
 In (a)1i(5), added a second sentence.  
 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)1ii, changed "1996" to "1999".  
 Amended by R.2001 d.196, effective June 18, 2001.  
 See: 33 N.J.R. 6(a), 33 N.J.R. 2090(a).  
 In (a)1, inserted reference to the fuel gas subcode in the introductory paragraph, rewrote iii and inserted iv; in (b)1, inserted reference to the Fuel Gas Subcode.  
 Amended by R.2003 d.351, effective September 2, 2003.  
 See: 35 N.J.R. 1177(a), 35 N.J.R. 4051(a).  
 In (a), substituted "are" for "area" in the introductory paragraph and rewrote (i) and (ii) in 1.

**Case Notes**

Zoning ordinance's definition of family violated Constitution. *Cherry Hill Tp. v. Oxford House, Inc.*, 263 N.J.Super. 25, 621 A.2d 952 (A.D.1993).

**5:23-3.18 Energy Subcode**

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

1. Pursuant to authority of P.L. 1975, c.217, as modified by P.L. 1996, c.53, the Commissioner hereby adopts the model code of the Council of American Building Officials, Inc., known as the Model Energy Code/1995, as the energy subcode for New Jersey.

i. Copies of the CABO Model Energy Code/1995 may be obtained from BOCA International, 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795.

ii. The model code listed above may be known and cited as the "energy subcode."

(b) The following chapters and sections of the energy subcode are amended as follows:

1. The following amendments are made to Chapter 1 of the energy subcode titled "Administration and Enforcement":

- i. Section 101.1 "Title" is deleted.
- ii. Section 101.3 "Compliance" is amended to add the following sentence after the first bullet item: "Residential buildings provided with high efficiency equipment (90 percent AFUE for furnace 85 percent AFUE for boilers and 8.0 HSPF for air source heat pumps) shall be exempt from the requirement to insulate basement walls. Code requirements for other envelope components must meet the component performance approach requirements of Chapter 5."
- iii. Subsection 101.4.3 "Application to existing buildings" is deleted.
- iv. Subsections 102.1.2 and 102.1.3 are deleted.
- v. Section 102.2 "Maintenance information" is deleted.
- vi. Section 104 "Plans and specifications" is deleted.
- vii. Section 105 "Inspection" is deleted.
- viii. Section 106 "Validity" is deleted.

2. The following amendments are made to Chapter 2 of the energy subcode titled "definitions":

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

ii. The term "building project" is deleted.

3. The following amendments are made to Chapter 3 of the energy subcode, titled "Design Conditions":

i. Section 302.1 is amended to read as follows: "Design conditions shall be based on the values from the 97½ percent column for winter and the 2½ percent column for summer from climate tables in Standard RS-1 listed in Chapter 8 for the nearest listed location."

ii. Table 302.1 is deleted.

4. The following amendments are made to Chapter 5 of the energy subcode titled "Residential Building Design by Component Performance Approach":

i. Table 502.2.1a is amended as follows:

Table 502.2.1a  
 Heating and Cooling Criteria

Heating degree days/county	Element	Mode	Type A1 Buildings Uo	Type A2 Buildings Uo
4,500	Walls	Heating or Cooling	.150	.215

Heating degree days/county	Element	Mode	Type A1 Buildings Uo	Type A2 Buildings Uo
Atlantic, Camden, Cape May, Cumberland, Gloucester, Salem	Roof/Ceiling	Heating or Cooling	.033	.033
	Floors over unheated space	Heating or Cooling	.05	.05
	Unheated/heated slab on grade	Heating	R value-4/R-6	R value-4/R-6
	Basement Wall see notes 2, 3, 4	Heating or Cooling	.1	.1
	Crawl Space Wall see notes 2, 3	Heating or Cooling	.075	.075
5,000	Walls	Heating or Cooling	.141	.215
Burlington, Essex, Hudson, Mercer, Middlesex, Monmouth, Ocean, Union	Roof/Ceiling	Heating or Cooling	.031	.031
	Floors over unheated space	Heating or Cooling	.050	.0500
	Unheated/heated slabs on grade	Heating	R value-4.3/6.4	R value-4.3/6.4
	Basement Wall see notes 2, 3, 4	Heating or Cooling	.1	.1
	Crawl Space Wall see notes 2, 3	Heating or Cooling	.060	.060
5,500	Walls	Heating or Cooling	.134	.215
Bergen, Hunterdon, Morris, Passaic, Somerset Sussex, Warren	Roof/Ceiling	Heating or Cooling	.028	.028
	Floors over unheated space	Heating or Cooling	.050	.050
	Unheated/heated slabs on grade	Heating	R-4.7/6.7	R-4.7/6.7
	Basement Wall see notes 2, 3, 4	Heating or Cooling	.0975	.0975
	Crawl Space Wall see notes 2, 3	Heating or Cooling	.060	.060

1. Values were determined using the graphs (Figures 1, 2, 3, 4, 5 and 6) contained in Chapter 8.
2. Basement and crawl space wall U-values shall be based on the wall components and surface air film. Adjacent soil shall not be considered in the determination of the U-value.
3. Typical foundation wall techniques can be found in standard RS-20 found in Chapter 8.
4. The need for basement wall insulation shall be waived when the residential building is provided with high efficiency mechanical equipment (furnaces 90 percent AFUE or greater, boilers 85 percent AFUE or greater).

5. The following amendments are made to Chapter 7 of the energy subcode titled "Building Design for all Buildings Other than Residential Buildings":

i. Section 702.1 is amended to read "building designs shall meet the requirements of Sections 5.2, 6.2, 7.2, 9.2 and 10.2 in Standard RS-22 listed in Chapter 8."

ii. Section 702.2 is amended to read:

"In addition, building designs shall meet the prescriptive criteria of Sections 5.3, 6.3, 7.3 and 9.3."

The exception is amended to read:

"1. The system performance requirements of Standard RS-22 may be used in the following cases:

1.1 A building design meeting Section 6.1.3 instead of the Section 6.2 and 6.3 prescriptive requirements in Standard RS-22.

1.2 A building meeting Section 5.4 instead of the 5.3 prescriptive requirements in Standard RS-22.

2. A building design meeting the Section 11 building energy cost budget method in Standard RS-22."

6. Chapter 8 titled "Referenced Standards" is amended as follows:

i. RS-22 is amended to read "ASHRAE/IES 90.1-1999 Energy Efficient Design of New Buildings Except Low Rise Residential Buildings ©2000."

Amended by R.1987 d.387, effective October 5, 1987.  
See: 19 N.J.R. 433(b), 19 N.J.R. 1793(a).

Substantially amended.

Amended by R.1988 d.50, effective February 1, 1988.  
See: 19 N.J.R. 1862(b), 20 N.J.R. 268(a).

Added (b)6; renumbered (b)6.-7. as (b)7.-8.

Amended by R.1988 d.417, effective September 6, 1988.  
See: 20 N.J.R. 699(b), 20 N.J.R. 2274(a).

Substantially amended.

Amended by R.1990 d.507, effective October 15, 1990.  
See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.  
Amended by R.1991 d.326, effective July 1, 1991.

See: 23 N.J.R. 804(a), 23 N.J.R. 2044(a).

Section E-502.1 deleted.

Amended by R.1991 d.429, effective August 19, 1991.

See: 23 N.J.R. 1487(a), 23 N.J.R. 2501(a).

In (b)5, deleted old and added new i.

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.143, effective March 20, 1995 (operative July 1, 1995).

See: 26 N.J.R. 4872(a), 27 N.J.R. 1179(b).

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

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

Rewrote the section.

Amended by R.2001 d.244, effective July 16, 2001 (operative January 16, 2002).

See: 33 N.J.R. 1241(a), 33 N.J.R. 2471(a).

Rewrote the section.

Administrative change.

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

Administrative correction.

See: 35 N.J.R. 2494(b).

#### Case Notes

Registered architect retained to sign and seal drawings to comply with permit regulations entitled to approve as prepared or return for compliance modifications (citing Small Dwelling Energy Subcode). Deck House, Inc. v. New Jersey State Board of Architects, 531 F.Supp. 633 (D.N.J.1982).

Departments of Community Affairs and Energy could not amend state energy subcode. New Jersey Builders Ass'n v. Coleman, 227 N.J.Super. 23, 545 A.2d 783 (A.D.1988).

#### 5:23-3.19 Manufactured home subcode

(a) Pursuant to authority of P.L. 1975, c.217, as amended, the Commissioner hereby adopts the Federal Manufactured Home Construction and Safety Standards, as set forth in Part 3280 of Title 24 of the Code of Federal Regulations, including all subsequent revisions and amendments thereto, as the manufactured home subcode for New Jersey.

1. Copies of the volume of the Code of Federal Regulations containing Part 3280 of Title 24 may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20420.

2. Part 3280 of Title 24 of the Code of Federal Regulations, including all subsequent revisions and amendments thereto, may be known and cited as the manufactured home subcode.

(b) The following sections of Subpart A of Part 3280 are deemed to be administrative in nature and are therefore excluded from the manufactured home subcode:

1. Section 3280.1, entitled "Scope";
2. Section 3280.5, entitled "Data plate";
3. Section 3280.6, entitled "Serial number";
4. Section 3280.7, entitled "Modular homes"; and
5. Section 3280.8, entitled "Certification label".

(c) Any manufactured home construction or safety issue not covered under the manufactured home subcode which is, however, covered under another subcode adopted pursuant to this subchapter shall be determined in accordance with such other subcode.

(d) The adoption of a manufactured home subcode shall not be construed as in any way limiting the power or duty of the Department of Community Affairs to enforce and comply with all applicable provisions of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 and the regulations promulgated pursuant thereto, including all subsequent revisions and amendments thereto, when authorized to do so by the Secretary of the United States Department of Housing and Urban Development.

Amended by R.1982 d.7, eff. February 1, 1982.

See: 13 N.J.R. 171(a), 14 N.J.R. 142(a).

This section was recodified from 5:23-3.9.

#### 5:23-3.20 Mechanical subcode

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

1. Pursuant to authority of P.L. 1975, c.217, the Commissioner hereby adopts the model code of the International Code Council, Inc., known as the International Mechanical Code/2000. This code is hereby adopted by reference as the Mechanical Subcode for the State of New Jersey subject to the modifications stated in (b) below.

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

ii. The International Mechanical Code/2000 may be known and cited as the "mechanical subcode."

2. Any references to the International Building Code, International Plumbing Code, ICC Electrical Code, International Fire Code or the International Energy Conservation Code listed in Chapter 15 shall be considered a reference to the appropriate adopted building, plumbing, electrical, BOCA National Fire Prevention Code-1996 or energy subcode in N.J.A.C. 5:23-3.

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

(b) The following chapters, sections or pages of the International Mechanical Code/2000 are amended as follows:

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

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

i. Section 201.3 is amended to delete the words "International Building Code, ICC Electrical Code, International Fire Code, International Plumbing Code," and in lieu thereof substitute "building, electrical, fire protection, and plumbing subcodes."

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

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

- iv. The definition of the term "building" is deleted and substitute the definition found in N.J.A.C. 5:23-1.4.
  - v. The definition of the term "code" is deleted.
  - vi. The definition of the term "code official" is deleted, and the following language is substituted: "For the purpose of the mechanical subcode, the term "code official" shall mean the appropriate subcode official as designated in N.J.A.C. 5:23-3.4."
3. Chapter 3 of the mechanical subcode, entitled "General Regulations," is amended as follows:
- i. Section 301.1 is amended to delete the words "in accordance with Section 101.2."
  - ii. Section 301.4 is amended to delete the words "in accordance with Section 105."
  - iii. Section 301.11 is deleted.
  - iv. Section 307.1 is amended to delete "approved plumbing fixture" on line 3 and insert the following: "drywell, sump pump, floor drain, or drainage system below floor."
  - v. Section 307.2.1 is amended to add the following after the word "disposal" on line 3: "in accordance with the adopted plumbing subcode."
  - vi. Section 307.2.2 is deleted.
  - vii. Section 309 is deleted.
  - viii. Section 312 is deleted.
4. Chapter 4 of the mechanical subcode, entitled "Ventilation," is amended as follows:
- i. Section 403.2 is amended to add the following language: "Exception: Where the registered design professional demonstrates that an engineered ventilation system design will prevent the maximum concentration of contaminants from exceeding that obtainable by the rate of outdoor air ventilation determined in accordance with Section 403.3, the minimum required rate of outside air shall be reduced in accordance with such engineered system design."
5. Chapter 5 of the mechanical subcode, entitled "Exhaust Systems," is amended as follows:
- i. Section 503.1 is amended to replace the second sentence with the following: "The type and wiring methods for motors in areas that contain flammable vapors or dusts shall be in accordance with the electrical subcode."
  - ii. Section 512.1 is amended to add a sentence as follows: "This section shall not apply to radon construction techniques covered by subchapter 10 of the Uniform Construction Code."
  - iii. 513.11 is amended to replace the third sentence with the following: "Secondary power shall be from a legally required standby power source complying with the electrical subcode." Also, delete the following sentences: "Power distribution from the two sources shall be by independent routes. Transfer to full standby power shall be automatic and within 60 seconds of failure of the primary power."
  - iv. 513.12.1 is amended to delete the wording in its entirety and substitute the following: "Wiring. All wiring shall be in accordance with the electrical subcode."
6. Chapter 6 of the mechanical subcode, entitled "Duct Systems," is amended as follows:
- i. Section 602.2.1 is amended to modify Exception 3 to read: "This section shall not apply to materials exposed within plenums in one-and two-family dwellings. Wire exposed in plenums of one-and two-family dwellings shall conform to the requirements of the electrical subcode."
  - ii. Section 602.2.1.1 is deleted in its entirety and substitute the following language: "Wiring, cable and raceways installed in a plenum shall be listed and installed in accordance with the electrical subcode."
  - iii. Section 602.2.1.4 is deleted in its entirety and substitute the following language: "Combustible electrical equipment exposed within a plenum shall be listed and labeled and shall be installed in accordance with the requirements of the electrical subcode."
7. Chapter 9 of the mechanical subcode, entitled "Specific Appliances, Fireplaces and Solid Fuel Burning Equipment," is amended as follows:
- i. Section 917.2 is deleted in its entirety.
  - ii. Section 917.3 is deleted in its entirety.
8. Chapter 10 of the mechanical subcode, entitled "Boilers, Water Heaters and Pressure Vessels," is amended as follows:
- i. Section 1001.1 is amended to replace the words "installation, alteration, and repair of boilers," with the words "installation and alteration of boilers."
  - ii. Section 1003.1 is amended to add the following phase: "Pressure vessels shall be designed and constructed in accordance with the requirements of ASME "Rules for Construction of Pressure Vessels, Section VIII/1998"."
9. Chapter 11 of the mechanical subcode, entitled "Refrigeration," is amended as follows:
- i. Section 1102.2.2 is deleted.
  - ii. Section 1109 is deleted.
10. Chapter 13 of the mechanical subcode, entitled "Fuel Oil Piping And Storage," is amended as follows:
- i. Section 1301.2 is amended to add the following sentence: "Where the tank is of a size and type that is

subject to the Department of Environmental Protection rules for the installation of Underground Storage Tanks at N.J.A.C. 7:14B, those rules shall apply."

11. Chapter 15 of the mechanical subcode, entitled "Referenced Standards," is amended as follows:

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

- (1) Delete "IEC—2000 Electrical Code."
- (2) Delete "IFC—2000 International Fire Code" and substitute the following: "BOCA National Fire Prevention Code/1996."
- (3) Delete "IBC—2000 International Building Code."
- (4) Delete "IEEC—2000 International Energy Conservation Code."
- (5) Delete "IPC—2000 International Plumbing Code."

