

1. A certificate of continued occupancy shall be granted upon request, subject to this subchapter.

(b) Change of use: It shall be unlawful to change the use of any structure or portion thereof without the prior application for and issuance of a certificate of occupancy as herein provided.

1. A certificate of occupancy shall be issued provided such structure shall comply with the provisions of N.J.A.C. 5:23-6, Rehabilitation Subcode.

i. Buildings meeting the requirements of N.J.A.C. 5:23-6.31(p) shall be entitled to a certificate of occupancy for 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.

2. If any non-residential occupancy, other than Use Groups F, H or S, accommodates seven or more non-consecutive group overnight stays within a calendar year for persons over 2½ years of age, and the activities involve planned periods of sleep, the building is considered to have undergone a change of use. In such a case, it shall be necessary to apply for and be issued a Certificate of Occupancy. This shall be a dual Certificate of Occupancy to allow Use Group R-1 in addition to the existing use of the building. Any facility that accommodates six or fewer overnight stays within a calendar year shall obtain a permit under the Uniform Fire Code, N.J.A.C. 5:70. Group overnight stays in Use Groups F, H and S shall be prohibited.

3. The use of an existing structure as a "special amusement building," as defined in the building subcode, shall be a change in the character of use of the existing building. The building or portion thereof shall be required to comply with N.J.A.C. 5:23-6.31(a)5vii.

i. Exception: The use of an existing structure or portion thereof as a special amusement building for not more than 15 days in a calendar year provided that a permit for such use has been issued by the local fire official pursuant to the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq.

Amended by R.1985 d.16, effective February 4, 1985.
See: 16 N.J.R. 3073(b), 17 N.J.R. 275(a).

(a) Added text: "or fire safety" and "or minimum housing standard or regulation".

Amended by R.1993 d.662, effective December 20, 1993.
See: 25 N.J.R. 3891(a), 25 N.J.R. 5918(a).

Amended by R.1995 d.144, effective March 20, 1995 (operative July 1, 1995).

See: 26 N.J.R. 2698(a), 26 N.J.R. 3524(a), 27 N.J.R. 1180(a).

Amended by R.1995 d.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.1998 d.28, effective January 5, 1998.

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

New heading "Change of use"; rewrote (b); added "Rehabilitation Subcode" in (b)1; deleted (b)1i through (c).

Amended by R.2002 d.255, effective August 5, 2002.

See: 33 N.J.R. 4177(a), 34 N.J.R. 2783(a).

In (b), added 2.

Amended by R.2003 d.157, effective April 21, 2003.

See: 34 N.J.R. 4247(a), 35 N.J.R. 1663(b).

In (b), added 3.

Administrative correction.

See: 35 N.J.R. 5062(a).

Amended by R.2004 d.423, effective November 15, 2004.

See: 36 N.J.R. 3004(a), 36 N.J.R. 5090(a).

In (b)3, deleted "temporary or permanent" preceding "use of an existing structure" in the first sentence, and deleted "the building subcode and fire protection subcode requirements of" preceding the NJAC reference in the last sentence, of the introductory paragraph, added i.

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

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

Added (b)1i.

Case Notes

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

5:23-2.7 Ordinary maintenance

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

(b) Ordinary 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, except that the following shall be considered ordinary electrical maintenance:

(1) Communications wiring in a Class 3 structure provided that the installation does not involve the alteration or penetration of a fire-rated assembly and is not in a hazardous location as defined in Chapter 5 of the electrical subcode.

(A) For the purposes of applying this provision, communications wiring shall mean any wiring cov-

ered by Chapter 8 of the electrical subcode. Communications wiring shall also include data circuits between computers/information technology equipment, which may be classified as "communications circuits," in accordance with Article 725 of the electrical subcode; or

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

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

(c) The following items are ordinary maintenance and shall be treated as such by every enforcing agency. No permit for, inspections of, or notice to the enforcing agency of ordinary maintenance shall be required. This is not an all-inclusive listing of ordinary maintenance.

1. Ordinary building maintenance shall include:

i. Exterior and interior painting;

ii. Installation, repair or replacement of any interior finishes of less than 25 percent of the wall area in any given room in a one- or two-family dwelling. This shall include plastering and drywall installation;

(1) Vinyl wall covering of any amount is ordinary maintenance;

(2) Paneling shall not be considered ordinary maintenance;

iii. Wall papering at any location;

iv. The replacement of glass in any window or door. However, the replacement glass shall be of a type and quality that complies with the minimum requirements of the code;

v. The installation and replacement of any window or door, including garage doors, in the same opening without altering the dimensions or framing of the original opening. This shall include storm windows and storm doors. The installation and replacement of means of egress and emergency escape windows and doors may be made in the same opening without altering the dimensions or framing of the original opening, and shall not reduce the required height, width or net clear opening of the previous window or door assembly;

vi. The repair or replacement of any non-structural member such as a partition railing or kitchen cabinet;

vii. The repair or replacement of any interior or exterior trim, decoration or moldings;

viii. The replacement or installation of any flooring material, except carpeting, with a new material. However, installation of carpeting in one and two family dwellings shall be permitted under ordinary maintenance;

ix. The repair of existing roofing material not exceeding 25 percent of the total roof area within any 12 month period;

x. The repair of existing siding with like material not exceeding 25 percent of the total building exterior wall area within any 12 month period;

xi. The repair or replacement of any part of a porch or stoop which does not structurally support a roof above;

xii. The replacement or installation of screens;

xiii. The installation of any roll or batt insulation when installed adjacent to or not more than one and a half inches from an interior finish; and

xiv. Replacement of exterior rain water gutters and leaders.

