

5:23-3.15 Plumbing subcode

(a) Rules concerning subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c. 217, as modified by P.L. 1996, c. 53, the Commissioner hereby adopts the Model Code of the National Association of Plumbing Heating-Cooling Contractors, known as "The National Standard Plumbing Code/2006," as the plumbing subcode for New Jersey.

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

2. "The National Standard Plumbing Code/2006," including appendices, may be known and cited as "the plumbing subcode."

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

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

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

i. Delete the term and definition of "Adopting Agency."

ii. Amend the definition of "approved" as follows: delete "Sec. 3.12" and insert "N.J.A.C. 5:23-3.7."

iii. Delete the definition of "Authority Having Jurisdiction" and insert the following: "Unless otherwise defined herein, or unless the context clearly indicates otherwise, the term "authority having jurisdiction" for purposes of the plumbing subcode, shall mean the "plumbing subcode official."

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

v. In the definition of "Building Classification" delete "authority having jurisdiction" and insert "building subcode" at N.J.A.C. 5:23-3.14.

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

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

viii. The definition of "hot water" shall be deleted and the following definition shall be inserted: "Hot Water: Potable water at a temperature of not less than 120 degrees F and not more than 140 degrees F.

ix. The definition of "tempered water" shall be deleted and the following definition shall be inserted: "Tempered Water: Water at a temperature of not less than 90 degrees F and not more than 105 degrees F.

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

xi. Add the following new definition after the definition of Swimming Pool: Swimming Pool, Public: A swimming pool located on any property other than a one or two family residential property and including, but not limited to, swimming pools open to the use of members, residents or the public.

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

i. Section 2.5 is deleted in its entirety.

ii. In Section 2.9.3 delete "Building Code or as required by the proper Authority Having Jurisdiction" and insert "building subcode."

iii. In Section 2.11, Piping materials exposed within plenums, "Codes" shall be deleted and "subcodes" shall be inserted.

iv. In Section 2.12, Sleeves, subparagraph e, "regulations" shall be deleted and "subcode" shall be inserted.

v. In Section 2.16, Freezing or overheating, at item 1, "42" shall be inserted in the blank space provided. Additionally, the following sentence shall be inserted: "Combination domestic/fire water service piping shall be installed such that the minimum earth cover is 42 inches or the top of the pipe is 12 inches below the frost depth of the locality, whichever is greater. Limited-area sprinkler systems installed in accordance with Section 903.3.5.1.1 of the building Subcode, shall be installed such that the minimum earth cover is 42 inches." In the same section, at Item 2, "24" shall be inserted in the blank space provided. In addition, in the second line of Item 2, "6" shall be inserted in the blank space provided.

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

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

viii. In Section 2.25, at Item 8, insert "and which does not otherwise adversely affect health and safety" at the end of the section.

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

i. In Section 3.1.1 delete "Minimum." In the same section at items (1) and (2), delete "Section 3.12.2" and insert "N.J.A.C. 5:23-3.7."

ii. In Section 3.1.2, at Item a, delete "at least." In the same section, delete "Section 3.12" and insert "N.J.A.C. 5:23-3.7."

iii. In Section 3.1.3, Standards applicable to plumbing materials, "Section 3.12.2" shall be deleted and "N.J.A.C. 5:23-3.7" shall be inserted.

iv. Section 3.3.8a is amended to add the following phrase: "Pressure vessels shall be designed and constructed in accordance with the requirements of American Society of Mechanical Engineers, (ASME), Rules for Construction of Pressure Vessels, Section VIII/1998. Any pressure vessel that exceeds any of the following, shall meet the requirements of ASME and shall be stamped ASME: A heat input rating of 200,000 BTU per hour; or a water temperature of 200 degrees Fahrenheit; or a nominal water capacity of 120 gallons or any other thresholds of ASME that apply."

v. Section 3.3.11 entitled "Septic Tanks" is deleted in its entirety.

vi. Add new section 3.4.2.1 as follows: 3.4.2.1 Combination Domestic/Fire Water Service: Water service piping for combination domestic/fire water services shall be of materials listed in Table 3.4 and shall be water pressure rated not less than 200 psig at 73°F. Joint restraints shall comply with Section 6.3, entitled "Joint Restraint for Fire Mains" per NFPA 13.