12. Appendix A of the mechanical subcode entitled "Combustion Air and Chimney Connector Pass-Throughs" is informative and is not part of the code.

13. Appendix B of the mechanical subcode entitled "Recommended Permit Fee Schedule," is deleted in its entirety.

(c) Single station carbon monoxide alarms shall be installed and maintained in full operating condition in the immediate vicinity of each sleeping area in any guestroom or dwelling unit located in a building of Use Group I-1, R-1, R-2, R-3 or R-4, if the building contains a fuel-burning appliance or has an attached garage. An "open parking structure," as defined in the building subcode, shall not be deemed to be an attached garage.

1. Exceptions: Guestrooms or dwelling units which do not themselves contain a fuel-burning appliance or have an attached garage, but which are located in a building with a fuel-burning appliance or an attached garage, need not be provided with single station carbon monoxide alarms provided that:

i. The guestroom or dwelling unit is located more than one story above or below any story which contains a fuel-burning appliance or an attached garage; the guestroom or dwelling unit is not connected by duct work or ventilation shafts to any room containing a fuel-burning appliance or to an attached garage; and the building is provided with a common area carbon monoxide alarm system. The individual alarms shall be located in every room adjacent to the room(s) containing a fuel-burning appliance, and in every corridor, hall or lobby adjacent to such room(s) and in the immediate vicinity of any ventilated shaft, including, but not limited to, stair shafts, elevator shafts, ventilation shafts on the story containing the fuel-burning appliance and any story within two stories above or below said story. All such common area alarm devices shall be connected to an alarm monitoring station or shall be interconnected; or

ii. The building is provided with a monitored carbon monoxide alarm system. Individual alarms shall be located in every room containing a fuel-burning appliance. All such alarms shall be connected to an alarm monitoring station that shall be staffed at all times by a person who is trained and qualified to respond so as to protect the health and safety of building occupants in the event of the activation of one or more alarms. Carbon monoxide alarms and fire alarms may be incorporated into a common monitored system.

2. Carbon monoxide alarms shall be manufactured, listed and labeled in accordance with UL 2034 and shall be installed in accordance with the requirements of this section and NFPA 720. Carbon monoxide alarms shall be battery operated, hard-wired or of the plug-in type.

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

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

New rule.

Amended by R.1985 d.154, effective April 1, 1985 (operative July 1, 1985).

See: 17 N.J.R. 239(a), 17 N.J.R. 810(a).

(a)2 added; subsection (c) added.

Amended by R.1986 d.380, effective September 22, 1986.

See: 18 N.J.R. 1235(a), 18 N.J.R. 1931(a).

Substantially amended.

Amended by R.1987 d.14, effective January 5, 1987.

See: 18 N.J.R. 2083(a), 19 N.J.R. 63(a).

In (b)5iv Section M-508 was deleted and Section M-508.1 was substituted.

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

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

Model subcode revisions.

Amended by R.1988 d.270, effective June 20, 1988.

See: 20 N.J.R. 575(a), 20 N.J.R. 1344(a).

Added (a)3 and (c).

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

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

References to 1989 Supplement added; (c)1 and 3 added.

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

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

Text conformed to BOCA National Code/1990.

Amended by R.1991 d.429, effective August 19, 1991.

See: 23 N.J.R. 1487(a), 23 N.J.R. 2501(a).

In (a), added 3. Added new (c).

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

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

Text added at (b)7 and (c)1, deleting parts of article 16 of the mechanical subcode.

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.120, effective March 6, 1995 (operative July 1, 1995).

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

Amended by R.1999 d.259, effective August 16, 1999.

See: 31 N.J.R. 825(a), 31 N.J.R. 2330(a).

Added (c).

Amended by R.2001 d.196, effective June 18, 2001.

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

Rewrote (a) and (b).

Administrative correction.

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

Amended by R.2002 d.15, effective January 22, 2002.

See: 33 N.J.R. 2933(b), 33 N.J.R. 3883(a), 34 N.J.R. 521(a).

In (c), added the last sentence in the introductory paragraph, and rewrote 1.

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

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

In (c), deleted “, or any dwelling unit of Use Group” following “R-2”, and substituted “, R-3 or R-4” for “R-3 located in a building required to be registered as a multiple dwelling” in the introductory paragraph.

### 5:23-3.20A (Reserved)

New Rule R.1992 d.183, effective April 20, 1992.  
See: 24 N.J.R. 167(a), 24 N.J.R. 1475(b).  
Repealed by R.2001 d.196, effective June 18, 2001.  
See: 33 N.J.R. 6(a), 33 N.J.R. 2090(a).  
Section was “Indoor air quality subcode”.

### 5:23-3.21 One- and two-family dwelling subcode

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

1. Pursuant to authority of P.L. 1975, c.217, as modified by P.L. 1996, c.53, the Commissioner hereby adopts the model code of the International Code Council, International Residential Code known as the “IRC/2000” as the one-and two-family dwelling subcode in New Jersey subject to the modifications stated in (c) below.

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

ii. The IRC/2000 may be known and cited as the one-and two-family dwelling subcode.

(b) The provisions of this subcode shall apply to the construction, alteration, repair, or increase in size of detached one-or two-family dwellings, or single family townhouses, of Group R-5 not more than three stories in height. For this purpose, a townhouse shall be as defined in Section 202 of the International Residential Code: “A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with open space on at least two sides.”

(c) The following chapters or sections of the IRC/2000 shall be modified as follows:

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

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

- i. The definition of “Additions” shall be deleted.
- ii. The definition of “Alteration” shall be deleted.
- iii. The definition of “Approved” shall be deleted and the following shall be inserted: “Approved refers to approval by the building subcode official or other authority having jurisdiction in accordance with the regulations.”
- iv. In the definition of “Approved Agency,” “or other authority having jurisdiction in accordance with

the Uniform Construction Code” shall be inserted after “Official.”

v. The definitions of “Building” shall be deleted and the definition at N.J.A.C. 5:23-3.14(b)2iv shall be inserted.

vi. The definition of “Building, Existing” shall be deleted.

vii. The definition of “Building Line” shall be deleted.

viii. The definition of “Building Official” shall be deleted and the definition at N.J.A.C. 5:23-3.14(b)2vi shall be inserted.

ix. The definition of “Existing Installations” shall be deleted.

x. The definition of “Jurisdiction” shall be deleted.

xi. The definition of “Manufactured Home” shall be deleted.

xii. The definition of “Owner” shall be deleted and the definition at N.J.A.C. 5:23-3.14(b)2viii shall be inserted.

xiii. The definition of “Permit” shall be deleted.

xiv. The definition of “Person” shall be deleted.

xv. In the definition of “Potable Water,” “public health authority having jurisdiction” shall be deleted and “Public Health Drinking Water Standards or the regulations” shall be inserted.

xvi. The definition of “Repair” shall be deleted.

3. Chapter 3, Building Planning, shall be amended as follows:

i. Add new Section R300 as follows:

“R300 Height and Area Limitations. Buildings of VB, unprotected wood framed construction, as that term is defined in Section 602 of the building subcode, shall be not more than two stories, not more than 35 feet in height, and not more than 4,800 square feet in area per floor. For the purpose of applying this section, a habitable attic shall not constitute a story. A habitable attic shall be an attic that has a stairway as a means of access and egress and in which the ceiling area at a height of seven feet above the attic floor is not more than one-third the area of the next floor below.

R300.1 Increases in Height. The building shall be not more than three stories and not more than 55 feet in height where the building is equipped throughout with an automatic sprinkler system installed in accordance with the National Fire Protection Association (NFPA) Standard 13 or 13R and where the system is monitored by an approved supervising station in accordance with NFPA 72.

R300.2 Increases in area. The area of a building may be increased as provided in Sections R300.2.1 and Section R300.2.2 below.

R300.2.1 The area limitation shall be permitted to be increased 200 percent for one-and two-story buildings and 100 percent for buildings more than two stories in height where a building is equipped throughout with an automatic sprinkler system installed in accordance with NFPA Standard 13.

R300.2.2 The area limitation shall be permitted to be increased two percent for each one percent of excess frontage where a building has more than 25 percent of the building perimeter fronting on a street or other unoccupied space. The unoccupied space shall be on the same lot or dedicated for public use, shall be not less than 30 feet in width, and shall have access from a street by a posted fire lane that is not less than 18 feet in width.

R300.3 Buildings of VA construction. Buildings of VA, protected wood framed construction, as that term is defined in Section 602 of the building subcode, shall be not more than three stories, not more than 40 feet in height, and not more than 10,200 square feet in area per floor.

R300.3.1 Buildings of VA construction greater than three stories in height shall be designed and constructed in accordance with the building subcode.

R300.3.2 Buildings of VA construction shall be permitted to be increased in area in accordance with R300.2.

R300.4 Buildings of other types of construction: The height and area limits allowable for buildings of construction type VA shall apply to other construction types, as they are defined in Section 602 of the building subcode, provided that the fire ratings of building elements meet or exceed the requirements for type VA in Tables 601 and 602 of the building subcode.

ii. In Section R301.2.1.1, Design criteria, "with the provisions of this code or" shall be inserted after "accordance." In addition, Item 2 shall be deleted.

iii. In Section R301.2.1.2, Internal pressure, in the exception, "in one-and two-story buildings" shall be deleted from the first sentence.

iv. Table R301.2(1), Climatic and Geographic Design Criteria, shall be amended as follows:

Table No. 301.2(1)  
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

Ground Snow Load (lbs./sq. ft.)	Wind Speed (mph)	Seismic Design Category	Subject to Damage from Weathering	Frost Line Depth	Subject to Damage Termite	Subject to Damage Decay
20 See note 4	See fig. R301.2(4)	N/A	Severe See note 1	2 feet-6 inches (Southern Area) 3 feet-0 inches (Northern Area) See notes 2, 3 and 4	Moderate to Heavy	Slight to Moderate

Notes:

1. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy structural requirements of this code. The grade of masonry units shall be determined from the ASTM C34, C55, C62, C73, C90, C129, C145, C216, or C625 listed in Chapter 43.
2. The frost line depth may require deeper footings than indicated in Section R403.1.4. The jurisdiction shall fill in the frost line depth column with minimum depth of footing below finished grade.
3. New Jersey is divided into two zones: Zone 1 consists of Monmouth and Burlington Counties and all counties to the south. Zone 2 consists of Mercer and Middlesex Counties and all counties to the north.
4. The enforcing agency having jurisdiction may establish values other than the ones listed for "ground snow load," and "frost line depth" if warranted by documented local climatic and geographic conditions."

v. In Section R301.2.2, Seismic provisions, "and single-family townhouses" shall be inserted after "Detached one-and two-family dwellings."

vi. Section R303.4, Stairway illumination, shall be deleted in its entirety.

vii. Section R303.6, Required heating, shall be deleted in its entirety.

viii. In Section R308.4, Hazardous locations, Item 9 shall be deleted. In the same section, Exception 9 shall be deleted.

ix. Section R309.2, Separation required, shall be deleted and the following shall be inserted: "Private garages located beneath rooms shall have walls, partitions, floors and ceilings separating the garage from the adjacent interior spaces constructed with not less than a one-hour fire resistance rating (see N.J.U.C.C. FTO-13). Attached private garages shall be completely separated from the adjacent interior spaces and the attic area by means of 1/2-inch gypsum board or equivalent applied to the garage side."

**5:23-4.4 Municipal enforcing agencies—organization**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The construction official and the subcode officials shall be available for consultation and discussion during normal business hours at scheduled times to be determined by the construction official. All inspections shall take place between 9:00 A.M. and 5:00 P.M. on business days or while construction is taking place, or in the case of emergency, or with the permission of the owner or his representative.

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

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

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

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

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

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

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

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

Added (a)8.

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

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

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

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

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

**Case Notes**

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

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

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

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

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

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

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

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

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

(b) Forms:

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

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

Form No.	Name
F100	Construction Permit Application
F110	Building Subcode Technical Section
F120	Electrical Subcode Technical Section
F130	Plumbing Subcode Technical Section
F140	Fire Subcode Technical Section
F145	Mechanical Inspector Technical Section
F150	Elevator Subcode Technical Section
F-155	Elevator Subcode Multiple Devices
F-160B	Application for a Variation
F170	Construction Permit, Required Inspection
F180	Construction Permit Notice
F190	Permit Update
F211	Notice of Violation and Order to Terminate
F212	Notice and Order of Penalty

F221	Inspection Sticker Approval for Building
F-222A	Inspection Sticker Approval for Electric
F223	Inspection Sticker Approval for Plumbing
F-224A	Inspection Sticker Approval for Fire Protection
F-225	Inspection Sticker Approval for Elevator
F-230B	Inspection Sticker Approval—Not Approved
F241	Notice of Unsafe Structure
F242	Notice of Imminent Hazard
F-245A	Unsafe Structure Notice
F250	Stop Construction Order
F-255A	Stop Construction Notice
F260	Certificate
F270	Application for Certificate
F310	Elevator Inspection
F-320A	Elevator Notice
F-325	Notice of Elevator Device Sealed Out of Operation
F326	Accident/Incident Report
F-350B	Cut-In Card
F-360	Denial of Permit
F-370	Chimney Certification for Replacement of Fuel Fired Equipment
F380	Hydraulic System Data Plate

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

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

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

5. Printing of forms: The municipal enforcing agency shall arrange for the printing of all forms. Other interested persons may also arrange for the printing of forms or they may purchase and use forms printed by others. The municipal enforcing agency may provide for the inclusion of its name and other appropriate identifying information on the forms it has printed. However, the municipal enforcing agency shall accept forms not having municipal identification and shall, in any such case, insert the name

of the municipality. All required forms shall be exact replicas of the forms required by the Commissioner, conforming in content, size, format and colors, except that all multi-part forms may be printed with an additional copy so long as the additional copy shall be in a color distinct from those specified by the Commissioner. Forms F-110A, F-120A, F-130A and F-140A may have the Subcode Technical Sections printed in any color or colors of ink as desired and Form F-310A (Elevator Inspection) may be printed as a multipart form on separate pages with up to four copies of each page.

(c) Logs:

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

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

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

(d) Monthly reports:

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

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

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

- i. By December 31, 1992, all municipalities issuing 600 or more permits per year as determined by the Department shall submit monthly reports electronically.
- ii. By December 31, 1993, all municipalities issuing fewer than 600, but more than 200, permits per year as determined by the Department shall submit monthly reports electronically.
- iii. All other municipalities shall have the option of submitting monthly reports electronically or by mail. Any municipality which issues more than 200 permits per year as determined by the Department for any

future year shall submit monthly reports electronically beginning during the following year.

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

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

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

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

Report No.	Name
R840	State Training Fee Report

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

Report No.	Name
R-800A	Inspector's Report

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

(h) Duties of construction officials:

1. The construction official shall enforce the regulations and:

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

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

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

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

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

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

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

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

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

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

xi. Record stop work orders, upon notification of the appropriate subcode official;

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

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

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

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

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

xv. Prepare and obtain reports required in the regulations;

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

1. The municipality shall include in any such ordinance all fees pertaining to the operations of the enforcing agency, including those for which the department has not set standards, such as fees for reinstatement of lapsed

permit. All minimum fees shall be stipulated. Fees may be rounded to nearest dollar amount if the municipality's ordinance so provides.

(b) On or before February 10 of each year, in a municipality that budgets according to the calendar year (January 1 to December 31), or on or before August 10 of each year, in a municipality that budgets according to the State fiscal year (July 1 to June 30), the construction official shall, with the advice of the subcode officials and in consultation with the municipal finance officer, prepare and submit to the governing body a report detailing the receipts and expenditures of the enforcing agency and indicating his recommendations for a fee schedule, based on the operating expense of the agency.