2. Ordinary plumbing maintenance shall include:

i. Replacement of hose bib valves in single family dwellings. Replacement hose bib valves shall be provided with an approved atmospheric vacuum breaker;

ii. Refinishing of existing fixtures. Relining of fixtures shall not be considered to be ordinary maintenance;

iii. Replacement of ball cocks. Replacement ball cocks must be an approved anti-siphon type;

iv. Repair of leaks involving the replacement of piping between two adjacent joints only;

v. Clearance of stoppages;

vi. Replacements of faucets or working parts of faucets;

vii. Replacement of valves (including shower or combination bath/shower valves in a single family dwelling);

viii. Replacements of working parts of valves, including, but not limited to, shower or combination bath/shower valves;

ix. Replacement of traps except for traps on culinary sinks in food handling establishments;

x. Replacement of a water closet, and/or lavatory, and/or bathtub or shower unit and/or kitchen sink in a single family dwelling with an approved similar fixture provided that no change in the piping arrangement is made. Replacement water closets bearing a date stamp of July 1, 1991 or later must use an average of 1.6 gallons or less of water per flushing cycle; and

xi. Replacement of domestic clothes washers and dishwashers.

3. Ordinary electrical maintenance shall include:

i. The replacement of any receptacle, switch, or lighting fixture rated at 20 amps or less and operating at less than 150 volts to ground with a like or similar item, including receptacles in locations where ground-fault circuit interrupter protection, damp/wet or tamper-resistant are required (Sections 210.8, 406.8 and 406.11, respectively, of the electrical subcode);

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

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

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

iv. Replacement of domestic dishwashers; and

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

4. Ordinary fire protection maintenance shall include:

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

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

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

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

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

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

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

iii. Repair and replacement of duct work;

iv. Repair of air conditioning equipment and systems; and

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

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

vii. Replacement of clothes dryers serving and located within dwelling units, provided that no change in

fuel type or location or electrical characteristics is required.

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

6. Ordinary elevator maintenance shall include:

i. The following work on elevator brakes:

(1) Installation of new linings;

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

(3) Renewal of phase splitting coils; and

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

ii. The following controller/selector repairs:

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

(2) Replacement of damaged resistance tubes, grids, broken controller panel sections, main power or brake rectifiers, power and light transformers, and microprocessor printed circuit boards. Replacement or reconditioning of dash pots and retarders;

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

(4) Adjustment of controller to original design specifications.

iii. The following work on motor generators:

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

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

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

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

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

iv. The following work on hoist motors:

(1) Installation or renewal of bearing oil gauges, renewal of sleeve or ball bearings, and re-babbiting of sleeve bearings (gearless);

(2) Replacement of motor armatures, rotors, motor collector rings, commutators, commutator

brushes, and turning down and undercutting of commutators;

(3) Rewinding of stators, armatures, and field coils; and

(4) Removal for testing on a work bench, re-insulation, banding and reinstallation of hoist motors and realignment of motors to worm shafts.

v. The following work on machines:

(1) Installation of new demountable drive sheave rims, new drive shafts, new integral drive sheaves, split couplings;

(2) Replacement of worms, gears, worm shaft housings, thrust bearings, thrust housings, external ring gears and pinions, machine drums, solid drive sheaves with demountable drive sheaves, and sheave bearing. Replacement or repair of stop motion switches, slack cable switches, replacement of drive sheave linings. Regrooving of drive sheaves;

(3) Re-babbiting of main bearings, external gears and bearings, and worm shaft housings;

(4) Renewal of sleeve bearings, drum buffers, and drum shafts;

(5) Re-securing of loose brake pulleys and realignment of brake pulleys, with motor gear shaft; and

(6) Removal of bearing shims.

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

(1) Replacement or re-socketing of hoist ropes and replacement of compensating ropes or chains, governor ropes, and hitches; and

(2) Shortening of hoist ropes due to a rope stretch.

vii. The following work on governors:

(1) Re-calibration, sealing, and reconditioning of governors; and

(2) Replacement or reconditioning of governor rope tension sheaves.