Exception: Limited area sprinkler systems installed in accordance with Section 903.3.5.1.1 of the building subcode, shall be water pressure rated not less than 160 psig at 73°F.

vii. In Section 3.11.1 delete "approved by the Authority Having Jurisdiction."

viii. In Section 3.11.2 delete "except as may be otherwise authorized by the Authority Having Jurisdiction."

ix. Section 3.12, Alternate materials and methods, shall be deleted in its entirety.

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

i. In Section 4.3.8(b)(3) delete "be approved by the Authority Having Jurisdiction if such products are not listed or labeled" and insert "or as permitted under N.J.A.C. 5:23-3.7."

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

i. In Section 5.3.2, Trap seals, in Exception (2), "in accordance with N.J.A.C. 5:23-3.3" shall be inserted after "Authority Having Jurisdiction."

ii. In Section 5.3.4, Building traps, "in accordance with N.J.A.C. 5:23-3.3" shall be inserted after "Authority Having Jurisdiction."

7. Chapter 6 of the plumbing subcode, entitled "Liquid Waste Treatment Equipment," shall be amended as follows:

i. At the end of Section 6.1.1, Where required, the following shall be inserted: "The determination of necessity shall be made by the plumbing subcode official in accordance with N.J.A.C. 5:23-3.3."

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

8. Chapter 7 of the plumbing subcode, entitled "Plumbing Fixtures, Fixture Fittings and Plumbing Appliances," shall be amended as follows:

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

ii. In Section 7.4.4, Bowl height, **Exception (2) and Exception (3)** shall be deleted and the following text shall be inserted: "Accessible water closets shall conform to the requirements of N.J.A.C. 5:23-7 et seq."

iii. At the end of Section 7.18.2 after "Authority Having Jurisdiction" insert "in accordance with N.J.A.C. 5:23-3.3."

iv. Note 1 to Table 7.21.1 is amended to delete the words "For handicap requirements see local, state, or national codes." in the second sentence.

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

vi. Section 7.23, Safety features for spas and hot tubs, shall be deleted and Section 7.23, Safety features for swimming pools, spas and hot tubs, shall be inserted as follows:

"7.23 Safety Features for Swimming Pools, spas and hot tubs.

7.23.1 General. Suction outlets shall be designed to provide circulation throughout the pool, spa or hot tub. Single-outlet systems, such as automatic vacuum cleaner systems, or other such multiple suction outlets whether isolated by valves or otherwise, shall be protected against user entrapment.

7.23.2 Suction fittings. All pool and spa suction outlets shall have a cover that conforms to ASME A112.19.8M, a 18-inch by 23-inch (457 mm by 584 mm) drain grate or larger, or an approved channel drain system.

Exception: Surface skimmers.

7.23.3 Atmospheric vacuum relief system required. Pool and spa single- or multiple-outlet circulation systems shall be equipped with atmospheric vacuum relief should grate covers located therein become missing or broken. This

vacuum relief system shall include at least one approved or engineered method of the type specified herein, as follows:

1. Safety vacuum release system conforming to ASME A112.19.17; or
2. Approved gravity drainage system

7.23.4 Dual drain separation. Single- or multiple-pump circulation systems shall have a minimum of two suction outlets of the approved type. A minimum horizontal or vertical distance of 3 feet (914 mm) shall separate such outlets. The suction outlets shall be piped so that water is drawn through the outlets simultaneously through a vacuum-relief-protected line to the pump or pumps.

7.23.4.1 All swimming pools shall be equipped with main drain suction outlets in the lowest point of the swimming pool floor. The spacing of the main drain suction outlets shall not be greater than 20 feet on center, nor more than 15 feet from each side wall.

7.23.5 Pool cleaner fittings. Where provided, vacuum or pressure cleaner fitting(s) shall be located in an accessible position(s) at least 6 inches (152 mm) and not more than 12 inches (305 mm) below the minimum operational water level or as an attachment to the skimmer(s).

9. Chapter 8 of the plumbing subcode, entitled "Hangers and Supports," shall be amended as follows:

- i. In Section 8.9, Seismic supports for piping, "code" shall be deleted and "subcode" shall be inserted.