1. The report shall be structured in accordance with (c) below and with such guidelines as shall be issued from time-to-time by the Commissioner so as to accurately portray true enforcing agency expenses in general and for structures of different use groups. This report shall serve as the basis for the ordinance to be enacted by the municipality, as it may deem appropriate, establishing the fee schedule.

2. A copy of the construction official's report recommending a fee schedule and setting forth enforcing agency revenues and expenses shall be filed with the Department when prepared and a copy of the ordinance, together with the fee schedule, shall be filed with the Department when enacted or amended.

3. The appropriation and expenditure of construction code fee revenues generated from the fee schedule established pursuant to (b)1 above shall be audited annually by an independent auditor acceptable to the Department and a copy of the auditor's report shall be provided to the Department when it is issued to the municipality. Submission of a copy of the annual municipal audit required to be submitted to the Division of Local Government Services at the time that it is required to be submitted to that Division shall constitute compliance with this requirement provided, however, that the annual municipal audit tests and contains an opinion that all expenditures of construction code fees have been made for purposes herein permitted.

(c) Costs: The fee schedule shall be calculated to reasonably cover the municipal costs of enforcing the regulations.

1. It is the purpose and intent of this subsection to facilitate the accumulation by municipalities of the funds necessary to offset future construction code enforcement expenses, to ensure that construction code revenue is used only for construction code enforcement purposes, and to provide a means of making such revenue readily available for such purposes from year to year.

2. All fees collected pursuant to the fee schedule established in accordance with (b)1 above shall be appropriated in accordance with the requirements of the Uniform Construction Code Act and the Local Budget Law to be applied solely to meet the municipal costs of enforcing the regulations, which costs shall be defined as including only the following:

i. Salaries and employee benefits for licensed code enforcement officials and inspectors and clerical personnel assigned to the enforcing agency, in an amount proportionate to the time spent in performing work for the enforcing agency provided, however, that detailed time records are kept where employees divide their time between Uniform Construction Code and Non-Uniform Construction Code duties;

ii. Cost of motor vehicles in an amount proportionate to their use by or for the enforcing agency. Payments for this purpose may be in the form of mileage reimbursement paid to employees for use of their own motor vehicles, cost of purchase of motor vehicles by the municipality for the exclusive use of the enforcing agency (which cost may not be amortized), depreciation and operating expenses of motor vehicles made available to the enforcing agency by another municipal agency, and cost of rental of motor vehicles for use by the enforcing agency;

iii. Direct costs in support of the agency such as equipment, supplies, furniture, office equipment maintenance, standardized forms, printing, and safety equipment that are supplied directly to the enforcing agency for its sole use;

iv. Professional expenses of enforcing agency personnel that are directly related to the enforcement of the regulations, including publications, membership dues, license fees, and authorized travel to conferences, meetings and seminars;

v. Fees for services performed under contract by private on-site inspection agencies;

vi. Documented charges for legal services required in connection with construction code enforcement litigation;

vii. Fees for the annual audit of the dedicated fund by an independent auditor; and

viii. Subject to the limitations set forth in (c)3 below, indirect, overhead, and other expenses of the municipality in support of the enforcing agency, including:

(1) Legislative and Executive expenses;

(2) Administration, including personnel, payroll, and general training services provided to the agency in common with all other municipal offices;

(3) Central services shared jointly with other municipal offices, such as telephone, reproduction, centralized computer services, etc.;

(4) Insurance except for group insurance premiums included under employer fringe benefits;

(5) General building maintenance expenses;

(6) Finance, including bookkeeping, purchasing, and auditing;

(7) Office space expenses, including rent or interest and debt service on municipal capital facilities; and

(8) Such other expenses as may be properly allocable to construction code enforcement.

3. Indirect and overhead expenses charged to the construction code fee revenues shall not exceed 12 percent of all other costs of the enforcing agency unless the indirect and overhead expenses of the municipality exceed 12 percent of the entire municipal budget, in which case indirect and overhead expense may be charged to construction code fee revenues in proportion to the general municipal overhead and expense ratio. A detailed written justification for any charge for indirect and overhead expenses in excess of 12 percent shall be prepared and made available for inspection both by the Department and by the public.

4. This subsection shall not be construed as precluding the use of money from the general fund of the municipality to pay costs of code enforcement when the construction code fee revenues generated from the fee schedule established pursuant to (b)1 above are insufficient for that purpose or when necessary to compensate the enforcing agency for work done without fee pursuant to statute or ordinance.

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

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

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

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

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

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

Added to (b)2 that copy of report . . . must be filed every two years. Emergency amendment, R.1989 d.405, effective July 3, 1989 (expires September 1, 1989).

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

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

In (a)1: added language regarding rounding of dollar amounts in fees.

Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989.

See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).

Provisions of emergency amendment R.1989 d.405 readopted without change.

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

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

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

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

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

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

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

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

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

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

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

#### Case Notes

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

#### 5:23-4.18 Standards for municipal fees

(a) General:

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

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

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

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

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

(b) Plan review fees:

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

2. N.J.A.C. 5:23-2.26 requires the designation of 20 percent of the construction permit fee as the plan review fee for the purpose of providing for plan review by the department or waiver of plan review.

3. If a municipality has not established a plan review fee by ordinance, 20 percent of the construction permit fee shall be designated as the plan review fee for prototype plans, in accordance with N.J.A.C. 5:23-2.26.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Certificate fees:

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Whenever a permit is received based on an approved prototype plan, the permit fee shall be reduced by the amount of the plan review fee.

(j) Rules concerning the appeal of fees are:

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

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

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

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

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

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

(k) Fees to be charged by municipalities where private on-site inspection and plan review agencies carry out sub-code official responsibilities shall not exceed the amounts to be paid to those private agencies for those services, pursuant to the contract between the private agency and the municipality, by more than 15 percent.

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

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

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

Section substantially amended.

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

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

Old (a)4 deleted and new text substituted.

Amended by R.1986 d.213, effective June 16, 1986.

See: 17 N.J.R. 2490(a), 18 N.J.R. 1266(a).

Added text to (a)4 "annual permit-fees shall be non-refundable" and (a)5 "Prior to the issuance of the annual permit" and "Bureau of Construction Code Enforcement."

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

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

Minor technical changes made throughout section.

Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989 (operative January 1, 1990 for 4.18(c)-(e)).

See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).

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

Added sections (c)4; (k)iv and v.

Deleted sections (e), "Removal permit fees"; (l)ii, "Fire subcode"; and (l)4, "Elevator fees . . .", with renumbering and recodification.

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

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

Uniform flat fees for elevators to be set forth in ordinance and schedule.

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

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

Form numbers changed in (a)5.

Amended by R.1992 d.313, effective August 3, 1992.

See: 24 N.J.R. 1846(a), 24 N.J.R. 2712(b).

No inspection fee for gas service entrances.

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

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

Added (c)5.

Amended by R.1993 d.353, effective July 19, 1993.

See: 25 N.J.R. 1629(a), 25 N.J.R. 3147(a).

Amended by R.1993 d.665, effective December 20, 1993.

See: 25 N.J.R. 4548(a), 25 N.J.R. 5928(a).

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

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

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

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

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

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

Amended by R.1995 d.475, effective September 5, 1995 (operative January 1, 1996).

See: 27 N.J.R. 1716(a), 27 N.J.R. 3325(a).

In (a)(5) added individuals to be trained and registered.

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

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

Rewrote (f) and (g).

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

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

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

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

Amended by R.1997 d.418, effective October 6, 1997.

See: 29 N.J.R. 3402(a), 29 N.J.R. 4286(a).

In (c)5, inserted reference plumbing inspector.

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

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

Rewrote (c)3; and added (l).

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

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

Rewrote (f).

### Case Notes

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

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

### 5:23-4.19 New Jersey State permit surcharge fees

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

(b) Amount: This fee shall be in the amount of \$0.00265 per cubic foot volume of new buildings and additions. Volume shall be computed in accordance with N.J.A.C. 5:23-2.28. The fee for all other construction shall be \$1.35 per \$1,000 of value of construction.

1. No fee shall be collected for preengineered systems of commercial farm buildings.

2. No fee shall be collected for permits to perform asbestos abatement or lead abatement.

3. No fee shall be collected for permits for the construction or rehabilitation of residential units that are to be legally restricted to occupancy by households of low or moderate income, as defined in N.J.A.C. 5:43-1.5.

4. No fee shall be collected for demolition of buildings or structures.

5. No fee shall be collected for work consequential to a natural disaster when the local code enforcement agency is waiving its fee.

### (c) Remitting and reporting:

1. The municipality shall remit fees to the Bureau on a quarterly basis, in conjunction with report number R-840B State Training Fee Report in accordance with N.J.A.C. 5:23-4.5(e). Fees remitted shall be for the quarter. Checks shall be made payable to "Treasurer, State of New Jersey."

Amended by R.1982 d.220, effective July 19, 1982.

See: 14 N.J.R. 456(a), 14 N.J.R. 755(b).

In (c)3i deleted "state fiscal" and "third and fourth quarter" and added "quarters of the calendar" year. In (c)3ii deleted reporting on an annual basis and added quarterly report. Also added iii and (1). Prior to recodification of N.J.A.C. 5:23, this section was codified at 5:23-4.8(c).

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

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

In (c), deleted old 1.-3. and added new 1.

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

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

In (b): changed "will" to "shall" and changed "\$0.0006" to "\$0.0014" per cubic foot.

Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989.

See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).

Provisions of emergency amendment R.1989 d.405 readopted without change.

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

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

At (c)1, monthly reporting and fee submissions changed to quarterly.

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

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

In (b) increased fee amount from \$0.0014 to \$0.0016 per cubic foot.

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

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

Fees to be paid to Regulatory Affairs.

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

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

Fee amount amended at (b).

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).

Administrative Correction.

See: 28 N.J.R. 1981(b).

Amended by R.1997 d.303, effective July 21, 1997.

See: 29 N.J.R. 1437(b), 29 N.J.R. 3247(a).

Subdivided (b); in (b), deleted reference to preengineered systems of commercial farm buildings; and added (b)2.

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

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

In (a), substituted "Division of Codes and Standards" for "Bureau of Regulatory Affairs"; in (b), added 3 and 4.

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

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

In (b), added 5.

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

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

In (b), substituted "\$0.0019" for "\$0.0016" and "\$0.96" for "\$0.80" in the introductory paragraph.

Administrative correction.

See: 35 N.J.R. 2208(b).

Amended by R.2003 d.249, effective June 16, 2003.

See: 35 N.J.R. 1361(a), 35 N.J.R. 2639(a).

In (b), substituted "\$ 0.00265" for "\$ 0.0019" and "\$ 1.35" for "\$ 0.96".

## 5:23-4.20 Departmental fees

### (a) General:

1. The fee for plan review, computed as a percentage of the fee for a construction permit, shall be paid at the time of application for a permit. The amount of this fee shall then be deducted from the amount of the fee due for a construction permit, when the permit is issued. Plan review fees are not refundable.

2. The fee to be charged for a construction permit will be the sum of the basic construction fee plus all applicable special fees, such as elevator or sign fees. This fee shall be paid before a permit is issued.

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

4. Where the Department, pursuant to N.J.A.C. 5:23-4.24, is designated as the plan review agency, or when the Department has been requested to provide plan review services by a municipality pursuant to N.J.A.C. 5:23-4.24, or when the Department is designated as the local enforcing agency pursuant to N.J.A.C. 5:23-4.3, the following schedule of fees shall pertain.

5. The construction or rehabilitation of residential units that are to be legally restricted to occupancy by households of low or moderate income shall be exempted from the fees set forth in (b) and (c) below and otherwise payable to the Department.

6. No fee shall be collected for work consequential to a natural disaster when the Department is the local enforcing agency.

### (b) Departmental plan review fee:

1. The plan review fee for new construction shall be based upon the volume of the structure.

i. For buildings or structures in Use Groups A, F or S, the plan review fee shall be \$.010 per cubic foot;

ii. For health care facilities in Use Groups B or I, the plan review fee shall be \$.022 per cubic foot; and

iii. For all other buildings or structures, the plan review fee shall be \$.016 per cubic foot.

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

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

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

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

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

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

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

1. The fee for plan review shall be 20 percent of the amount to be charged for a construction permit, except that the elevator device plan review fee shall be as in (c)6 and 7 below.

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

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

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

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

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

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

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

(6) The fee for roofing and siding work completed on structure in use group R-3 and R-4 shall be \$46.00.

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

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

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

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

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

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

(2) For each motor or electrical device rated from one hp or one kw to 10 hp or 10 kw; for each transformer or generator rated from one kw or one kva to 10 kw or 10 kva; for each replacement of wiring involving one branch circuit or part thereof; for each storable pool or hydro massage bath tub; for each under-water lighting fixture; for household electric cooking equipment rated up to 16 kw; for each fire, security or burglar alarm control unit; for each receptacle rated from 30 amperes to 50 amperes; for each light-standard greater than eight feet in height including luminaries; and for each communications closet, the fee shall be \$10.00.

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

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

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

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

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

(8) For installations consisting of multimeter stacks, the fee shall be based on the ampere rating of the main bus and not upon the number of meters or rating of disconnects on the meter stack. Individual loadside panel boards shall be charged in accordance with (c)2iii(3), (4) or (5) above. There shall be no additional fee charged for the concurrent installation of individual feeder conductors.

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

(10) For electrical work requiring replacement of service entrance conductors or feeder conductors only, the fee shall be in accordance with (c)2iii(2) through (5) above based on the designated ampere rating of the overcurrent device of the service or feeder.

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

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

iv. For fire protection and hazardous equipment, sprinklers, standpipes, detectors (smoke and heat), pre-engineered suppression systems, gas and oil fired appliances not connected to the plumbing system, kitchen exhaust systems, incinerators and crematoriums, the fee shall be as follows:

(1) The fee for 20 or fewer heads shall be \$65.00; for 21 to and including 100 heads, the fee shall be \$120.00; for 101 to and including 200 heads, the fee shall be \$229.00; for 201 to and including 400 heads, the fee shall be \$594.00; for 401 to and including 1,000 heads, the fee shall be \$822.00; for over 1,000 heads, the fee shall be \$1,050.

(2) The fee for one to 12 detectors shall be \$36.00; for each 25 detectors in addition to this, the fee shall be in the amount of \$12.00.

(3) The fee for each standpipe shall be \$229.00.

(4) The fee for each independent pre-engineered system shall be \$92.00.

(5) The fee for each gas or oil fired appliance that is not connected to the plumbing system shall be \$46.00.

(6) The fee for each kitchen exhaust system shall be \$46.00.

(7) The fee for each incinerator shall be \$365.00.

(8) The fee for each crematorium shall be \$365.00.

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

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

i. The fee for a demolition or removal permit shall be \$65.00 for a structure of less than 5,000 square feet in area and less than 30 feet in height, for one or two-family residences (use group R-3 or R-4 of the building code), and structures on farms, including commercial farm buildings under N.J.A.C. 5:23-3.2(d), and \$120.00 for all other use groups.

ii. The fee for a permit to construct a sign shall be in the amount of \$1.20 per square foot surface area of the sign, computed on one side only for double-faced signs. The minimum fee shall be \$46.00.

iii. The fee for a certificate of occupancy shall be \$28.00.

iv. The fee for a certificate of occupancy granted pursuant to a change of use group shall be \$120.00.

v. The fee for a certificate of continued occupancy issued under N.J.A.C. 5:23-2.23(c) shall be \$120.00.

vi. The fee for the first issuance and the renewal of a temporary certificate of occupancy shall be \$28.00.