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

(1) Replacement or repair of sheaves, sheave bearings and sheave shafts; and

(2) Re-babbiting of sheave bearings.

ix. The following work on hoistways:

(1) Replacement of traveling cables and other hoistway wiring;

(2) Repair of counterweights, hoistway switches, hydraulic pistons, oil lines in the pit, and repacking of packing glands; and

(3) Repair or replacement of hoistway door equipment, rollers relating cables, gibs, hall buttons, lanterns, position indicator stations, and all existing related equipment, selector tapes, cables, dust covers, toe guards and hoistway fascia, and repair or replacement of all existing pit equipment with like equipment.

x. The following work on rails and guides:

(1) Realignment or replacement of main or counterweight rail sections with like products; and

(2) Repair or replacement of guide shoe liners or car and counterweight guides with like product.

xi. The following work on cabs:

(1) Installation or replacement of main and auxiliary car operating panels, emergency lighting, communication devices, door protective and reopening devices, car position indicators, and in-car lanterns;

(2) Repair or replacement of operating station on top of cars, door operating devices, motors, linkages, hangers, etc., hoistway door drive mechanisms, clutches, etc., side emergency exit latching devices and electrical switches, floor leveling and selector drive devices, terminal slow down and limiting devices, load weighing devices (on top of car and under car isolation), keyless entry and security devices, top of car intrusion devices, closed-circuit TV surveillance devices, lighting fixtures in the car on top of the car and under the car; and

(3) Replacement of ceilings with code approved materials, and of door sills, cab flooring, walls and panels with materials equivalent to those being replaced in respect to weight and fire resistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In (c)6ii(2), deleted the last sentence; in (c)6vi, substituted "suspension means" for "hoist ropes"; in (c)6vii(1), deleted ", or replacement of governors with like equipment" following "governors"; and in (c)6xi(3), substituted "sills" for "saddles".

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

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

In (c)3i, substituted ", damp/wet or tamper-resistant are required (Sections 210.8, 406.8 and 406.11, respectively, of the electrical subcode)" for "is required".

Case Notes

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

5:23-2.8 Installation of equipment

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

1. Exception: Equipment replacement under minor or emergency work may be put into use prior to the issuance of a certificate of approval.

(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).

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

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

Added (a)1.

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 without first filing an application with the construction official, or the appropriate subcode official where the construction involves only one subcode, in writing and obtaining the required permit therefor.

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

2. A permit is required when undertaking a project involving lead abatement for which a lead abatement clearance certificate is required pursuant to N.J.A.C. 5:23-2.23(p).

(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 notice shall be given as soon thereafter as is practicable, and a permit shall be applied for not later than 72 hours thereafter.

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

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

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

(1) The tent, tensioned membrane structure, or canopy is 140 feet or less in any dimension and

16,800 square feet or less in area whether it is one unit or is composed of multiple units;

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

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

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

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

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

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

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

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

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

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

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

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

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

8. A construction permit for building work shall not be required for garden-type utility sheds and similar structures that are 100 square feet or less in area, 10 feet or less in height, and accessory to buildings of Group R-2, R-3, R-4, or R-5 and which do not contain a water, gas, oil or sewer connection. A construction permit for electrical work shall be required, when applicable.

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

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

Rewrote the section.

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

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

Rewrote (e).

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

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

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

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

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

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

Administrative correction.

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

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

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

Rewrote (e)1ix; in (e)4i(4), substituted "Department" for "department"; and added (e)4i(4)(A).

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

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

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

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

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

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

Administrative correction.

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

Administrative correction.

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

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

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

Added (f)1i(1).

Administrative correction.

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

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

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

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

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

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

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

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

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

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

Amended by R.2012 d.139, effective July 16, 2012.

See: 44 N.J.R. 8(a), 44 N.J.R. 1969(a).

In the introductory paragraph of (f)1vi(1), and in (f)1vi(1)(A) and (f)1vi(2)(A), substituted "11-1" for "07-2"; in (f)1vi(1), deleted "from the Department of Community Affairs, Division of Codes and Standards at www.nj.gov/dca/codes or" following "available"; in (f)1vi(1)(A), inserted "meet or" and substituted "IECC/2009" for "IECC/2003 by two percent or more"; in the introductory paragraph of (f)1vi(2), substituted a comma for "and" following "Heating"; and in (f)1vi(2)(A), substituted "ASHRAE/2007" for "ASHRAE/2004".

Case Notes

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

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

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

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

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

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

5:23-2.16 Construction permits—procedure

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

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

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

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

(b) Suspension of permit: Any permit issued shall become invalid if the authorized work is not commenced within 12

months after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six months after the time of commencing the work.

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

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

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

(f) Revocation of permits:

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

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

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

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

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

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

(g) Approval of part: The construction official shall issue a permit for the construction of foundations or any other part of

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

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

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

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

1. The payment of appropriate fees;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rewrote the section.

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

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

In (a), rewrote 1 and added 2.

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

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

Rewrote (f).

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

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

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

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

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

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

Administrative correction.

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

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

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

In (f)1ii, deleted “or January 24, 2005, whichever is later” following the second occurrence of “permit” and deleted “the” preceding “such date”.

Case Notes

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

Determination as to whether conditions of a prior approval have been met is made by the agency or official authorized to issue the prior approval, not the construction code enforcing agency. *Club Flirt v. Dep’t of Community Affairs*, OAL Dkt. No. CAF 09333-06, 2007 N.J. AGEN LEXIS 336, Final Decision (March 26, 2007).

Appeal of a local planning board’s decision that construction does not conform to the approved site plan is to the Law Division of Superior Court; in the event of a final court decision reversing the planning board’s ruling, any order to stop construction that was based on the planning board’s ruling would be rescinded. A planning board’s ruling cannot be contested indirectly in an administrative proceeding to hear an appeal of the stop construction order that is a necessary consequence of the planning board’s ruling. *Club Flirt v. Dep’t of Community Affairs*, OAL Dkt. No. CAF 09333-06, 2007 N.J. AGEN LEXIS 336, Final Decision (March 26, 2007).