10. Chapter 10 of the plumbing subcode, entitled "Water Supply and Distribution," shall be amended as follows:

- i. In Section 10.2 after "Authority Having Jurisdiction" insert "in accordance with N.J.A.C. 5:23-3.3".
- ii. In Section 10.4.2 delete "with the approval of the Authority Having Jurisdiction" and insert "in accordance with the rules of the New Jersey Department of Environmental Protection at N.J.A.C. 7:10-10";
- iii. Section 10.4.3 is amended to read: "Potable water supplies shall be protected in accordance with the provisions of this code and where applicable the Safe Drinking Water Regulations (N.J.A.C. 7:10). The requirements of this code shall establish requirements for individual outlet protection. The requirements of the Safe Drinking Water Act shall establish the requirements for containment.";
- iv. In Section 10.4.4, Private supplies, at Note b, "in accordance with N.J.A.C. 7:10-10.2(e)" shall be inserted after "Authority Having Jurisdiction."
- v. Section 10.5.6d. is amended to delete the words "and repair" on the first line, and to delete the third sentence.

vi. In Section 10.8.1 insert "as required by the Authority Having Jurisdiction" after "in accordance with good practice."

vii. Section 10.15.1, Hot water supply system, shall be amended to add the phrase "Outlet temperature of hot water from lavatory faucets in public facility restrooms (such as those in service stations, airports, train and bus terminals, and conventions halls) shall be provided with a means to limit the maximum temperature to 110 degrees F. as required in ASHRAE 90.1-1999."

11. Chapter 11 of the plumbing subcode, entitled "Sanitary Drainage Systems," is amended as follows:

- i. Section 11.4.3 is amended at the end to add the sentence "Diversity factors shall be established in accordance with N.J.A.C. 5:23-3.3."

12. Chapter 12 of the plumbing subcode, entitled "Vents and Venting," shall be amended as follows:

- i. Section 12.5 is deleted in its entirety.
- ii. Section 12.8.2 is deleted in its entirety.

13. Chapter 13 of the plumbing subcode, entitled "Storm Water Drainage," shall be amended as follows:

- i. In Section 13.1.5, Foundation drains, Notes a. through c. shall be amended to read "subsoil drains shall be provided in accordance with the building subcode."
- ii. Section 13.1.10.1, Primary roof drainage, shall be amended to delete the last sentence and to substitute in lieu thereof "Rainfall rates shall be applied so that the applicable rainfall rate for Burlington and Ocean counties and all counties south shall be six inches per hour and for Mercer and Monmouth counties and all counties north, the applicable rainfall rate shall be five inches per hour."

iii. Section 13.1.10.2, "Secondary Roof Drainage," is deleted.

iv. Section 13.1.10.4, "Equivalent Systems," is deleted.

v. In Section 13.9.1 after "Authority Having Jurisdiction" insert "in accordance with N.J.A.C. 5:23-3.3."

14. Chapter 15 of the plumbing subcode, entitled "Tests and Maintenance" is amended as follows:

i. Add new Section 15.6.1 as follows: 15.6.1 Combination Domestic/Fire Water Service Systems: Piping for combination domestic/fire water services systems shall be pressure tested to not less than 200 psig and shall maintain that pressure without loss for 2 hours.

ii. Add new Section 15.6.1.1 as follows: 15.6.1.1 Leakage: The following provisions shall apply to buried pipe in all combination domestic/fire water service systems, except for limited sprinkler systems:

(1) The amount of leakage at the joints shall be no greater than 2 qt/hr (1.89 L/hr) per 100 joints or gaskets, regardless of pipe diameter.

(2) The amount of leakage in accordance with (1) above shall be permitted to be increased in increments of 1 fluid ounce (30 ml) per inch valve diameter per hour for each metal seated valve that isolates the test section.

(3) The amount of leakage in buried piping shall be measured at the test pressure specified by pumping from a calibrated container.

iii. Add new Section 15.9 as follows: 15.9 Flushing of Piping: Lead-in connections to system risers and fire service mains from the water supply to the system riser (excluding limited systems) shall be flushed completely before connection is made to sprinkler piping. The flushing operation shall be continued for a sufficient amount of time to ensure that the system is thoroughly cleaned. The minimum rate of flow shall be not less than one of the following:

(1) The hydraulically calculated water demand rate of the system, including any hose requirements.