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

(2) Exception: Where a written request for a temporary certificate of occupancy is made for reasons other than uncompleted work covered by the permit (such as uncompleted work required by prior approvals from state or municipal agencies), no renewal fee shall be charged.

vii. The fee for plan review of a building for compliance under the alternate systems and non-depletable

energy source provisions of the energy subcode shall be \$274.00 for one and two-family homes (use group R-3 of the building subcode), and for light commercial structures having the indoor temperature controlled from a single point, and \$1,369.00 for all other structures.

viii. The fee for an application for a variation in accordance with N.J.A.C. 5:23-2.10 shall be \$594.00 for class I structures and \$120.00 for class II and class III structures. The fee for resubmission of an application for a variation shall be \$229.00 for class I structures and \$65.00 for class II and class III structures.

ix. The fee for a permit for lead hazard abatement work shall be \$140.00. The fee for a lead abatement clearance certificate shall be \$28.00.

4. For cross connections and backflow preventers that are subject to testing, requiring reinspection annually, the fee shall be \$46.00 for each device when they are tested.

5. Annual permit requirements are as follows:

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

ii. Fees for annual permits shall be as follows:

(1) One to 25 workers (including foremen) \$667.00/worker; each additional worker over 25, \$232.00/worker.

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

6. The fee for plan review for elevator devices in structures in Use Groups R-3, R-4 and for elevator devices wholly within dwelling units in R-2 structures shall be \$50.00 for each device.

7. The fee for plan review for elevator devices in structures in Use Groups other than R-3, R-4 and devices in R-2s exempted by (c)6 above shall be \$260.00 for each device.

8. The fees for elevator device inspections and tests shall be as set forth in N.J.A.C. 5:23-12.

9. The fee for a mechanical inspection in a Use Group R-3 or R-4 structure by a mechanical inspector shall be \$43.00 for the first device and \$10.00 for each additional device. No separate fee shall be charged for gas, fuel oil, or water piping connections associated with the mechanical equipment inspected.

10. The fee for the annual electrical inspection of swimming pools, spas or hot tubs shall be \$36.00.

(d) The fee for an application by a manufacturer, distributor, owner or any other person for approval of any fixture, appurtenance, material or method, pursuant to N.J.A.C. 5:23-3.8, shall be an amount equal to the cost incurred, or to be incurred, by the Department for such tests as the Department may require, plus an administrative surcharge in the amount of 10 percent of such cost.

Amended by R.1982 d.402, effective November 15, 1982.  
See: 14 N.J.R. 943(a), 14 N.J.R. 1300(b).

Text substantially amended. Department fees increased approximately 50 percent.

Amended by R.1982 d.463, effective January 3, 1983.  
See: 14 N.J.R. 1129(a), 14 N.J.R. 1449(a).

Added (c)10, periodic reinspection fees.  
Amended by R.1983 d.548, effective December 5, 1983.  
See: 15 N.J.R. 1406(a), 15 N.J.R. 2033(b).

In (c)2., added "mechanical systems and equipment" and "the number of sprinklers and standpipes". Also added iv.-v.  
Amended by R.1983 d.641, effective January 17, 1984.  
See: 15 N.J.R. 1911(a), 16 N.J.R. 129(b).

Substantial changes in section.  
Correction: 16 N.J.R. 2267(a).  
Amended by R.1985 d.351, effective July 15, 1985.  
See: 17 N.J.R. 1029(a), 17 N.J.R. 1756(b).

(c)11 and 12 added.  
Amended by R.1986 d.213, effective June 16, 1986.  
See: 17 N.J.R. 2490(a), 18 N.J.R. 1266(a).

Added text to (a)12 "Prior to the issuance of the annual permit" and "Bureau of Construction Code Enforcement".  
Amended by R.1987 d.490, effective November 16, 1987.  
See: 19 N.J.R. 1684(a), 19 N.J.R. 2134(a).

Fees raised.  
Emergency amendment, R.1989 d.405, effective July 3, 1989 (expires September 1, 1989).  
See: 21 N.J.R. 2127(b).

Amended extensively based on an overall increase of approximately 30 percent in fees for code enforcement and planned real estate development, and an increase in the State training fee per cubic foot volume of new construction. Changed fee amounts throughout.  
Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989.

See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).  
Provisions of emergency amendment R.1989 d.405 readopted with change.

Restructured section.  
In (a): added new 5.  
In (c): deleted (c)2i(5) regarding minor construction work fees.  
In (c)2ii(2): added text to specify equipment fees and deleted (c)2ii(3) regarding fixtures.  
In (c)2iii: deleted (3)-(5) and added new (3)-(6).  
Deleted (c)3-6 regarding fees, and added (c)2iv, with new (3)-(7) on new fee structure.

Added (c)3 and 4 and renumbered (c)7-12 as (c)3-6ii.  
Amended by R.1990 d.61, effective February 5, 1990.  
See: 21 N.J.R. 3346(b), 22 N.J.R. 351(b).

Technical change of Form number in (c)6ii.

Amended by R.1991 d.181, effective April 1, 1991.  
See: 23 N.J.R. 257(b), 23 N.J.R. 1029(a).

In (b), plan review surcharge increased from 30 to 40 percent; plan review only increased from 20 to 25 percent; minimum fee increased from \$33.00 to \$43.00.

In (c)2, basic construction fee permit increased from \$33.00 to \$43.00.

In (c)2i(1), new construction fee increased from \$0.019 to \$0.025; for use groups A-1, A-2, A-3, A-4, F-1, F-2, S-1, S-2 increased from \$0.011 to \$0.014; farm structures increased from \$0.0005 to \$0.0007; maximum farm structures fee increased from \$815.00 to \$1,060.

In (c)2i(2), fees increased from \$17.00 to \$22.00; from \$13.00 to \$17.00 above \$50,000; from \$11.00 to \$14.00 above \$100,000.

In (c)2ii(1), fee increased from \$7.00 to \$9.00 per fixture.  
In (c)2ii(2), fee increased from \$46.00 to \$60.00 per special device.

In (c)2iii(1), fee increased from \$25.00 to \$33.00 for one to 50 receptacles or fixtures; each 25 additional increased from \$4.00 to \$5.00.

In (c)2iii(2), fee increased from \$7.00 to \$9.00.  
In (c)2iii(3), fee increased from \$33.00 to \$43.00.  
In (c)2iii(4), fee increased from \$65.00 to \$85.00.  
In (c)2iii(5), fee increased from \$325.00 to \$423.00.

In (c)2iv(1), fee increased from \$46.00 to \$60.00 for 20 or fewer heads; from \$85.00 to \$111.00 for 21 to 100 heads; from \$163.00 to \$212.00 for 101 to 200 heads; from \$423.00 to \$550.00 for 201 to 400 heads; from \$585.00 to \$761.00 for 401 to 1,000 heads; from \$748.00 to \$972.00 for over 1,000 heads.

In (c)2iv(2), fee increased from \$163.00 to \$212.00.  
In (c)2iv(3), fee increased from \$65.00 to \$85.00.  
In (c)2iv(4) and (5), fee increased from \$33.00 to \$43.00.  
In (c)2iv(6) and (7), fee increased from \$260.00 to \$338.00.  
In (c)4i, demolition and removal permit increased from \$46.00 to \$60.00 and for form structure removal from \$85.00 to \$111.00.

In (c)4ii, fee for permit to construct a sign increased from \$0.85 to \$1.11 per square foot; minimum fee increased from \$33.00 to \$43.00.  
In (c)4iii, certificate of occupancy fee increased from \$85.00 to \$111.00; minimum fee for form structures increased from \$46.00 to \$60.00.

In (c)4iv, fee increased from \$124.00 to \$161.00.  
In (c)4v, fee increased from \$85.00 to \$111.00.  
In (c)4vii, fee increased from \$20.00 to \$26.00.  
In (c)4viii, fees increased from \$195.00 to \$254.00 for one and two-family homes and from \$975.00 to \$41,268 for light commercial structures.

In (c)4ix, fees increased from \$423.00 to \$550.00 for class I structures and from \$85.00 to \$111.00 for class II and III structures. Resubmission of applications increased from \$163.00 to \$212.00 for class I structures and from \$46.00 to \$60.00 for class II and III structures.

In (c)5iii, fees increased from \$33.00 to \$43.00 for thrice annual testing and from \$85.00 to \$111.00 for annual testing.  
In (c)6ii(1), fees increased from \$475.00 to \$618.00 for one to 25 workers and from \$165.00 to \$215.00 per worker over 25.

In (c)6ii(2), fee increased from \$100.00 to \$130.00.  
Amended by R.1991 d.325, effective July 1, 1991.  
See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

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

Elevators wholly within R-2 residences exempt.  
Notice of correction, effective May 18, 1992.  
See: 24 N.J.R. 1879(b).

Amended by R.1992 d.230, effective June 1, 1992.  
See: 24 N.J.R. 168(a), 24 N.J.R. 2052(a).

Form numbers changed in (c).  
Amended by R.1992 d.313, effective August 3, 1992.  
See: 24 N.J.R. 1846(a), 24 N.J.R. 2712(b).

No inspection fee for gas service entrances.  
Amended by R.1992 d.390, effective October 5, 1992.  
See: 24 N.J.R. 1844(a), 24 N.J.R. 3515(b).

Fee for indirect apportionment systems set at (d).  
Amended by R.1992 d.392, effective October 5, 1992.  
See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).

Fees increased throughout.  
Amended by R.1993 d.187, effective May 3, 1993.

See: 25 N.J.R. 624(a), 25 N.J.R. 1875(a).  
 Added (c)9.  
 Amended by R.1994 d.28, effective January 18, 1994.  
 See: 25 N.J.R. 4546(b), 26 N.J.R. 352(a).  
 Administrative Correction.  
 See: 26 N.J.R. 796(a).  
 Amended by R.1994 d.96, effective February 22, 1994.  
 See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).  
 Amended by R.1994 d.323, effective July 5, 1994 (operative January 1, 1995).  
 See: 25 N.J.R. 2162(a), 26 N.J.R. 2780(a).  
 Amended by R.1994 d.434, effective September 6, 1994 (operative January 1, 1995).  
 See: 26 N.J.R. 1911(a), 26 N.J.R. 3706(b).  
 Amended by R.1995 d.381, effective July 17, 1995.  
 See: 27 N.J.R. 970(a), 27 N.J.R. 2715(a).  
 Amended by R.1995 d.475, effective September 5, 1995 (operative January 1, 1996).  
 See: 27 N.J.R. 1716(a), 27 N.J.R. 3325(a).  
 In (c)5ii(2) added individuals to be trained and registered.  
 Amended by R.1995 d.476, effective September 5, 1995 (operative January 1, 1996).  
 See: 27 N.J.R. 1846(a), 27 N.J.R. 3325(b).  
 Eliminated minimum fee in (b) and rewrote (c).  
 Amended by R.1995 d.603, effective November 20, 1995 (operative March 20, 1996).  
 See: 27 N.J.R. 2655(a), 27 N.J.R. 4699(a).  
 Amended by R.1995 d.647, effective December 18, 1995 (operative March 18, 1996).  
 See: 27 N.J.R. 3517(a), 27 N.J.R. 5012(a).  
 Amended by R.1997 d.409, effective October 6, 1997.  
 See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).  
 Amended by R.1998 d.35, effective January 5, 1998.  
 See: 29 N.J.R. 4215(a), 30 N.J.R. 194(a).  
 In (c)2.i.(1), added A-5 structures to the fee schedule.  
 Amended by R.2000 d.47, effective February 7, 2000.  
 See: 31 N.J.R. 2314(a), 32 N.J.R. 443(a).  
 Rewrote (c).  
 Amended by R.2000 d.166, effective April 17, 2000.  
 See: 31 N.J.R. 4151(a), 32 N.J.R. 1376(a).  
 In (c)3i, inserted a reference to group R-4.  
 Amended by R.2001 d.194, effective June 18, 2001.  
 See: 33 N.J.R. 1041(a), 33 N.J.R. 2097(a).

In (a)5, substituted "The construction or rehabilitation of" for "Newly constructed".  
 Amended by R.2001 d.347, effective October 1, 2001.  
 See: 32 N.J.R. 3218(a), 33 N.J.R. 3430(a).  
 In (c)3, inserted new vi, and recodified former vi through viii as vii through ix.  
 Amended by R.2002 d.6, effective January 7, 2002.  
 See: 33 N.J.R. 2570(a), 33 N.J.R. 3883(a), 34 N.J.R. 268(a).  
 In (c)5ii(2), substituted "Education Unit" for "Training Section".  
 Amended by R.2002 d.42, effective February 4, 2002.  
 See: 33 N.J.R. 3713(a), 34 N.J.R. 732(a).  
 In (a), added 6.  
 Amended by R.2002 d.260, effective August 5, 2002.  
 See: 34 N.J.R. 1572(a), 34 N.J.R. 2781(c).  
 Rewrote (b) and (c)1.

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

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

(b) Reauthorization fee: Any onsite inspection agency submitting an application to the Department under N.J.A.C. 5:23-4.12 for reapproval as an inspection agency shall pay a fee of \$1,400 for each subcode for which authorization is sought plus an amount equal to five percent of the gross revenue earned from State Uniform Construction Code enforcement activities during the previous 12-month period. This fee shall be paid to the Department in 12 equal installments, beginning with the month immediately following the end of the 12 month period from which the fee is calculated. Payment shall be made prior to the last business day of each month.

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

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

Section substantially amended.

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

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

(b)1: substantially amended.

Public Notice: Notice of Petition to amend section.

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

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

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

Text on inplant inspection agencies deleted.

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

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

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

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

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

Fees increased.

### 5:23-4.22 (Reserved)

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

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

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

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

Substantially amended.

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

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

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

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

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

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

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

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

Fees increased.

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

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

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

### 5:23-4.23 Payment of fees

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

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

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

(b) Plan review:

1. Plan review shall be required for all uses except as may be otherwise provided in the regulations whenever the department acts as an enforcing agency in any municipality.

2. Special or hazardous uses and types of construction:

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

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

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

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

v. Installations of elevators, escalators, and moving walks, except devices in structures of Use Groups R-3, R-4 and those devices in R-2 structures that are otherwise exempted in N.J.A.C. 5:23-3.11(b), shall require Departmental plan review and release.

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

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

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

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

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

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

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

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

(a)iii added.

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

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

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

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

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

Elevators wholly within R-2 residences exempt.

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

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

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

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

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

Subsections (b) and (r) recodified as 4.26 through 4.38.  
Repealed by R.1990 d.313, effective June 18, 1990.  
See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

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

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

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

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

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

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

Recodified from 4.25(b) and substantially amended.

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

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

Text at (a), (a)1, (a)2, (b) and (c) deleted; stylistic revisions.

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

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

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

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

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

Recodified from 4.25(c) and substantially amended.

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

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

#### 5:23-4.28 (Reserved)

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

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

Recodified from 4.25(d) and substantially amended.

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

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

#### 5:23-4.29 (Reserved)

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

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

Recodified from 4.25(e) and substantially amended.

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

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

Text at (a)1, 2, 3, 5, (b)1, and (c) through (g) deleted; references to premanufactured system deleted and references to manufactured home add-on units and building elements added.

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

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

Section was "Approval of premanufactured systems documentation".

#### 5:23-4.30 (Reserved)

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

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

Recodified from 4.25(h)-(j) and substantially amended.

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

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

#### 5:23-4.31 (Reserved)

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

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

Recodified from 4.25(k) and substantially amended.

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

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

Text at (a) through (e) and (f)1, 2 and 4 deleted.

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

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

Section was "Insignia of certification for manufactured home add-on unit and building element".

#### 5:23-4.32 (Reserved)

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

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

Recodified from 4.25(l) and substantially amended.

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

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

#### 5:23-4.33 (Reserved)

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

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

Recodified from 4.25(m) and substantially amended.

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

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

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 Use Group R-3 or R-4 structures. 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;

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

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

Amended by R.1977 d.435, effective December 15, 1977.