5:23-2.16A Records retention

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

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

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

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

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

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

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

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

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

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

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

(a) Service connections: Before a structure can be demolished or removed, the owner or agent shall notify all utilities having service connections within the structure, such as water, electric, gas, sewer and other connections. A permit to demolish or remove a structure shall not be issued until releases are obtained from all utilities that provided service to the property, stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed or plugged in a safe manner.

(b) Abandoned wells:

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

such certification to the Bureau of Water Allocation, Department of Environmental Protection, PO Box 029, Trenton, NJ 08625-0029.

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

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

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

(e) Asbestos abatement: Before a structure can be demolished or removed, the owner or agent shall document that the requirements of USEPA 40 CFR 61 subpart M have been or shall be met. A permit to demolish or remove the structure shall not be issued until the owner or agent notifies the enforcing agency that all friable asbestos or asbestos-containing material that will become friable during demolition or removal has been or will be properly abated prior to demolition.

Amended by R.1993 d.198, effective June 7, 1993.
See: 24 N.J.R. 1422(a), 25 N.J.R. 2519(b).
Amended by R.1993 d.420, effective September 7, 1993.
See: 25 N.J.R. 2158(a), 25 N.J.R. 4072(a).
Amended by R.1997 d.409, effective October 6, 1997.
See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).
Amended by R.1998 d.36, effective January 5, 1998.
See: 29 N.J.R. 4214(a), 30 N.J.R. 193(a).
Added (b); and recodified existing (b) through (d) as (c) through (e).

5:23-2.17A Minor work

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

(b) Notice of work; application:

1. Notice of minor work shall be a personal or telephoned oral notice before work commences. This oral

notice shall be provided to the enforcing agency between 9:00 A.M. and 5:00 P.M., Monday through Friday, except holidays. In those cases where the local enforcing agency is not open and available to receive notice at those times then notice shall be provided to the municipal clerk;

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

(c) Minor work:

1. Minor work shall mean and include:

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

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

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

2. Minor work shall also mean and include the replacement of any existing plumbing piping work with new and approved material of like capacity; the installation of drinking fountains and condensate drains in existing structures; the replacement of existing low pressure water heaters with new ones of like capacity; and the new installation of lavatories, water closets, bathtubs, showers, clothes washers or dishwashers, and garbage disposers in existing space of one and two-family dwellings where the new installation of additional fixtures can be accommodated with no increase in the size of the water distribution system, water service or house drain;

3. Minor work shall also mean and shall include the replacement of existing low pressure boilers, warm air furnaces, air conditioning units and air conditioning condensing units with new appliances of like capacity;

4. Minor work shall also mean and include new electrical work incidental to the installation of air conditioning, equipment, clothes dryers, and ranges or ovens in one and two-family dwellings; the installation of five or fewer 125 or 250 volt receptacles or fixtures where existing circuits and/or available space circuits and service are adequate to support the load; the replacement of existing wiring with new wiring of the same capacity provided that the new wiring shall be of a type approved for the use by the code;

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

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

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

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

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

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

v. Any change of an existing transmission means from a digital alarm communicator transmitter to a fire alarm supervising station.

(1) For the purposes of applying this provision, transmission means shall mean the existing phone line(s) that transmit fire alarm signals from a digital alarm communicator transmitter to the supervising station. A certified fire alarm service company, licensed fire alarm company or licensed electrical contractor shall submit Form F-391 signed by the contractor to provide a verification statement in writing to the fire subcode official within 24 hours that all required signals remain operational after the new transmission means is installed.

6. Minor work shall not include lead abatement.

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

(d) Inspection of minor work:

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

i. Exception: The replacement of an existing transmission means shall not require an onsite inspection by the fire subcode official as long as the verification form required by (c)5v(1) above is received within 24 hours of installation; and

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

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

Stylistic changes.

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

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

Amended by R.1995 d.381, effective July 17, 1995.
See: 27 N.J.R. 970(a), 27 N.J.R. 2715(a).

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

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

Rewrote (d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In (c), rewrote 4.

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

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

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

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

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

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

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

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

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

Amended by R.2012 d.139, effective July 16, 2012.

See: 44 N.J.R. 8(a), 44 N.J.R. 1969(a).

In (c)5iv(1), inserted "and" at the end; and added (c)5v and (d)1i.

5:23-2.18 Inspections

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

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

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

i. The bottom of footing trenches before placement of footings, except that in the case of pile foundations,

inspections shall be made in accordance with the requirements of the building subcode;

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

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

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

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

iii. Utility services, including septic;

iv. Mid-point inspections shall include the following:

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

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

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

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

(D) Prior to inspection, the responsible person in charge of work shall provide to the building inspector a signed framing checklist (Form F390) to be verified and initialed by the inspector and then

made part of the permit file for buildings of Type V construction.

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

(3) Plumbing Subcode: Rough piping.

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

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

ii. The requirement for a framing checklist, established at (b)1iv(D) above, shall apply to buildings of Type V construction of Groups R-2, R-3 and R-4 only.