(2) The flow that is necessary to provide a velocity of 10 ft/sec (3.1 m/sec).

(3) The maximum flow rate available to the system under fire conditions.

15. Chapter 16 of the plumbing subcode, entitled "Regulations Governing Individual Sewage Disposal Systems for Homes and Other Establishments Where Public Sewer Systems Are Not Available," shall be amended as follows:

i. Except as otherwise indicated in (b)15ii below, Sections 16.1 through 16.12.1.13 shall be deleted in their entirety.

ii. Section 16.1.7, Abandoned disposal systems, shall be retained and amended to read as follows: "When an existing sewage disposal system is being abandoned and a connection is being made to the public sewer system or new sewage disposal system, the plumbing subcode official shall ensure that the existing abandoned tank is disconnected from the building, pumped out and filled with gravel, stones or soil material."

Note: Existing standards of the Department of Environmental Protection and boards of health with respect to individual on-site sewage disposal systems remain in effect.

16. Chapter 17 of the plumbing subcode entitled, "Potable Water Supply Systems," shall be deleted in its entirety.

Note: Existing standards of the Department of Environmental Protection and boards of health with respect to individual on-site water supply systems remain in effect.

17. Chapter 18 of the plumbing subcode, entitled "Mobile Home and Travel Trailer Park Plumbing Standards," shall be amended as follows:

i. In Section 18.2.1, General, the last sentence beginning with "Trailer home park" shall be deleted.

ii. Section 18.2.2 is amended to delete the words "or sewerage disposal" on line 1.

iii. Section 18.5.8 is amended to add the phrase "and as provided by the authority having jurisdiction" after the words "chapter 10 of this code."

iv. Section 18.8.1.2 is deleted.

v. Section 18.8.3 is amended to add the phrase "for dependent trailers" after the word "park" on line 1.

vi. Section 18.8.4 is amended to add the phrase "for dependent trailers" after the word "park" on line 1.

vii. Section 18.9 is deleted.

viii. Section 18.10 is deleted.

18. Appendix A, entitled "Sizing Storm Drainage Systems," shall be deleted in its entirety.

19. Appendix F, entitled "Requirements of the Authority Having Jurisdiction," shall be amended as follows.

i. In Section F.2, References, the following shall be deleted: "1.7.2 Penalties; 1.9.8 Permit Expiration; 1.10.2 Plan Review Fees; 1.10.3 Plan Review Expiration; 1.10.5 Refunding of Fees; and 1.11.5 Requests for Inspection."

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

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

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

See: 14 N.J.R. 1326(a), 15 N.J.R. 141(c).

Added (a) 3 and (c).

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

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

Section substantially amended.

Amended by R.1986 d.12, effective February 3, 1986.

See: 17 N.J.R. 2714(a), 18 N.J.R. 267(a).

(a)1i had a change of address; (a)3 and (c) added.

Amended by R.1987 d.81, effective February 2, 1987.

See: 18 N.J.R. 2237(b), 19 N.J.R. 289(d).

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.1989 d.66, effective February 6, 1989.

See: 20 N.J.R. 2846(a), 21 N.J.R. 288(a).

Added (c).

Amended by R.1990 d.58, effective February 5, 1990.

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

Added (d) adopting the 1989 Supplement to the 1987 National Standard Plumbing Code.

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

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

Text added at (a)3; (d)3ii 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).

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

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

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

Added new (c).

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

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

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

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

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

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

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

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

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

In (b)9, added xii.

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

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

Rewrote the section.

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

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

Rewrote the section.

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

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

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

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

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

Rewrote the section.

Administrative correction.

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

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

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

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

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

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

Rewrote the section.

Case Notes

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

5:23-3.16 Electrical subcode

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

i. Section 210.12(B) of Article 210, entitled "Branch Circuits," is amended to insert the following sentence at the end of the section, "This requirement shall be considered optional."

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

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

ii. Section 334.10(1) is amended to add "and accessory buildings or structures" after the word dwellings.