See: 9 N.J.R. 456(c), 9 N.J.R. 558(b).

Amended by R.1981 d.462, effective December 7, 1981.

See: 13 N.J.R. 390(a), 13 N.J.R. 885(d).

(b): Renumbering; (b)4 and 4i added.

Amended by R.1991 d.308, effective June 17, 1991.

See: 23 N.J.R. 1085(a), 23 N.J.R. 1923(a).

RCS license to be phased out, effective July 31, 1993.

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

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

Elevator inspector classification and authority added at (b).

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

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

Text deleted at (a); (b) recodified.

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

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

Added (b)lvii.

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

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

Added (a)3.

#### 5:23-5.4 Licenses required

(a) No person shall be appointed to, or shall hold, the position of construction official or subcode official unless that person has received a license required for that position pursuant to these regulations.

(b) No person shall be appointed to, or shall hold, a technical inspector position in an enforcing agency for which a license requirement has been established by this chapter unless that person has received the license required by these rules for that position.

2. It shall be a violation of these rules for any person to hold or perform the duties of an office for which a license is required herein, or for any person to represent himself or herself as qualified for such position, or to use any title or otherwise represent himself or herself as licensed or authorized to act under the code if the person does not possess that license. In addition to any other remedy available under law, such action shall be deemed a violation of this section and subject to a penalty of not more than \$500.00 for each offense.

3. It shall be a violation of these rules in the case of construction and subcode officials and technical inspectors for any enforcing agency, including private on-site inspection and plan review agencies, to offer employment to or to retain for employment any person who is not licensed in accordance with these rules if such person has not been previously and continuously employed by such agency. Further, it shall be a violation of these rules for an enforcing agency to continue an individual in employment in a position for which a license is required pursuant to these rules, or to hire an individual for such a position, if such person is not licensed in accordance with this subchapter. Violation of this section shall be deemed a failure to perform within the meaning of N.J.A.C. 5:23-4.3(f), and the Department may exercise the remedies provided therein.

4. It shall be a violation of the State Uniform Construction Code Act for any agency of the State of New Jersey, which is charged with enforcing agency responsibilities pursuant to the act or these rules, to fail to comply with paragraphs 1, 2 and 3 of this subsection.

Amended by R.1984 d.494, effective November 5, 1984.

See: 16 N.J.R. 1643(a), 16 N.J.R. 3007(a).

(d) substantially amended.

Amended by R.1985 d.85, effective March 4, 1985.

See: 16 N.J.R. 3372(a), 17 N.J.R. 579(a).

(d) amended.

Amended by R.1985 d.231, effective May 20, 1985.

See: 17 N.J.R. 341(a), 17 N.J.R. 1258(a).

(d)li added.

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

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

Subsection (d) substantially amended.

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

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

(d)3 substantially amended.

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

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

Substantially amended.

Administrative Corrections to (c), (d)2 and (d)2ii.

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

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

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

Trainee registration required; processing fee raised to \$20.00; "directly" broadened to "significant".

Amended by R.1992 d.292, effective July 20, 1992.

See: 24 N.J.R. 1669(b), 24 N.J.R. 2557(a).

Provision to license interns added.

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

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

Added subsection (g).

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

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

Amended internal citations throughout; in (a) and (b), deleted October 1, 1978 trigger date; in (f)3, inserted " or to hire an individual for such a position,"; and deleted (g), relating to interim rules.

### 5:23-5.5 General license requirements

(a) A candidate for a license of any type issued pursuant to this subchapter shall submit an application to the Licensing Unit, Bureau of Code Services, accompanied by the required nonrefundable application fee established in N.J.A.C. 5:23-5.22. The application shall include such information and documentation as the Commissioner may require pursuant to this subchapter.

(b) After receipt of the required nonrefundable fee, the Department shall determine, by examination of the application and review of supporting documents, including substantial evidence of acceptable experience, successful test results, training and/or education submitted, whether an applicant is qualified for a license of the type and specialty for which the application has been made. If the application is satisfactory, the Commissioner shall issue a license to the applicant. This license will show that the person has met the established requirements and is eligible to be employed in this State in accordance with the provisions of this chapter.

1. The Commissioner may deny or refuse to issue a license to an applicant if the application is incomplete or upon proof that there has been any act or omission which would constitute grounds for revocation under this subchapter.

2. Upon receipt of an incomplete application, the non-refundable application fee shall be collected and a letter of acknowledgment forwarded to the applicant setting forth the manner in which the application is incomplete.

3. The applicant shall submit a complete application within 18 months of receipt of the letter of acknowledgment. If a complete application is not submitted within the 18 month period, the application shall be deemed abandoned, no further action shall be taken on it by the Department and a new application and non-refundable fee shall be required if the applicant desires to reapply.

4. Only test results for test modules passed within three years prior to, or at the time of, application shall be accepted toward fulfilling the requirement for the license sought.

5. Only those approved courses completed within a five-year period immediately preceding the time of application for a license shall be considered acceptable toward fulfilling the requirements for the technical or administrative license sought.

i. Persons who have completed an approved course shall be eligible for tuition reimbursement when funds for such reimbursement are available; provided, however, that persons who repeat a course for any reason,

and have previously received tuition reimbursement for the course, shall not again be eligible for reimbursement for that course.

6. No credit shall be given by the Department for any experience not involving the construction or alteration of buildings, or its equivalent, as determined by the Department.

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

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

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

(d) Special provisions:

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

2. An applicant licensed as an inspector may apply for a mechanical inspector's license to perform mechanical inspections of Use Group R-3 or R-4 structures.

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)1iii 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)1i: 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.

### 5:23-5.6 Construction official requirements

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

1. Possession of the qualifications established for at least one of the following subcode official licenses: building, fire protection, electrical, plumbing or elevator; provided, however, that any person qualified as a fire protection subcode official must also have experience for the applicable period of time specified by N.J.S.A. 52:27D-126b; and

## Case Notes

Regulations valid and applicable to plumbing inspectors. New Jersey State Plumbing Inspectors Assn., Inc. v. Sheehan, 163 N.J.Super. 398, 394 A.2d 1244 (App.Div.1978) certification denied 79 N.J. 484, 401 A.2d 239 (1979).

**5:23-5.17 Plumbing inspector I.C.S. requirements**

(a) A candidate for a license as a plumbing inspector I.C.S. shall meet one of the following educational and/or experience requirements:

1. Five years of experience consisting of one of the following, or a combination thereof:
  - i. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the plumbing subcode; or
  - ii. Experience as a plumbing inspector; or
  - iii. Experience as a construction contractor in a field of construction currently regulated by the plumbing subcode; or
2. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering, or in architectural or engineering technology, or in any other major area of study significantly related to building construction, and one year of subsequent experience in construction, design, inspection or supervision in a field of construction currently regulated by the plumbing subcode; or
3. Possession of an associate's degree in code enforcement from an accredited institution of higher education, and two years of subsequent experience in the construction, design, inspection or supervision of construction work regulated by the plumbing subcode; or
4. Possession of a current New Jersey registration/license as an architect or engineer.

(b) A candidate for a license as a plumbing inspector I.C.S. shall also meet the following requirements:

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.20 for plumbing inspector I.C.S.; provided, however, that persons having a bachelor's degree in architecture or engineering, or in architectural or engineering technology, or in any other major area of study significantly related to building construction, or who possess a current New Jersey registration/license as an architect or engineer, shall be exempted from the educational program requirements for plumbing inspector I.C.S.
2. Successful completion of an examination as required by N.J.A.C. 5:23-5.23.

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

Was 5:23-5.5(b)6ii.

Amended by R.1987 d.509, effective December 6, 1987.  
See: 19 N.J.R. 1264(a), 19 N.J.R. 2270(a).

Substantially amended.

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

Experience subsequent to study; architects and engineers added; "significantly" replaced "directly".

**5:23-5.18 Inplant inspector requirements**

(a) A candidate for a license as an inplant inspector shall meet one of the following educational and/or experience requirements:

1. Five years of experience consisting of one of the following, or a combination thereof:
  - i. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building, electrical, fire protection or plumbing subcode, or a combination thereof; or
  - ii. Experience as a building, electrical, fire protection or plumbing inspector, or a combination thereof; or
  - iii. Experience as a construction contractor currently regulated by any of the four above enumerated subcodes, or a combination thereof; or
2. Graduation from an accredited institution of higher education with a bachelor's degree in fire science or fire science technology, or in architecture or engineering, or in architectural or engineering technology, or in any other major area of study significantly related to building construction or fire science, and three years of subsequent experience in any one or more of the fields regulated by the above enumerated subcodes; or
3. Possession of a current New Jersey registration/license as an architect or engineer.

(b) A candidate for a license as an inplant inspector shall have successfully completed examinations as required by N.J.A.C. 5:23-5.23.

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

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

Was 5:23-5.5(b)7.

Correction: (a)2 was inadvertently omitted from Section.

See: 18 N.J.R. 1963(c).

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

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

Substantially amended.

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

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

Fire science added.

**5:23-5.19 Elevator inspector H.H.S. requirements**

(a) A candidate for a license as an elevator inspector of high-rise and hazardous structures (H.H.S.) shall meet the following educational and/or experience requirements:

1. Seven years of experience consisting of one of the following, or combination thereof:

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; or

2. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering, or in architectural or engineering technology, or in any other major area of study significantly related to building construction, and two years of subsequent experience in construction, design, inspection or supervision in a field of construction regulated by the elevator subcode; or

3. Possession of an associate's degree in code enforcement from an accredited institution of higher education and three years of subsequent experience in the construction, design, inspection, or supervision of construction work currently regulated by the elevator subcode; or

4. Possession of a current New Jersey registration/license as an architect or engineer.

(b) A candidate for licensure as an elevator inspector H.H.S. shall also meet the following requirements:

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.20 for elevator inspector H.H.S.; provided, however, that persons having a bachelor's degree in architecture or engineering, or in architectural or engineering technology, or in any other major area of study significantly related to building construction, or who possess a current New Jersey registration/license as an architect or engineer, shall be exempted from the educational program requirements for elevator inspector H.H.S. Additionally, any individual who has successfully completed an educational program determined by the Department as equivalent to that established in N.J.A.C. 5:23-5.20 shall also be exempted from the educational program requirements for elevator inspector H.H.S., provided application for licensure is received by the Department on or before June 30, 1992.

2. Successful completion of an examination as required by N.J.A.C. 5:23-5.23.

(c) No person shall work either as an elevator inspector or as a subcode official who does not hold an Elevator Inspector HHS License or an Elevator Inspector Interim License.

1. For an Elevator Inspector Interim License, an applicant shall document that he or she was employed as an elevator inspector on June 30, 1992, provide documentation of any additional relevant experience, and satisfy the educational and examination requirements set forth in (b)1 and 2 above. This license shall be renewable, subject to the requirements of N.J.A.C. 5:23-5.21.

i. An Elevator Inspector Interim License with Subcode Official endorsement shall be issued to any applicant for such endorsement who has satisfied the requirements for the Elevator Inspector Interim License; provided that, if the applicant has not successfully completed an approved subcode official educational program, as set forth in N.J.A.C. 5:23-5.20, the endorsement shall be issued on a provisional basis, pursuant to N.J.A.C. 5:23-5.7(a)5, and shall be valid for a period of 24 months only.

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

Was 5:23-5.5(b)8.

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

Elevator inspector requirements specified.

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

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

"Significantly" replaced "directly".

Amended by R.1992 d.394, effective October 5, 1992.

See: 24 N.J.R. 2662(a), 24 N.J.R. 3525(b).

Experience must be in title of elevator inspector.

Amended by R.1994 d.435, effective September 6, 1994 (operative January 1, 1995).

See: 26 N.J.R. 1912(a), 26 N.J.R. 3706(c).

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

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

In (c), deleted January 1, 1995 trigger date, deleted N.J.A.C. reference, and deleted reference to Elevator Inspector Certification; deleted (c)1; and recodified (c)2 as (c)1.

#### 5:23-5.19A Mechanical inspector requirements

(a) A person validly licensed as an inspector in any subcode may apply for a mechanical inspector's license qualifying such person to perform mechanical inspections of Use Group R-3 or R-4 structures, if that person successfully completes the examinations required by N.J.A.C. 5:23-5.23.

(b) Notwithstanding the three-year time limit set forth in N.J.A.C. 5:23-5.5(b)4, results from any of the examinations already successfully completed and currently used for licensure may be submitted at the time of application and, in such case, examinations need not be re-taken.

New Rule, R.1993 d.187, effective May 3, 1993.

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

#### 5:23-5.19B Amusement ride inspector I.C.S. requirements

(a) A candidate for a license as an amusement ride inspector I.C.S. shall meet one of the following educational and/or experience requirements:

1. Three years of experience in the design, manufacture, operation, repair or inspection of carnival-amusement rides; or

2. Graduation from high school and one year of experience in the design, manufacture, operation, repair or inspection of carnival-amusement rides.

(d) Special change of use provisions: Compliance with the following and with the provisions of (b) above shall be permitted for any change of use of a historic building provided that the restoration of the building is being performed consistent with the U.S. Secretary of the Interior Standards for the Treatment of Historic Properties.

1. **Building Area:** The floor area for historic buildings undergoing a change of use to a higher hazard category as per Table E of N.J.A.C. 5:23-6.30 may exceed the allowable areas specified in the building subcode for the proposed use group by 50 percent. (Plan review—Building, Fire. Inspection—Building)

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 2ii, deleted a former 3, and recodified former 4 as 3.  
Amended by R.2003 d.218, effective May 19, 2003.

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

In (b)4, substituted "Section 1504" for "Section 1505.0" and substituted "Sections 1506 and 1507" for "Section 1507.0"; in (b)8i, inserted "or R-5" after "Use Group R-3"; in (b)10ii(1), substituted "Section 1003.2.12" for "Section 1021.0".

## SUBCHAPTER 7. BARRIER FREE SUBCODE

### Law Review and Journal Commentaries

Disability Law: Public Accommodations and the ADA. David J. Popiel, 170 N.J.Law. 16 (Mag.) (July 1995).

Disability Law: Housing Discrimination and the Disabled. David P. Lazarus, Susan DiMaria, 170 N.J.Law. 20 (Mag.) (July 1995).

### 5:23-7.1 Applicability

The provisions of this subchapter shall apply to all buildings, including their associated sites and facilities, and portions thereof, unless exempted by this subchapter. This subchapter shall be interpreted to require access for people with disabilities, including, but not limited to, occupants, employees, consumers, students, spectators, participants, or visitors.

Repeal and New Rule, R.1999 d.105, effective April 5, 1999.

See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).

Section was "Accessibility Standards".

### 5:23-7.2 Accessibility standard

(a) The International Code Council/American National Standards Institute standard (ICC/ANSI) A117.1-1998, entitled "Accessible and Usable Buildings and Facilities," is adopted by reference with modification as the technical design standard for accessible construction.