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

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

(c) Notice for inspection:

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

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

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

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

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

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

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

(c) The utility shall pay a fee which shall be computed at 25 percent of the otherwise applicable permit fee chargeable for such installations as per the Department fee schedule established under N.J.A.C. 5:23-4.20(c)2i(2) and iii(1).

(d) If any violations are noted by an inspector, the inspector shall notify the affected utility and the Department. Code officials shall not issue "Stop Construction Orders" or "Notices of Violation" for such installations unless expressly authorized to do so by the Department.

New Rule, R.1998 d.362, effective July 20, 1998.
See: 30 N.J.R. 1122(a), 30 N.J.R. 2644(b).

5:23-2.18C Use and occupancy of swimming pools, spas and hot tubs

(a) It shall be unlawful to continue the use and occupancy of a swimming pool, spa or hot tub until a copy of a valid bonding and grounding certificate has been made available to the construction official, the pool, spa or hot tub has been inspected, and an electrical certificate of compliance has been issued. This requirement shall apply to any swimming pool, hot tub or spa located on any property other than one or two-family residential property and includes, but is not limited to, pools, hot tubs or spas open for the use of members, residents or the public.

1. The electrical certificate of compliance shall be issued annually by the local enforcing agency upon the presentation of a valid bonding and grounding certificate, satisfactory completion of an inspection by the electrical subcode official and payment of an inspection fee. This certificate shall be evidence that, based upon a visual inspection, the wiring in or around the pool pump and associated electrical equipment is free from electrical safety hazards, and meets the applicable requirements of the electrical subcode.

2. The bonding and grounding certificate shall be issued in accordance with N.J.A.C. 5:23-2.20(e).

3. A bonding and grounding certificate shall also be required for swimming pools, spas, or hot tubs which either are newly constructed or have undergone modifications that impact the bonding or grounding system. No additional visual inspection shall be required for the issuance of an electrical certificate of compliance where a construction permit is issued for the electrical work pertaining to the pool, spa, or hot tub.

(b) The most recent bonding and grounding certificate and electrical certificate of compliance shall be posted in accordance with N.J.A.C. 5:23-3.5(f).

New Rule, R.2000 d.47, effective February 7, 2000.
See: 31 N.J.R. 2314(a), 32 N.J.R. 443(a).
Administrative correction.
See: 35 N.J.R. 4861(a).
Amended by R.2009 d.100, effective April 6, 2009.
See: 40 N.J.R. 5900(a), 41 N.J.R. 1397(a).

In (a)1, substituted "electrical subcode" for "1996 National Electrical code".

5:23-2.19 Special technical services

(a) Whenever the construction official and the appropriate subcode official determine that a need for special technical services exists with regard to a particular project for which the municipal enforcing agency is classified to perform plan review, the construction official may require the applicant to obtain and furnish to the construction official, at the applicant's expense, a report from a licensed engineer or registered architect. Such report shall contain the information deemed necessary by the construction official to aid in his determination. Such may include, but not be limited to:

1. Analysis of materials and installation or design methods not covered by the provisions of the subcodes;
2. Site investigation;
3. Structural analysis;
4. Building systems analysis (that is, mechanical, electrical, vertical transportation, and so forth).

(b) The commissioner reserves the right to further regulate the performance of special technical services.

Amended by R.1998 d.28, effective January 5, 1998.
See: 29 N.J.R. 3603(a), 30 N.J.R. 129(a).

5:23-2.20 Tests and special inspections

(a) All tests required by the provisions of the regulations shall be made and conducted under the supervision of the enforcing agency and in accordance with such inspection and test procedures as may be prescribed by the provisions of the regulations, with the expense of all test and inspections to be borne by the owner or lessee, or the contractor performing the work.

(b) All special inspections, as provided in the building subcode, shall apply to Class I buildings and any building that contains a smoke control system. A special inspector shall be independent of the contractor and shall be responsible to the building owner or building owner's agent. Special inspectors shall be certified in the appropriate specialty.

1. Special inspections for soil conditions and pile foundations shall be performed under the direct supervision of a New Jersey licensed engineer.

(c) The construction official may accept tests and test reports of the Department and other government agencies, as well as signed statements and supporting inspection and test reports filed by qualified licensed professionals or approved agencies or firms.

(d) In lieu of requiring the removal and reinstallation of the chimney vent connector for purposes of inspection of the chimney or vent as per N.J.A.C. 5:23-2:18, the construction official may accept a Chimney Verification for Replacement of Fuel-Fired Equipment (Form F-370), signed by the contractor who installed the replacement fuel-fired equipment.

Verification from homeowners shall not be accepted in lieu of the required inspection.

1. A permit applicant using the Chimney Verification for Replacement of Fuel-Fired Equipment Form (Form F-370) for minor or emergency work must provide this form along with the permit application.

(e) The bonding and grounding certificate for swimming pools, spas and hot tubs, shall be issued by a recognized electrical testing agency or a New Jersey State licensed electrical contractor. This certificate shall verify the continuity and integrity of the bonding and grounding system. It shall be valid for five years from the date of issuance.

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

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

Special inspections added.

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).

Added (c).

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.376, effective September 15, 1997.