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

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

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

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

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

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

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

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

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

iv. Article 552 shall be applicable to structures covered by the recreational park trailers subcode, N.J.A.C. 5:23-4D, provided that:

(1) The structure is restricted to seasonal use as per Section 552.4. For purposes of applying this requirement, the park in which the structure is located shall be open for six months or less each year or access to the structures shall be otherwise restricted to a period of six months or less each year; and

(2) No additions, alterations, or extensions of any kind shall be made to the electrical system or structure unless the entire electrical system shall be made to conform to the electrical requirements of this code applicable to single family dwellings.

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

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

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

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

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

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

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

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

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

Section substantially amended.

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

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

Model subcode revisions.

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

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

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

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

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

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

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

Text conformed to BOCA National Code/1990.

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

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

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

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

Rewrote the section.

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

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

In (a), inserted a new 3.

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

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

In (a), substituted references to 1999 for references to 1996 through-out, substituted a reference to One Batterymarch Park for a reference to

Batterymarch Park in 1i, and inserted 2i; and in (b), inserted 1ii, inserted a new 3, recodified former 3 and 4 as 4 and 5, substituted a reference to line four for a reference to line three and substituted a reference to line six for a reference to line five in the new 4i, and substituted a reference to section 500-5(a)(4) for a reference to section 500-3(a)4 in the new 5i. Amended by R.2003 d.187, effective May 5, 2003.
See: 34 N.J.R. 4248(a), 35 N.J.R. 1939(c).

Rewrote the section.

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

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

Added (c).

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

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

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

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

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

Added (b)7.

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

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

Added new (b)4ii; recodified former (b)4ii as (b)4iii; and in (b)4iii, substituted "(2)" for "(1)".

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

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

Rewrote (b)5iv.

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.

xv. Prepare and obtain reports required in the regulations;

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

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

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

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

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

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

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

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

xxiv. Ensure that all units within a residential development, other than Group R-1, that might have similar violations are inspected for such violations and that any such violations found are cited and abated if violations of the provisions of the Code in effect at the time of permit application listed at N.J.A.C. 5:23-2.35(a)1 are found in a residential structure in the development subsequent to the issuance of a certificate of occupancy. The construction official shall supervise the work of any professional engineer or registered architect hired by the municipality for this purpose; and

xxv. Report the name of the developer and the nature of the code violation(s) to the Department by sending this information in writing to the Office of Regula-

tory Affairs, 101 S. Broad Street, PO Box 818, Trenton, NJ 08625 whenever:

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

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

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

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

(i) Duties of subcode officials:

1. The subcode official shall enforce the regulations and:

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

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

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

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

v. Review requests for variations as necessary;

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

vii. Issue in the name of the enforcing agency notices of violation and notify the construction official of same. The subcode official may issue verbal orders at the job-site and shall record such orders in his inspection report;

viii. Complete reports of all inspections performed;

ix. Issue stop construction orders in the name of the enforcing agency and notify the construction official of same or, in the case of a development-wide stop con-

struction order, make a recommendation to the construction official for issuance of the order;

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

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

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

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

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

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

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

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

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

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

(j) Conflict of interest:

1. No person employed by an enforcing agency as construction or subcode official or as an inspector shall carry out any inspection or enforcement procedure with respect to any property or business in which he or she, or any close relative or household member, or his or her superior within the enforcing agency or any close relative or

household member of such superior, or any other public official or employee having any direct or indirect control over the funding or operations of the enforcing agency or any close relative or household member of any such public official or employee, has an economic interest. For purposes of this paragraph, "close relative" shall mean and include a spouse, sibling, ancestor or descendant, or the spouse of any of them.

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

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

2. No person employed by an enforcing agency as a construction or subcode official, assistant to the construction or subcode official, trainee, inspector or plan reviewer, shall engage in, or otherwise be connected directly or indirectly for purposes of economic gain, with any business or employment furnishing labor, materials, products or services for the construction, alteration, or demolition of buildings or structures within any municipality in which he is so employed by an enforcing agency, and in any municipality adjacent to any municipality in which he is thus employed.

3. Persons subject to this subsection shall annually report any income or benefits received from any business or property subject to the Code, or from any business furnishing materials, products, labor or services for types of work subject to the Uniform Construction Code regulations, to the municipal governing body. This report shall include a list of all sources of income, but need not list the amount.

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

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

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

5. This section shall not apply to:

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

ii. Any such business or employment outside the State;

iii. Dual employment by two or more enforcing agencies;

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

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

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

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

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

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

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

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

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

Added (g)2.