1. Copies of ICC/ANSI A117.1-1998 may be obtained from ANSI at 11 West 42nd Street, New York, New York 10036.

(b) Dimensions and constructions specifications for sites, buildings and structures required by this subchapter to be

accessible shall comply with ICC/ANSI A117.1-1998, modified as follows:

1. In section 101.1, delete exceptions 2 and 3, which apply to Type B dwelling units;
2. In section 106.5, delete the definition of "Administrative Authority";
3. Delete Chapter 2, "Scoping";
4. In Sections 308.2.2, entitled "Forward Reach: Obstructed High Reach," and 308.3.2, entitled "Side Reach: Obstructed High Reach," add the following language at the end of each section: "Exception: The maximum height and depth of the obstruction shall not apply to kitchen counters in dwelling units."
5. In section 405.2, delete the exception and Table 405.2, which gives the slope of a ramp for an existing building;
6. Delete the Exception to section 505.6, entitled "Handrails, Gripping Surface."
7. Delete section 507, entitled "Bus Pads";
8. Section 702, entitled "Alarms," shall be deleted in its entirety.
9. Section 804.4, entitled "Work surface," shall be deleted in its entirety.
10. Sections 804.5, entitled "Sink," and 804.6, entitled "Kitchen storage," shall be amended to state that "Clear floor space complying with Section 305 shall be provided."
11. Section 804.7, entitled "Appliances," shall be amended to read as follows, "Where provided, kitchen appliances shall comply with Section 804.7.1, entitled "Clear Floor Spaces."
12. Sections 804.7.2, entitled "Operating Controls," 804.7.3, entitled "Dishwasher," 804.7.4, entitled "Range or Cooktop," 804.7.5, entitled "Oven," and 804.7.6, entitled "Refrigerator/Freezer," shall be deleted in their entirety.
13. In Section 1002.3, Exception 3, the exceptions are amended to read as follows:
  - i. Exception 1. Exterior spaces.
  - ii. Exception 2. Attics and basements.
14. At Section 1002.9, entitled "Operable Parts," Exception 2 shall be deleted in its entirety.
15. Section 1002.11 is amended as follows: Toilets and bathing facilities shall be required to comply with Sections 1002.11.1 through 1002.11.7.
16. Section 1002.13, entitled "Windows," shall be an adaptable feature;
17. Section 1002.11.4, entitled "Mirrors," shall be an adaptable feature;

18. Amend section 1002.12.3.2 as follows: "EXCEPTION: A counter that is adjustable or replaceable as a unit to provide a work surface at heights between 29 inches minimum and 36 inches maximum"; and

19. Delete Chapter 10, section 1003, entitled "Type B Dwelling Units," in its entirety.

New Rule, R.1999 d.105, effective April 5, 1999.

See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).

Former N.J.A.C. 5:32-7.2, Recreation, recodified to N.J.A.C. 5:23-7.15.

Amended by R.2002 d.350, effective November 4, 2002.

See: 34 N.J.R. 626(a), 34 N.J.R. 3772(a).

Rewrote the section.

Amended by R.2004 d.59, effective February 2, 2004.

See: 35 N.J.R. 4631(a), 36 N.J.R. 649(a).

Rewrote (b).

### 5:23-7.3 Exceptions

(a) The following nonresidential buildings or structures or portions thereof shall not be required to comply with the provisions of this subchapter.

1. Temporary structures, sites and equipment directly associated with the construction process, such as construction site trailers, bridging, or material hoists shall be exempt from the provisions of this subchapter;

i. Exception: Construction site trailers used as sales offices shall be accessible;

2. Areas of buildings or structures where work cannot reasonably be performed by persons having a severe impairment (sight, mobility or hearing) shall not be required to comply with the specific provisions of this subchapter that provide accessibility to such persons;

i. Such areas include, but are not limited to, observation galleries used primarily for security purposes, non-occupiable spaces accessed only by ladders, catwalks, crawl spaces, or very narrow passageways, including elevator pits, elevator penthouses, piping, or equipment catwalks; and

3. Unclassified accessory buildings or structures of Use Group U shall be exempt from the provisions of this subchapter, except as follows:

i. In agricultural buildings, areas used for employment, such as, but not limited to, offices or areas used for packing, sorting, or grading products, as well as areas open to the general public shall be accessible.

(b) The following residential buildings or structures shall not be required to comply with the provisions of this subchapter:

1. Townhouses;

i. For the purposes of applying this exemption, a townhouse shall be a single dwelling unit with two or more stories of living space, exclusive of basement or attic. The dwelling unit shall have an independent entrance that shall serve a single dwelling unit only and that is at or near grade; most or all of the sleeping rooms shall be on one story; and most of the remaining habitable space, such as kitchen, living, and dining areas, shall be on another story; or

2. Buildings of Use Group R-2, R-3, or R-4 with one, two or three dwelling units in a single structure;

i. For the purposes of determining the number of dwelling units in a single structure, firewalls shall not constitute separate buildings.

(c) Regardless of whether individual residential structures or dwelling units on a site are required to be accessible, all common use facilities, including, but not limited to, recreational facilities, laundry areas, mail boxes, meeting rooms, and club houses, provided within the building or on the site must comply with the provisions of this subchapter.

New Rule, R.1999 d.105, effective April 5, 1999.

See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).

Former N.J.A.C. 5:32-7.3, Recreation: definitions, recodified to N.J.A.C. 5:23-7.16.

Amended by R.2002 d.350, effective November 4, 2002.

See: 34 N.J.R. 626(a), 34 N.J.R. 3772(a).

In (a), rewrote the introductory paragraph, deleted (3), and recodified former (4) as (3); in (b), inserted "not" following "shall" and substituted "required to comply with" for "exempt from" in the introductory paragraph; added (c).

### 5:23-7.4 Nonresidential buildings and buildings of Use Group R-1

(a) Nonresidential buildings, and buildings of Use Group R-1, shall provide accessibility as follows:

1. Small buildings, defined as those with a total gross enclosed floor area of less than 10,000 square feet, shall be required to have at least one accessible entrance on the ground (or first) floor and accessible interior building features on all floors. Small buildings shall not be required to have elevator(s) to provide a vertical accessible route between floors.

i. Regardless of the total square footage of the building, buildings that are three or more stories with any floor of 3,000 square feet or more shall be required to have elevator(s) to provide a vertical accessible route between floors;

ii. Regardless of the square footage of the buildings or floors, buildings of two or more stories that are owned and occupied by public entities shall provide a vertical accessible route between floors;

iii. Regardless of the square footage of the buildings or floors, buildings of two or more stories that house public transit stations or airport passenger terminals shall provide a vertical accessible route between floors;

iv. Regardless of the square footage of the buildings or floors, buildings of two or more stories that house the professional offices of health care providers shall provide a vertical accessible route between floors; and

v. Regardless of the square footage of the buildings or floors, buildings of two or more stories that house shopping centers or shopping malls shall provide a vertical accessible route between floors.

(1) For the purposes of applying this requirement, a shopping center or shopping mall shall mean a building or a series of buildings on a common site, under common ownership or control, or developed as one project or as a series of related projects housing five or more sales or rental establishments.

2. Large buildings, defined as those with a total gross enclosed floor area of 10,000 square feet or more, shall provide the accessible building features required of small buildings in (a)1 above. In addition, large buildings shall be required to have elevator(s) to provide a vertical accessible route between floors.

3. For the purposes of applying these provisions, buildings separated by firewalls with penetrations intended for human passage shall not constitute separate buildings.

4. Except as provided in (a)1 above, floors or mezzanines of less than 3,000 square feet shall not be required to be served by an elevator, but shall otherwise meet the requirements of this subchapter.

i. Where facilities for employees, including rest rooms, lunch rooms, and lockers, and public facilities, including rest rooms and drinking fountains, are provided on the floor or mezzanine, and where there is no vertical accessible route, the facilities provided on the floor or mezzanine must also be provided on the accessible level.

ii. A limited use limited application elevator that complies with ANSI/ASME A17.1b-1995, Part 25 may be used to provide a vertical accessible route to the floor or mezzanine provided that the travel distance of the device does not exceed 25 feet.

5. The following provisions shall apply to a nonresidential building required to be accessible, whether a large building or a small building:

i. An accessible route available to the general public shall not pass through kitchens, storage rooms, or similar spaces.

ii. In buildings, facilities, or portions thereof that primarily serve children, variations shall not be required to adjust accessible dimensions to make building features suitable for children.

(1) However, in such buildings, accessible facilities that comply with the provisions of this subchapter for use by adults shall be provided.

New Rule, R.1999 d.105, effective April 5, 1999.

See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).

Former N.J.A.C. 5:32-7.4, Recreation: exceptions, recodified to N.J.A.C. 5:23-7.17.

Amended by R.2002 d.350, effective November 4, 2002.

See: 34 N.J.R. 626(a), 34 N.J.R. 3772(a).

Rewrote the section.

### 5:23-7.5 Residential buildings other than Group R-1

(a) Buildings of Group R-2 or R-3 with four or more dwelling units in a single structure shall comply with the provisions of this subchapter.

1. For the purposes of applying this subsection, fire-wall separations shall not designate separate buildings within a single structure.

2. When being applied to a dwelling unit, the terms "accessible" and "adaptable" shall be interchangeable and shall mean that the dwelling unit has an accessible entrance; an accessible interior route into and throughout the dwelling unit, including maneuvering space at doors; and required clear floor spaces and reach ranges in all rooms. The dwelling unit shall have either the adaptable features specified in (d) below in the kitchen and bathroom or a fully accessible kitchen and bathroom as provided in the ICC ANSI A117.1-98 standard.

3. All common use facilities, including, but not limited to, recreational facilities, laundry areas, mail boxes, meeting rooms, and club houses, provided within the building or on the site must comply with the provisions of this subchapter.

(b) Except as provided at N.J.A.C. 5:23-7.3(b), all dwelling units in elevator-serviced buildings shall comply with the provisions of this subchapter.

1. In an elevator-serviced building, whether a dwelling unit is single story or multi-story, the entry level of each dwelling unit shall have an accessible entrance, an accessible route into and throughout the entry level of the dwelling unit, an adaptable kitchen, and one adaptable toilet and bathing facility on the accessible route.

i. An interior vertical accessible route shall not be required within a multi-story dwelling unit.

(c) In a building without elevator service, each ground floor dwelling unit shall be required to have an accessible entrance, an accessible route into and throughout the entry level of the dwelling unit, an adaptable kitchen, and one adaptable toilet and bathing facility on the accessible route.

1. For the purpose of applying this requirement, the ground floor shall mean, in a building containing dwelling units, the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.

2. In a building without elevator service and with a building entrance that serves more than one dwelling unit, all multi-story dwelling units with a ground floor entrance shall be accessible as provided in (b) above.

(d) In addition to the adaptable features in ICC/ANSI A117.1, the following building features in a dwelling unit may also be considered adaptable:

1. The threshold for a shower compartment (ICC/ANSI A117.1, Section 608.7) may be adaptable as long as the shower threshold can be made accessible with minimal expense and effort.

2. The mirror height (ICC/ANSI A117.1, Section 1002.11.4) may be adaptable as long as adjusting the mirror can be accomplished with minimal expense and effort.

3. Kitchen cabinets mounted above the kitchen counters (ICC/ANSI A117.1, Section 1002.14) may be mounted at a standard height as long as remounting the kitchen cabinets can be accomplished with minimal expense and effort.

4. Windows (ICC/ANSI A117.1, Section 1002.13) shall be an adaptable feature.

(e) In an accessible dwelling unit, an accessible route shall be permitted to pass through the kitchen.

(f) Assisted living facilities that are designated as Use Group I-2 for purposes of building subcode and fire protection subcode compliance shall be considered as Use Group R-2 for the purposes of accessibility.

(g) When any dwelling unit, regardless of whether it is exempt from the provisions of this subchapter, includes a B use or an M use, any portion used for the B use or M use shall comply with the provisions of this subchapter.

1. This shall include, but not be limited to, parking, sidewalk, entrance, hallway, and those portions of the dwelling unit, interior or exterior, available to or used by customers or clients, including toilet facilities.

New Rule, R.1999 d.105, effective April 5, 1999.

See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).

Former N.J.A.C. 5:32-7.5, Recreation: route of travel, recodified to N.J.A.C. 5:23-7.18.

Amended by R.2002 d.256, effective August 5, 2002.

See: 33 N.J.R. 4184(a), 34 N.J.R. 2787(a).

Rewrote the section.

Amended by R.2002 d.350, effective November 4, 2002.

See: 34 N.J.R. 626(a), 34 N.J.R. 3772(a).

Rewrote the section.

Administrative correction.

See: 34 N.J.R. 4195(a).

Amended by R.2003 d.402, effective October 20, 2003.

See: 35 N.J.R. 2797(b), 35 N.J.R. 4861(b).

Rewrote the section.

### 5:23-7.6 Exterior accessible route

(a) Every site containing one or more buildings required by this subchapter to be accessible shall have at least one accessible route which shall provide access to and between buildings and facilities on the same site that are also required to be accessible.

1. Exterior accessible routes may include parking access aisles, curb ramps, walks, or ramps.

2. Where the natural and undeveloped contour of the land exceeds the slope required for an accessible route and it is technically infeasible to alter the land contour, a vehicular route may be provided as an alternate accessible route.

3. An accessible route within a site shall be provided from public transportation stops, accessible parking and accessible passenger loading zones, and public streets or sidewalks to the building entrance served.

4. Entrances to buildings or spaces in buildings that are not required to be accessible shall not be required to be on an accessible route.

5. Unless it is the only building entrance, a loading or service entrance shall not be required to be on an accessible route.

New Rule, R.1999 d.105, effective April 5, 1999.

See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).

Former N.J.A.C. 5:32-7.6, Recreation: pools, recodified to N.J.A.C. 5:23-7.19.

### 5:23-7.7 Accessible building entrances

(a) For buildings or structures required by this subchapter to be accessible, at least 50 percent of the entrances, but not fewer than one entrance, shall be accessible and shall comply with this subchapter.

1. Where a building or facility has separate entrances that serve such functions as accessible parking facilities, passenger loading zones, taxi stands, public streets and sidewalks, or accessible interior vertical access, at least one entrance serving each such function shall be accessible.

2. At least one accessible entrance shall serve each separate tenancy or function within a building or facility.

3. Unless it is the only building entrance, a loading or service entrance shall not be required to be accessible.

New Rule, R.1999 d.105, effective April 5, 1999.  
See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).  
Former N.J.A.C. 5:32-7.7, Recreation: swimming and skating areas, recodified to N.J.A.C. 5:23-7.20.

**5:23-7.8 Interior accessible routes**

(a) An interior accessible route shall connect all portions of buildings required by this subchapter to be accessible.

1. An interior accessible route may include corridors, floors, ramps, elevators, and clear floor space at fixtures.

(b) Platform lifts shall not be part of an accessible route in new construction, except in special areas permitted below:

1. To provide a line of sight while complying with dispersal requirements for buildings and portions of buildings of Use Group A;
2. To provide access to a performing area; or
3. To provide access to incidental occupiable spaces, such as, but not limited to, a projection booth or equipment control room that is not open to the general public and has not more than five occupants.

(c) Where floor levels are required to be connected by an accessible route and an interior vertical route is provided between levels, the vertical interior route shall be accessible.

New Rule, R.1999 d.105, effective April 5, 1999.  
See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).  
Former N.J.A.C. 5:32-7.8, Recreation: boating areas, recodified to N.J.A.C. 5:23-7.21.

**5:23-7.9 Accessible parking**

(a) Two percent of the parking spaces that serve occupancies in buildings of Use Group R-2, R-3, or R-4 that contain accessible dwelling units shall be accessible.

1. Where parking is provided within or beneath a building, accessible parking spaces shall also be provided within or beneath the building.

2. Where additional parking spaces or parking lot(s) are provided for visitors, the number of required accessible parking spaces shall comply with the table below.

(b) Ten percent of the parking spaces provided for medical outpatient facilities shall be accessible.

1. Exception: Twenty percent of the parking spaces provided for medical facilities that specialize in the treatment of or services for persons with mobility impairment shall be accessible.

(c) For all other use groups, accessible parking spaces shall comply with the table below:

Total Parking Spaces	Required Accessible Parking Spaces
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2 percent of total
1,001 +	20 plus 1 for each 100 over 1,000

(d) For every eight accessible parking spaces, or fraction thereof, at least one shall be a van-accessible parking space.

(e) Accessible parking spaces shall be the closest parking spaces on the shortest accessible route to an accessible building entrance.