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

In (c), inserted "Form (F-370)", substituted "contractor" for "person" and added last sentence.

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

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

Added (d).

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

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

Added a new (b); recodified former (b) through (d) as (c) through (e).

Amended by R.2006 d.381, effective November 6, 2006.

See: 38 N.J.R. 35(a), 38 N.J.R. 4691(a).

In the introductory paragraph of (b), added the last sentence; and added (b)1.

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

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

In the introductory paragraph of (b), inserted "and any building that contains a smoke control system".

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

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

Rewrote the introductory paragraph of (d); and added (d)1.

5:23-2.21 Construction control

(a) Responsibilities: The provisions of this section shall define the construction controls required for all buildings involving professional architecture/engineering services and delineate the responsibilities of such professional services together with those services that are the responsibility of the contractor during construction.

(b) Professional architecture or engineering services:

1. Design: All new, renovation, alteration, reconstruction, expansion, addition or modification work involving the practice of professional architecture or engineering, as defined by the statutory requirements of the professional registration and licensing laws of this State, shall be prepared by registered architects or licensed engineers. All plans, computations and specifications required for a construction permit application must be prepared by or under the direct supervision of a registered architect or licensed engineer and bear his or her signature and seal in accordance with the State's statutes and regulations governing the professional registration and licensing of architects and engineers.

(c) Responsible person in charge of work: The owner shall designate a person to be in charge of the work who shall be responsible for:

1. Verification of all controlled materials per building subcode requirements of testing, certification and identification;

2. Special inspection of critical construction components;

3. Submission of amended plans and specifications whenever substantial deviations are necessary or desired, or when required to do so pursuant to N.J.A.C. 5:23-2.15(f)4v; and

4. The responsible person in charge of work shall perform the necessary services and be present on the construction site on a regular and periodic basis to determine that, generally, the work is proceeding in accordance with the code and any conditions of the construction permit.

(d) Reporting: At the completion of the construction, the responsible person in charge of work shall submit to the construction official a report as to the satisfactory completion and the readiness of the project for occupancy and shall certify that, to the best of the responsible person's knowledge and belief, such has been done substantially in accordance with the code and with those portions of the plans and specifications controlled by the code, with any substantial deviations noted.

(e) Construction contractor services: The actual construction of the work shall be the responsibility of the contractor(s) as identified on the approved construction permit and shall involve:

manufactured 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;
9. Public school facilities, as defined in N.J.A.C. 5:23-1.4;
10. Prototype plans intended for use in more than one municipality;
11. High level alarm systems in terminals, as defined in N.J.S.A. 52:27D-214; and
12. Stadiums, arenas and theaters with an occupant load of 5,000 or greater.

(b) The Department of Community Affairs shall be the sole plan review agency for elevators, escalators, and moving walks in structures of Groups other than R-2, R-3, R-4, or R-5 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 released plans.

1. Exception: In the case of a permit application based upon prototype plans released by the Department, it shall be the responsibility of the applicant to submit the items listed at N.J.A.C. 5:23-2.15(f)2ii, including a reference set of plans, the prototype file identification number, the plan number and date of the released prototype plan, to the municipal enforcing agency.

(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. Billboards located on land owned or controlled by any State, county or local department, agency, board, commission, authority, or instrumentality; and
4. Liquefied petroleum gas installations, except 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)".

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

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

In (b), substituted "moving walks in structures of Groups other than R-2, R-3, R-4, or R-5" for "moving walks in Use Groups R-3, R-4, or R-2 structures" preceding "in which the elevator devices are wholly within dwelling units".

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

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

Added (a)10; in (c), substituted "released" for "approved" following "enforcing agency receives a copy of the" and added 1. Administrative correction.

See: 36 N.J.R. 1757(a).

Amended by R.2004 d.260, effective July 6, 2004.

See: 35 N.J.R. 3474(b), 36 N.J.R. 3274(a).

In (j), rewrote 3, deleted former 4 and 5, and recodified former 6 as 4.

Amended by R.2004 d.291, effective August 2, 2004.

See: 36 N.J.R. 1858(a), 36 N.J.R. 3525(b).

In j(4), deleted, "one- and two-family residential (building subcode Use Groups R-3 and R-5) or" preceding "vapor delivery".

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

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

In (a), added "plans and equipment" to the introductory paragraph and added (a)11.

Administrative correction.

See: 38 N.J.R. 3024(a).

Administrative correction.

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

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

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

In (a)10, deleted "and" from the end; in (a)11, substituted "; and" for a period at the end; and added (a)12.

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 and approval by the Department, may secure construction code plan review and release from a 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.

i. The municipal code enforcing agency in the municipality where the proposed project is to take place shall be given the right of first refusal to review the plans provided that the agency is 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.

deleted in their entirety. Section 915.7 of the 1996 BOCA National Building Code shall be inserted as Item 1 as follows: "A standpipe hose connection shall be located at each floor level at every exit stairway, and on each side of the wall adjacent to the exit opening of a horizontal exit.

Exceptions

1. Where the floor areas adjacent to a horizontal exit are reachable from exit stairway outlets by a 30-foot (9,144 mm) hose stream from a nozzle attached to 100 feet (30,480 mm) of hose, a hose connection shall not be required at the horizontal exit.