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

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

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

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

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

Radon mitigation added to (f)1xviii.

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

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

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

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

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

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

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

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

Form numbers changed in (b).

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

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

Conflict of interest and exception provisions added.

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

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

Report form number changed at (e).

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

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

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

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

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

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

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

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

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

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

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

In (b)2, amended form references.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In (h), added 3.

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

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

Added (h)1xxii.

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

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

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

Administrative correction.

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

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

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

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

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

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

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

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

Administrative correction.

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

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

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

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

Administrative correction.

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

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

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

Added (k).

Administrative correction.

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

Case Notes

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

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

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

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

5:23-4.5A (Reserved)

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

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

5:23-4.6 Interlocal enforcing agencies—establishment

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

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

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

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

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

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

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

5:23-4.7 Interlocal enforcing agencies—organization

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

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

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

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

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

5:23-4.9 State enforcing agencies—establishment

(a) Department of Community Affairs:

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

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

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

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

Administrative Correction to (a)1.

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

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

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

In (a)1, changed enforcing agency and amended N.J.A.C. references; deleted (a)1i and (c); inserted (a)2; and recodified former (d) as (c).

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

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

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

Administrative correction.

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

9. Has made a false or misleading written statement, or has made a material omission in any submission to the department;

10. Has engaged in any conduct which demonstrates incompetency or dishonesty; or

11. Has failed to enforce the Uniform Construction Code Act or regulations.

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

(c) Conviction of a crime, or conviction of an offense in connection with one's performance as a licensed code enforcement official or inspector, shall constitute grounds for revocation or suspension of a license.

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

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

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

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

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

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

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

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

7. The Department shall present whatever evidence it may have to the review committee. The licensee shall be given notice of the meeting of the review committee and may appear before the review committee to present his or her position, but there shall be no cross-examination of either the licensee or any representative of the Department. Nothing said by the licensee or by any other persons at the meeting of the review committee shall be used in any way, nor shall any member of a review committee be required to testify concerning proceedings before the review committee, in any subsequent proceeding.

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

9. A meeting of the review committee shall not be deemed to be a hearing or an adversarial proceeding and the findings of the advisory committee shall be deemed to

be only a recommendation that is not binding on the Department.

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

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

As amended, R.1978 d.350, effective October 1, 1978.

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

As amended, R.1981 d.134, effective April 10, 1981.

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

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

As amended, R.1982 d.8, effective February 1, 1982.

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

Catchline: added "and alternative sanctions".

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

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

As amended, R.1982 d.436, effective December 20, 1982.

See: 14 N.J.R. 734(a), 14 N.J.R. 1449(a).

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

Amended by R.1985 d.528, effective October 21, 1985.

See: 17 N.J.R. 1705(a), 17 N.J.R. 2535(b).

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

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

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

Was 5:23-5.11.

Amended by R.1986 d.173, effective May 19, 1986.

See: 18 N.J.R. 16(b), 18 N.J.R. 1099(b).

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

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

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

This section recodified from section 26.

Amended by R.1992 d.68, effective February 3, 1992.

See: 23 N.J.R. 3441(a), 24 N.J.R. 406(a).

Text on review committees added at (d).

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

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

Stylistic changes.

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

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

Added (e).

Amended by R.1996 d.545, effective December 2, 1996.

See: 28 N.J.R. 3997(a), 28 N.J.R. 5071(b).

Amended by R.2004 d.365, effective October 4, 2004.

See: 36 N.J.R. 2605(a), 36 N.J.R. 4442(a).

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

Amended by R.2004 d.366, effective October 4, 2004.

See: 36 N.J.R. 2606(a), 36 N.J.R. 4442(a).

In (d)2, deleted the second sentence.

Case Notes

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

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

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

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

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

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

SUBCHAPTER 6. REHABILITATION SUBCODE

5:23-6.1 Introduction; using this subcode

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

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

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

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

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

(b) **Repair Work:** The requirements that apply to repair work are in N.J.A.C. 5:23-6.4. The requirements for repairs are brief due to the limited nature of the work. There is a short list of materials that may not be used for repair work due to their inherently hazardous nature and another list of materials which must be used in connection with repair work where applicable. These lists should be used when planning the repair components of any project.

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

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

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

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

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