1. For buildings with multiple accessible entrances, accessible parking spaces shall be dispersed and shall be located near each of the accessible building entrances.

(f) Where accessible parking spaces are provided in parking facilities that do not serve a particular building, accessible parking spaces shall be located on the shortest accessible route to an accessible entrance to the parking facility.

1. In multi-level parking structures, van-accessible parking spaces may be clustered on one level.

(g) Each accessible parking space shall be marked with an R7-8 sign from the Manual of Uniform Traffic Control Devices and shall display the international symbol of accessibility. Beneath the R7-8 sign, each accessible parking space shall also be marked with an R7-8P sign, as required by N.J.S.A. 39:4-198, containing the following language:

PENALTY  
\$100 FIRST OFFENSE  
SUBSEQUENT OFFENSES  
\$100 MINIMUM AND/OR  
UP TO 90 DAYS COMMUNITY SERVICE  
TOW AWAY ZONE

1. The bottom of the R7-8 sign shall be mounted approximately 60 inches above the parking lot or sidewalk surface when the sign is parallel to the sidewalk and approximately 72 inches above the parking lot or sidewalk surface when the sign is perpendicular to the sidewalk.

2. The R7-8 sign shall be centered and mounted at the head of each parking space.

New Rule, R.1999 d.105, effective April 5, 1999.

See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).

Former N.J.A.C. 5:32-7.9, Recreation: fishing areas, recodified to N.J.A.C. 5:23-7.22.

Amended by R.2002 d.350, effective November 4, 2002.

See: 34 N.J.R. 626(a), 34 N.J.R. 3772(a).

Recodified former (c)1 as (d) and (d) through (f) as (e) through (g).

**5:23-7.10 Requirements applicable to specific nonresidential use groups and Use Group R-1**

(a) Occupancies of Use Group A shall be accessible as follows:

1. Where services and facilities are provided in areas that are not required to be accessible, the same services and facilities shall be provided in an accessible area and shall be accessible.

2. In dining areas of occupancies of Use Groups A-2 and A-3, the total floor area allotted for seating and tables shall be accessible, except as follows:

i. Where fixed or built-in seats and tables are provided, at least five percent, but not fewer than one, of the seats and tables shall be accessible. Where more than one accessible seat and table is provided, they shall be dispersed.

ii. In buildings without elevators, an accessible route to a raised or lowered dining area of less than 3,000 square feet is not required provided that the raised or lowered dining area contains less than 25 percent of the total dining area and the same services are available on the accessible level.

3. Accessible spaces for wheelchairs shall be provided in each assembly area in accordance with the following table.

Capacity of Seating	Accessible Seating
4-25	1
26-50	2
51-300	4
301-500	6
over 500	6 plus 1 for each 100 over 500

4. In buildings or portions of buildings of Use Group A-1, Use Group A-3, or Use Group A-5, where fixed seats are provided on more than one viewing level, accessible spaces for wheelchairs shall be provided on more than one viewing level.

i. The accessible seating shall be integrated with inaccessible seats.

ii. Where five or more accessible seats are required, the accessible seating shall be integrated and dispersed throughout all classes of seats.

5. In buildings or portions of buildings of Use Group A-1 or Use Group A-5, including stadiums, sports arenas, or other facilities where fixed seating is provided and spectators are likely to stand in place, a line of sight shall be provided over standing spectators.

6. Pursuant to N.J.A.C. 5:23-7.8(b)1, when necessary to provide a line of sight, a platform lift may be part of an accessible route.

7. Four percent of the seats, but not fewer than two seats, in stadiums, in theaters, auditoriums, or lecture halls that have fixed seating and audio-amplification systems or that have an occupant load of 50 or more persons shall have permanently installed assistive listening system.

8. Assembly areas that are not equipped with audio-amplification devices or that have an occupant load of fewer than 50 persons shall have either a permanently installed assistive listening system or an adequate number of electrical outlets or other supplementary wiring to support a portable assistive listening system, which shall be available to patrons.

i Where this alternative is selected, signage shall be provided to notify patrons of the availability of a listening system.

(b) Occupancies of Use Group I shall be accessible as follows:

1. All public or common use facilities, including employee areas, shall be accessible.

2. Accessible bedrooms shall be distributed among all types of patient care areas and all types and classes of bedrooms.

3. In buildings or portions thereof of Use Group I-1, including residential health care facilities that are licensed by the Department of Health and Senior Services, four percent or fraction thereof (rounded to the next higher whole number) of the resident bedrooms, including toilet or bathing facilities that serve these bedrooms, shall be accessible.

4. In buildings or portions thereof of Use Group I-2, including hospitals licensed by the Department of Health and Senior Services, 10 percent or fraction thereof (rounded to the next higher whole number), of the patient bedrooms, including toilet and bathing facilities that serve a patient bedroom, shall be accessible.

i. In nursing homes or portions thereof of Use Group I-2 licensed by the Department of Health and Senior Services, 50 percent or fraction thereof (rounded to the next higher whole number) of patient bedrooms, including toilet and bathing facilities that serve a patient bedroom, shall be accessible.

5. In hospital or rehabilitation facilities or portions thereof of Use Group I-2 licensed by the Department of Health and Senior Services that specialize in treating conditions that affect mobility, 100 percent of the patient bedrooms, including toilet and bathing facilities that serve a patient bedroom shall be accessible.

6. Assisted living facilities that are licensed by the Department of Health and Senior Services are Use Group I-2 for the purposes of building subcode and fire protection design and construction, but shall be considered as Use Group R-2 for the purposes of determining accessibility requirements.

i. In dwelling units in an assisted living facility, the threshold for an accessible transfer shower may be adaptable as long as the shower threshold can be adapted with minimal expense and effort to be accessible.

ii. In dwelling units in an assisted living facility, a transfer-type shower of 36 inches by 48 inches that provides a seat may be provided in individual dwelling units. The threshold of this shower shall not exceed four inches.

7. In occupancies of Use Group I-2, there shall be at least one accessible passenger loading zone.

8. Buildings or portions thereof of Use Group I-3 shall have at least one accessible inmate confinement area or room per institution and at least one accessible inmate toilet and bathing facility per institution. All public or common areas and all employee areas shall be accessible.

(c) In occupancies of Use Group R-1 containing six or more guestrooms, accessible guestrooms shall be provided in accordance with Table C-1 below.

1. In occupancies of Use Group R-1 with more than 50 guestrooms, accessible roll-in showers shall be provided in the required accessible guestrooms in compliance with Table C-1 below:

Number of Rooms	Accessible Rooms	Roll-In Showers
1-25	1	
26-50	2	
51-75	3	1
76-100	4	1
101-150	5	2
151-200	6	2
201-300	7	3
301-400	8	4
401-500	9	4 plus 1 for each additional 100 over 400
501-1000	2 percent of total	
1,001 and up	20 plus 1 for each 100 over 1,000	

2. Owner-occupied residences with one to five lodgers are Use Group R-3 and are exempt.

3. Visible and audible alarms and notification devices shall be provided in the accessible guestrooms required by Table C-1 above and shall be provided in additional rooms in compliance with Table C-2 below.

Number of Guestrooms	Rooms With Accessible Alarms
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2 percent of total
1,001 and up	20 plus 1 for each 100 over 1,000

4. Accessible guestrooms shall be provided throughout all classes and types of rooms.

i. When determining dispersal of accessible guestrooms, factors shall include room size, room cost, amenities provided, and the number of beds provided.

New Rule, R.1999 d.105, effective April 5, 1999.  
See: 30 N.J.R. 2972(a), 31 N.J.R. 852(a).  
Former N.J.A.C. 5:32-7.10, Recreation: court games, recodified to N.J.A.C. 5:23-7.23.  
Amended by R.2002 d.350, effective November 4, 2002.  
See: 34 N.J.R. 626(a), 34 N.J.R. 3772(a).  
Rewrote the section.

**5:23-7.11 Requirements applicable to all nonresidential use groups, including spaces other than guestrooms in Use Group R-1**

(a) All toilet and bathing facilities shall be accessible.

1. At least one of each type of fixture or element in each accessible toilet room or bathing facility shall be accessible.

i. Exception: Where multiple individual toilet rooms are clustered and serve a common medical office area or suite(s), five percent of the individual toilet rooms shall be accessible.

2. A toilet room or bathing facility, which is nonpublic and intended for use by one specific occupant may be adaptable and may be designed and constructed as a toilet room in a Type A dwelling unit per Chapter 10, ICC/ANSI A117.1-98.

i. If this option is not used, the toilet room or bathing facility shall be accessible.

3. Where water closet compartments are provided in a toilet room or bathing facility, at least one wheelchair accessible compartment shall be provided.

4. Where six or more water closet compartments are provided in a toilet room or bathing facility, at least one ambulatory accessible compartment shall be provided in addition to the wheelchair accessible toilet compartment.

(b) All passenger elevators on an accessible route shall be accessible and shall comply with the dimensional requirements of an accessible elevator.

1. An elevator that provides an accessible route within an individual dwelling unit shall not be required to comply with the dimensional requirements of an accessible elevator.

2. Platform lifts shall not be part of an accessible route to bridge level differentials in new construction, except as provided by N.J.A.C. 5:23-7.8(b).

(c) At least 50 percent of the drinking fountains provided on each floor, but not fewer than one, shall be accessible.

1. When only one drinking fountain is provided on a floor, it shall be accessible to wheelchair users and to people who have trouble stooping or bending.

(d) Where storage facilities, such as, but not limited to, cabinets, shelves, closets, drawers, or lockers are provided in spaces required to be accessible, at least one of each type be accessible.

(e) Where fixed or built-in seats or tables are provided, at least five percent, but not fewer than one, shall be accessible.

1. Where more than one built-in seat or table is provided, the accessible seats and tables shall be dispersed throughout the area.

(f) Customer service facilities shall be accessible as follows:

1. Where dressing or fitting rooms are provided, at least five percent, but not fewer than one, in each distinct area or function on a site shall be accessible.

2. Where service counters or windows are provided, one of the following accessible options shall be provided:

i. A portion of the counter which is a minimum of 36 inches in length and a maximum of 36 inches in height;

ii. An auxiliary counter with a maximum height of 36 inches in close proximity to the main counter; or

iii. Equivalent facilitation, such as a folding shelf attached to the main counter or space at the side of the counter.

3. Where check-out aisles are provided, accessible check-out aisles shall be installed in accordance with the table below:

<u>Number of Check-Out Aisles</u>	<u>Accessible Check-Out Aisles</u>
1-4	1
5-8	2
9-15	3
over 15	3 plus 1 for each additional 5 over 15

i. Where check-out aisles of different types, such as, but not limited to, express lanes, are provided, at least one of each type shall be accessible.

ii. Traffic control devices, security devices, or turnstiles located in accessible check-out lanes or aisles shall be accessible.

(g) Where public telephones are provided, one telephone per floor or one telephone in each bank of public telephones shall be accessible.

1. Each accessible telephone and 25 percent of other public telephones in each bank shall be equipped with volume control.

2. At each accessible telephone, clear floor space for either a forward or a parallel approach shall be provided.

(h) Where automatic teller machines (ATM) are provided, clear floor space shall be provided at each ATM as follows:

1. Where only a forward approach is provided, all operations and controls shall be accessible.

2. Where only a parallel approach is provided, reach ranges shall comply with the following:

i. Where the reach depth to the controls is 10 inches or less, the maximum height for the controls shall be 54 inches.

ii. For each increase in reach depth of one inch, the maximum height for the controls shall be reduced one-half inch.

iii. The reach depth shall not exceed 24 inches with a corresponding maximum height of 46 inches.

3. Where both a parallel and a forward approach are provided, the reach ranges shall comply with both the parallel and forward approach reach ranges in the adopted technical standard or with the parallel reach ranges in (h)2 above.

(i) In buildings and portions of buildings required by this subchapter to be accessible, controls, operating mechanisms, and hardware, including electrical outlets and switches that control lighting, ventilation, or electrical outlets shall be accessible.

(3) All new lighted signage on the casino floor shall be interlocked with the fire alarm system so that activation of an alarm results in disconnection of electrical power to the signage. All such signage shall be interconnected within five years of the installation of the first 75-inch height machine permitted by this section;

(4) All exit signs that are provided on the casino floor shall have a minimum letter height of 10 inches and a minimum letter stroke of two inches with approved distinguishable colors; and

(5) Prior to the installation of the 75-inch high machines, the permit applicant and the Department shall perform a means of egress and exit visibility survey. If directed by the Department, the permit applicant shall install additional signage, or other means found necessary to ensure the discernability of two exits.

6. Signage installed on the gaming floor shall comply with the following:

i. All signage shall be listed, labeled, approved and identified by an approved testing laboratory;

ii. Each sign shall be attached to a wall, post or ceiling. A post-mounted sign above slot machines shall be fastened to, and supported by, the slot machine base;

iii. A sign containing moving sections or ornaments shall be equipped with fail-safe provisions to prevent the sign from releasing and falling or from shifting its center of gravity more than 15 inches. The fail-safe device shall be in addition to the mechanism and mechanism housing that operate the movable section. The fail-safe device shall be capable of supporting the full dead weight of the sign when the moving mechanism releases; and

iv. A sign shall not obstruct visibility throughout the gaming floor, the visibility of exit signage or the operation of fire protection systems.

7. Monitor cabinets, change banks, fillers, slot machine bases, and similar items shall be constructed of non-combustible or fire retardant treated material.

(c) The following precautions shall be taken during construction in any portion of an occupied casino hotel:

1. Except for changes to gaming tables, slot bases or signage, temporary construction partitions shall be required when construction is undertaken in an area with public access or in an area where the automatic sprinkler system will be inoperable.

i. A fire partition with a fire resistance rating of one hour shall be required for projects with automatic sprinkler protection. Fire partitions shall be constructed of noncombustible materials as defined in the building subcode and shall be continuous from the top of the floor to the underside of the ceiling above and shall be securely attached thereto. Opening protectives shall be rated for  $\frac{3}{4}$  hour.

ii. A fire separation assembly with a fire resistance rating of two hours shall be provided for projects where the automatic sprinkler system is inoperable. Fire separation assemblies shall be constructed of noncombustible materials, as defined in the building subcode, and shall be continuous from the top of the floor to the underside of floor/roof slab or deck above or to the top fire resistance rated floor ceiling assembly above and shall be securely attached thereto. Opening protectives shall be rated for  $1\frac{1}{2}$  hours.

2. Projects with the ceiling removed shall be provided with operable upright type automatic sprinklers.

New Rule, R.1991 d.61, effective February 19, 1991.

See: 22 N.J.R. 3610(a), 23 N.J.R. 406(a).

Amended by R.1995 d.647, effective December 18, 1995 (operative March 18, 1996).

See: 27 N.J.R. 3517(a), 27 N.J.R. 5012(a).

Amended by R.1998 d.471, effective September 21, 1998.

See: 30 N.J.R. 1678(a), 30 N.J.R. 3466(a).

In (a), added 5; and added (b) and (c).

Amended by R.2000 d.414, effective October 16, 2000.

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

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

Amended by R.2003 d.71, effective February 18, 2003.

See: 34 N.J.R. 3414(a), 35 N.J.R. 1054(b).

In (a), substituted "have been" for "are" in the introductory paragraph and rewrote 1; in (b), rewrote 5 and inserted ", slot machine bases," in 7.

#### Case Notes

In light of undeveloped record and uncertainty as to whether there was actually present conflict between two regulatory schemes, casino that objected to Department of Community Affairs' adoption of design and construction safety regulations for casinos, on theory that regulatory authority of Casino Control Commission prevailed over Department of Community Affairs' authority, was entitled to seek declaratory relief under Administrative Procedure Act at a joint hearing under auspices of Office of Administrative Law. *Atlantic City Showboat, Inc. v. Department of Community Affairs of State*, 331 N.J.Super. 40, 751 A.2d 111 (N.J.Super.A.D. 2000).