2. Standpipe hose connections for systems required by Section 905.3.2. shall be permitted to be located only at exits such that all portions of the building floor area are not more than 200 feet (60,960 mm) from a hose connection or 200 feet (122 m) from the nearest point of fire department vehicle access."

Also, renumber Items 3 through 6 as 2 through 5. Lastly, in Item #5, "fire code official" shall be deleted and "fire protection subcode official" shall be inserted.

xxi. Section 905.4.2, Interconnection, shall be deleted in its entirety and Section 915.7.1 of the 1996 BOCA National Building Code shall be inserted as follows "905.4.2 Location: At each floor level and not more than 5 feet (1,524 mm) above the floor, there shall be connected to each standpipe a 2 ½ inch hose connection with valves and threads compatible with the connections used by the local fire department."

xxii. In Section 905.5.3, Class II system 1-inch hose, "fire code official" shall be deleted and "fire protection subcode official" shall be inserted.

xxiii. Section 905.6.2, Interconnection, shall be deleted.

xxiv. In Section 906.1, Where required, Item #1 and in the exception, "and existing" shall be deleted.

xxv. In Section 907.1.1, Construction Documents, "and" shall be inserted before "the International Fire Code" and "and relevant laws ordinances, rules and regulations, as determined by the fire code official" shall be deleted.

xxvi. In Section 907.2, Where required-new buildings and structures, Exception #2 shall have "fire code official" deleted and "fire protection subcode official" shall be inserted.

xxvii. Add new section 907.2.1.2 as follows: "907.2.1.2 Group A-2 Nightclubs. An automatic fire detection system shall be installed throughout all Group A-2 nightclubs with an occupant load of 100 or more. If the alarm is activated by smoke detectors, it shall be

activated by either two cross-zoned smoke detectors within a single protected area or a single smoke detector monitored by an alarm verification zone or an approved equivalent method and the smoke detectors shall be of a type designed to reduce the possibility of false notifications based on the conditions present in the area protected. The automatic fire detection system shall be tied to the performance sound system and to the house lights in such a way that activation of the fire detection system mutes the performance sound system and restores the intensity of illumination to that required by 1006.2.

Exception: Automatic fire detection systems are not required in buildings provided with an automatic sprinkler system throughout."

xxviii. In Section 907.2.3, Group E, Exception #2.1, "with alarm verification" shall be inserted at the end of the exception and in Exception #2.5 "fire code official" shall be deleted and "fire protection subcode official" shall be inserted.

xxix. In Section 907.2.6, Group I, the following shall be inserted at the end of the section: "Alarms activated by smoke detectors required by this section shall be activated by a single smoke detector monitored by an alarm verification zone or an approved equivalent method."

xxx. In Section 907.2.8, Group R-1, the following shall be inserted at the end of the section: "Alarms activated by smoke detectors required by this section shall be activated by a single smoke detector monitored by an alarm verification zone or an approved equivalent method."

xxxi. In Section 907.4.2.5, Protective covers, "fire code official" shall be deleted and "fire protection subcode official" shall be inserted.

xxxii. In Section 907.5.1, Presignal feature, "fire code official" shall be deleted and "fire protection subcode official" shall be inserted.

xxxiii. Section 907.5.2.3.2, Employee work area, is deleted in its entirety.

xxxiv. In Section 909.5.1, Leakage area, "fire code official" shall be deleted and "fire protection subcode official" shall be inserted.

xxxv. In Section 909.7, Airflow design method, "fire code official" shall be deleted and "fire protection subcode official" shall be inserted.

xxxvi. In Section 909.8, Exhaust method, "fire code official" shall be deleted and "fire protection subcode official" shall be inserted.

xxxvii. In Section 909.9, Design fire, “fire code official” shall be deleted and “fire protection subcode official” shall be inserted.

xxxviii. In Section 909.10, Equipment, “fire code official” shall be deleted and “fire protection subcode official” shall be inserted.

xxxix. In Section 909.11, Power systems, “Chapter 27 of this code” shall be deleted and “the electrical subcode, N.J.A.C. 5:23-3.16” shall be inserted.

xl. In Section 909.15, Control diagrams, “fire code official” shall be deleted and “fire protection subcode official” shall be inserted.

xli. In Section 909.18.8.3, Reports, “The report shall be reviewed by the responsible registered design professional and, when satisfied that the design intent has been achieved, the responsible registered design professional shall seal, sign, and date the report” shall be deleted.

xlii. In Section 909.18.8.3.1, Report filing, “fire code official” shall be deleted and “fire protection subcode official” shall be inserted.

xliii. In Section 909.19, System acceptance, in the exception, “fire code official” shall be deleted and “fire protection subcode official” shall be inserted.

xliv. In Section 909.20.6.2, Standby power, “Chapter 27” shall be deleted and “the electrical subcode (N.J.A.C. 5:23-3.16)” shall be inserted.

xlv. In Section 909.20.6.3, Acceptance and testing, “building official” shall be deleted and “fire protection subcode official” shall be inserted.

xlvi. In Section 912.1, Installation, insert the following at the end of the section:

“Exceptions

1. Limited area sprinkler systems supplied from the domestic water system.

2. Where the local fire department approves a single connection for a large diameter hose of at least four inches (102 mm).