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

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

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

1. Electrical generation equipment, such as turbines, condensers, generators, and the like;

2. Electrical transmission equipment such as transformers, capacitors, regulators, switchgears, and the like;

3. Air pollution equipment, such as scrubbers;

4. Metal working equipment, such as castings, screen machines, grinders, lathes, presses, drills, welders, and the like;

5. Material handling equipment, such as rollers, control belts, and the like;

6. Packaging equipment, such as bottling machines;

7. Process drying equipment, such as ovens, kettles, fans, and the like;

8. Finishing equipment, used for such purposes as heat treatment, plating, painting, and the like;

9. Petrochemical refinery/plant equipment used for distillation, conversion, treatment and blending;

10. Electric, steam, pneumatic- or hydraulic-actuated equipment, such as motors, pumps, compressors, and the like;

11. Tanks which constitute part of a controlled industrial process, including those tanks containing flammable and combustible liquids, together with the dikes surrounding the tanks;

12. All piping used to transport products to and between industrial processes; any piping connected to the potable water supply downstream of an appropriate back-flow prevention device; any piping located upstream of the first joint at the outlet of the equipment or upstream of the indirect connection to the sanitary or storm sewer;

13. Pipe racks, hangers, and the like that support the process piping and the storage racks for the raw materials and finished products. Building structural systems supporting the racks, hangers, storage loads, and the like are excluded from the definition of process equipment, except that pipe support units that include a foundation and support steel shall be included as process equipment when they do not transfer loads to structures whose main function is other than supporting process pipe;

14. Boilers, pressure vessels, furnaces and the like used exclusively for industrial process;

15. Pre-wired and/or pre-engineered (bearing name plate) electro-mechanical equipment or machinery used exclusively for an industrial process;

16. Electrical work which forms a part of the power or control system of industrial process equipment, up to the point where that work connects to the plant electrical distribution system. Such a point shall be considered a suitable junction box, panel board, disconnect switch, or a terminal box which constitutes the final connection to the factory-installed equipment wiring. Where these items are not supplied as a part of the equipment, they shall be subject to local enforcing agency jurisdiction; and

17. (Reserved)

New Rule, R.1993 d.132, effective April 5, 1993.  
See: 24 N.J.R. 3458(a), 25 N.J.R. 1512(b).  
Amended by R.1995 d.647, effective December 18, 1995 (operative March 18, 1996).  
See: 27 N.J.R. 3517(a), 27 N.J.R. 5012(a).

**5:23-9.8 Interpretation: bed and breakfast guesthouses—  
change in use group requirements**

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

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

- i. Consists of a structure originally constructed for the purposes of a private residence;
- ii. Includes individual sleeping accommodations for six to 12 guests;
- iii. Has at least one dwelling unit occupied by the owner of the facility as his or her place of residence during any time this facility is being used for the lodging of guests;
- iv. Has not less than 300 square feet of common area for the exclusive use of the guests, including but not limited to parlors, dining rooms, libraries and solariums;
- v. Prohibits cooking and smoking in guest rooms;
- vi. Provides a meal to the guests in the forenoon of each day but does not operate as a restaurant open to the general public;
- vii. Is not a "rooming house" "or boarding house" as defined in N.J.S.A. 55:13B-3;
- viii. Does not allow more than 15 percent of the guests to remain more than 30 successive days or more than 30 days of any period of 60 successive days; and
- ix. Does not allow any guest to remain more than 60 successive days or more than 60 days of any period of 90 successive days.

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

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

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

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

- i. An existing fire escape shall be accepted as providing one of the required means of egress if it can safely be used under emergency exiting conditions. All occupants shall have unobstructed access to the fire escape without having to pass through a room subject to locking. Access to a fire escape shall be through a door, except that window access shall be permitted from guest rooms.
- ii. In buildings having a single exit, no additional exit shall be required if all of the following conditions are met:

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

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

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

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

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

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

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

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

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

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

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

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

10. Interior finish shall comply with the following:

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

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

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

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

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

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

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

(3) All of the following conditions exist:

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

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

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

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

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

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

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

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

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

In (b)2ii(3), inserted "not" preceding "more".

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

(a) Garden type utility sheds and similar structures which are 100 square feet or less in area, 10 feet or less in height and accessory to Use Groups R-2, R-3 or R-4 shall not be required to have a foundation system which extends below

the frost line. These structures shall be of sufficient weight to remain in place or shall be anchored to the ground.

(b) Garden type utility sheds and similar structures which are greater than 100 square feet but not more than 200 square feet in area, 10 feet or less in height, and accessory to Use Groups R-2, R-3 or R-4 are not required to be provided with a foundation system that extends below the frost line provided the shed is dimensionally stable without the foundation system. A shed shall be considered dimensionally stable if it is provided with a floor system which is tied to the walls of the structure such that it reacts to loads as a unit. These sheds shall be placed on a bed of gravel not less than four inches in depth or shall have other frost protected design. These structures shall be of sufficient weight to remain in place or shall be anchored to the ground.

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

## SUBCHAPTER 10. RADON HAZARD SUBCODE

### 5:23-10.1 Title, scope; intent

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

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

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

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

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

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

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

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

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

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

### 5:23-10.2 Definitions

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

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

"French drain" or "channel drain" means a path used to assist with water drainage which is installed in basements of some structures during initial construction, which consists of a gap (typically one-half to one and one-half inch in width) between the basement block wall and the concrete floor slab around the entire inside perimeter of the basement.

"Picrocurie per Liter (pCi/L)" means 2.2 disintegrations per minute of radioactive material per liter. It may be used as a measure of the concentration of radon gas in air. One picocurie is equivalent to 10-12 Curies.

“Radon” means the radioactive noble gas radon-222.

“Radon progeny” means the short-lived radionuclides formed as a result of the decay of radon-222, including polonium-218, lead-214, bismuth-214 and polonium-214.

“Sump” means a pit or hole in or through a basement floor slab designed to collect water, and from which such water is drained by means of a vertical-lift or sump pump.

“Sump pump” means a pump used to move collected water out of the sump to an above grade discharge remote from the structure.

“Working level (WL)” means that concentration of short-lived radon decay products that will result in 130,000 million electron volts of potential alpha-particle energy per liter of air. Working level is a measure of radon decay product concentration in air.

### 5:23-10.3 Enforcement

(a) The provisions of this subchapter shall be enforced by the enforcing agencies having responsibility for the enforcement of this chapter.

(b) Enforcement responsibility shall be divided among subcode officials in the following manner:

1. For new structures and additions:
  - i. Except as otherwise indicated in (b)lii below, plan review and inspection with regard to compliance with N.J.A.C. 5:23-10.4(b) shall be the responsibility of the building subcode official;
  - ii. Plan review and inspection with regard to work performed under N.J.A.C. 5:23-10.4(b) that is otherwise subject to the plumbing, electrical or fire protection subcode shall be the responsibility of the plumbing, electrical or fire protection subcode official, respectively.
2. For existing structures:
  - i. Construction enforcement responsibility for verification that radon mitigation work in all structures, other than detached one and two family dwellings, is in conformance with the adopted subcodes shall be as set forth in N.J.A.C. 5:23-3.4(a), (c), (d) and (f).
  - ii. In existing detached one and two family dwellings, the building subcode official shall be responsible for verification that all construction aspects of radon mitigation work are in conformance with the adopted subcodes, except that the electrical subcode official shall be responsible for those construction aspects that are subject to the electrical subcode.

Amended by R.1991 d.429, effective August 19, 1991.  
See: 23 N.J.R. 1487(a), 23 N.J.R. 2501(a).  
In (b), added 5 and 6.

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

### 5:23-10.4 Construction techniques

(a) Tier one radon hazard areas shall be identified in accordance with the county/municipal radon listing established by the Department of Environmental Protection. The current list of municipalities in tier one areas is set forth in Appendix 10-A of this subcode.

(b) The construction techniques set forth in this subsection shall be the minimum radon hazard protective features required to be incorporated into construction of buildings in Use Groups E and R in tier one areas, and may be incorporated elsewhere, in order to minimize radon and radon progeny entry and facilitate any post-construction radon removal that may be required. Enumeration of these construction techniques is not intended to preclude voluntary use of additional or more extensive techniques. Full compliance with these construction techniques is not required for additions; however, those construction techniques that are feasible shall be incorporated.

1. A continuous vapor barrier not less than six-mil (.006 inch; .152 mm) polyvinyl chloride or polyethylene with any seams overlapped not less than 12 inches (305 mm), or other approved materials, shall be installed under the slab in basement and slab-on-grade construction and on the soil in crawl space construction.
2. Floors of basements and slab on grade construction shall be placed over a base course, not less than four inches (102 mm) in thickness, consisting of gravel or crushed stone containing not more than 10 percent of material that passes through a No. 4 sieve.
3. Basement slabs with interior foundation pipe drains installed shall have a solid three-inch minimum diameter vent pipe section installed in conjunction with this drainage system and be connected to an independent vent stack pipe terminating at an approved location on the exterior of the building.
4. Basement slabs which do not have an interior foundation pipe drain, and slab on grade construction (excluding non-habitable spaces such as garages), shall be provided with one three-inch minimum solid vent pipe section with a “T” pipe fitting for every 1,500 square feet, or portion thereof, of slab area, this vent pipe section to be installed into the sub-slab aggregate. The horizontal openings of the “T” pipe fitting shall be placed in the sub-slab aggregate. The vertical portion of the “T” pipe fitting shall be connected to an independent vent stack pipe terminating at an approved location on the exterior of the building. Where more than one vent pipe section is provided, interconnection of these sections into a single independent vent stack is permitted.

5. Basement slabs with French drains or channel drains shall not be allowed unless interior foundation pipe drains as described in this section are installed.

6. Joints in foundation walls and floors, including, without limitation, control joints between slab sections poured separately, and between foundation wall and floor (except for French drains or channel drains), as well as penetrations of the foundation walls and floor including, but not limited to, utility penetrations, shall be substantially sealed by utilizing a non-cracking polyurethane or similar caulk, or equivalent, in order to close off the soil gas entry routes. Any openings or penetrations of the floor over the crawl space shall be substantially sealed in order to close off the soil gas entry routes.

7. Untrapped floor drains shall be provided with removable stoppers which substantially close off the soil gas entry routes.

8. A sump cover which substantially closes off the soil gas entry routes shall be provided for all sump installations. If foundation pipe drains terminate at a sump installation and provisions are made for venting from the sump installation, the three-inch diameter solid vent pipe section requirement of (b)3 above need not be provided.

9. Any ductwork that is routed through a crawl space or beneath a slab shall be properly taped or sealed.

10. Sealant materials that substantially close off the soil gas entry routes shall be installed on any doors or other openings between basements and adjoining crawl spaces that are vented to the exterior.

11. The tops of foundation walls, including, without limitation, interior ledges, that are constructed of hollow masonry units shall be capped or the voids shall be completely filled.

12. The independent vent stack pipe provided in accordance with (b)3, 4 or 8 above shall be an adequately supported, gas tight, three-inch minimum diameter solid pipe, through any enclosed portions of the building. The pipe shall be routed in a manner that makes it accessible for the installation of a future in-line vent pipe fan in a non-conditioned (not heated or cooled) space, including, without limitation, an attic space, but excluding a basement or crawl space, and installed in a configuration, and supported in a manner, that will ensure that rain water or condensate accumulation within the pipes will drain downward into the ground beneath the slab or vapor barrier. The vent stack pipe shall meet the following termination requirements:

i. Vent pipes shall terminate at least 12 inches above the roof, measured from the highest point where the vent intersects the roof. When a vent pipe extension terminates on an occupiable roof the vent pipe shall extend at least seven feet above the roof surface. Exception: Buildings more than three stories in height shall be allowed to extend vent pipe terminals through a wall provided that the termination is at least 20 feet above grade and is effectively screened.

ii. No vent terminal shall be located directly beneath any door, window, or other ventilating opening of the building or of an adjacent building nor shall any such vent terminal be within 10 feet horizontally of such an opening unless it is at least two feet above the top of such opening.

iii. No vent terminal shall be closer than 10 feet horizontally from any lot line. Where this 10 foot horizontal distance is not possible due to lot width, the vent terminal shall be placed as remote from the lot line as practicable.

13. Radon vent pipes shall be identifiable and clearly labeled at intervals of not more than 25 feet in concealed locations, not more than 50 feet in exposed locations and not less than once in any room or space.

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

County	Municipality	
Burlington	Chesterfield	Mansfield
Camden	Magnolia	Somerdale
	Runnemede	
Cumberland	Bridgeton	
Gloucester	Deptford	Harrison
	East Greenwich	Wenonah
	Greenwich	
Hunterdon	All municipalities except Kingswood and Union	
Mercer	Ewing	Pennington
	Hopewell Borough	Princeton Borough
	Hopewell Township	Princeton Township
	Lawrence	
Middlesex	Highland Park	Piscataway
	North Brunswick	
Monmouth	Allentown	Marlboro
	Colts Neck	Roosevelt
	Freehold Borough	Shrewsbury Borough

County	Municipality	
	Freehold Township	Shrewsbury Township
	Holmdel	Upper Freehold
	Little Silver	
Morris	Chester Borough	Morris Plains
	Chester Township	Morristown
	Dover	Mount Olive
	Harding	Randolph
	Jefferson	Roxbury
	Long Hill	Victory Gardens
	Mendham Borough	Washington
	Mendham Township	Wharton
	Morris	
Passaic	Pompton Lakes	West Milford
Salem	Woodstown	
Somerset	Bernardsville	Montgomery
	Bernards	Peapack & Gladstone
	Branchburg	Rocky Hill
	Far Hills	Somerville
	Hillsborough	Warren
	Franklin	Watchung
	Millstone	
Sussex	All municipalities except Hardyston	
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).

**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.  
See: 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 in Use Groups R-3 or R-4, or to any elevator device located wholly within a dwelling unit in an R-2 structure 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).

### 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 construc-

tion. 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 classified as Use Group R-3 and R-4, except those elevator devices accessible to the public, shall be exempt from periodic inspection and test requirements. Elevator devices wholly within dwelling units in R-2 structures 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 acceptance test for work under a permit in such structures, those inspections and tests shall assure 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.

#### 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 device, other than a structure in Use Group R-3 or R-4, or other than an elevator device wholly within a dwelling unit in an R-2 structure 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 in Use Group R-3 or R-4, 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 of the device's owner or the owner's representative;
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 in Use Group R-3 or R-4, or a device in an R-2 structure 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 an R-2 structure 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.

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).

**5:23-12.5 Registration fee**

The initial registration fee for each elevator device in any structure that is not in Use Group R-3 or R-4 or that is not in an exempted R-2 structure 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.

**5:23-12.6 Test and inspection fees**

(a) The Department 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 in Use Group R-3 or R-4, or in an exempted R-2 structure, 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 Department fee for elevator devices in structures in Use Group R-3 or R-4, or otherwise exempt

devices in R-2 structures, 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 Department fees for routine and periodic tests and inspections for elevator devices in structures not in Use group R-3 or R-4, or otherwise exempt devices in R-2 structures, 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).

### 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 Use Group R-3 and R-4 shall be exempt from registration. Elevator devices wholly within R-2 residences, 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).

**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, employees, 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) The construction official shall notify the Department about those accidents involving elevator devices (reported to the enforcing agency as required by the building subcode) that involve either death or personal injury requiring medical treatment by a physician other than first aid or damage to the elevator device that was either a result or cause of the accident and which affects the future safe operation of the device. 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.

1. 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.

2. 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.

3. 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).

### 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.