3. An automatic sprinkler system with less than 20 sprinklers.”

xlvii. New section 912.2, Connections, shall be inserted as follows:

“912.2 Connections: Fire department connections shall be arranged in such a manner that the attachment to any one sprinkler connection will serve all sprinklers, and the attachment to any one standpipe connection will serve all standpipes within the building.

Exception: Fire protection systems in high rise buildings designed with a low zone and a high zone may be provided with a connection for each zone.”

xlviii. Section 912.2, Location, shall be renumbered as 912.3 with no change in text. Additionally, Section 912.2.2, Existing buildings, shall be deleted in its entirety.

xliv. New Section 912.4, Height, shall be inserted as follows:

“912.4, Height Fire department connections shall not be less than 18 inches (457 mm) and more than 42 inches (1,067 mm) in elevation, measured from the ground level to the centerline of the inlets.”

i. Sections 912.3, Access and 912.4, Signs shall be renumbered as 912.5 and 912.6 respectively, with no change in text.

ii. Section 912.5, Backflow protection, shall be renumbered as 912.7. Also, “International Plumbing Code” shall be deleted and “the plumbing subcode (N.J.A.C. 5:23-3.15)” shall be inserted.

iii. New Section 912.6, Projection, shall be inserted as follows: “912.6 Projection. Where the fire department connection will otherwise project beyond the property line or into the public way, a flush-type fire department connection shall be provided.”

iiii. Section 913.4.1, Test outlet valve supervision, shall be deleted.

10. Chapter 10, Means of Egress, shall be amended as follows:

i. The terms “Type A unit,” “Type B unit,” and “Accessible Unit” shall be deleted and “an Adaptable or Accessible Unit” shall be inserted in the following sections: Section 1008.1.1, Exception 7; Section 1008.1.5, Exceptions 3 and 5; Section 1008.1.7, Exception; Section 1008.1.8, Exception 3; Section 1010.6.3, Exception 1; and Section 1010.6.4, Exception.

ii. In Section 1002, Definitions, in the definition of “Merchandise Pad,” “as indicated in Section 105.2” shall be deleted.

iii. In Section 1003.2, Ceiling height, “7 feet 6 inches (2286 mm)” shall be deleted and “7 feet (2134 mm)” shall be inserted.

iv. In Section 1003.5, Elevation change, in Exceptions 1, 2, and 3, “Chapter 11” shall be deleted and “the barrier free subcode (N.J.A.C. 5:23-7)” shall be inserted.

v. In Section 1004.1.1, Areas without fixed seating, the exception shall be deleted in its entirety.

vi. In Section 1004.2, Increased occupant load, “7 square feet (.65 m²)” shall be deleted and “5 square feet (.47 m²)” shall be inserted.

vii. In Section 1006.3, Illumination emergency power, in the last sentence of the last paragraph, “Section 2702” shall be deleted and “the electrical subcode (N.J.A.C. 5:23-3.16)” shall be inserted.

viii. In Section 1007.3, Stairways, Exception 3 shall be deleted.

ix. In Section 1007.4, Elevators, Exception 2 shall be deleted.

x. In Section 1007.5, Platform lifts, in the first sentence, "Section 1109.7, Items 1 through 9" shall be deleted and "the barrier free subcode (N.J.A.C. 5:23-7)" shall be inserted. In the second sentence, "Chapter 27" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

xi. In Section 1008.1, Size of Doors, Exception 8 shall be deleted.

xii. In Section 1008.1.4.5, Security grilles, "In Groups B, F, M, and S" shall be deleted and "horizontal" shall be capitalized.

xiii. In Section 1008.1.5, Floor elevation, in Exception 3, "7.75 inches (197 mm)" shall be deleted and "8.25 inches (210 mm)" shall be inserted.

xiv. In Section 1008.1.7, Thresholds, in the exception, "7.75 inches (197 mm)" shall be deleted and "8.25 inches (210 mm)" shall be inserted. In the same exception, "Chapter 11" shall be deleted and "the barrier free subcode (N.J.A.C. 5:23-7)" shall be inserted.

xv. In Section 1008.1.9.1, Hardware, "locks" shall be deleted. In the same section, "Chapter 11" shall be deleted and "the barrier free subcode (N.J.A.C. 5:23-7)" shall be inserted.

xvi. Section 1008.1.9.3, Locks and latches, shall be amended as follows: In Item 2, "Group A having an occupant load of 300 or less" shall be deleted. In the same item, "and in places of religious worship" shall be deleted. In the same section, Item 6 shall be inserted as follows: "6. Key operation shall be permitted from a dwelling unit provided that the key cannot be removed from the lock when the door is locked from the side from which egress is made."

xvii. In Section 1008.1.9.7, Delayed egress locks, "E" shall be deleted.

xviii. Section 1008.1.9.8, Electromagnetically locked egress doors, shall be deleted.

xix. In Section 1008.1.10, Panic and fire exit hardware, the exception shall be deleted in its entirety.

xx. In Section 1009.4.2, Stair tread and risers, Exception 5, change the maximum riser height from "7.75 inches (197 mm)" to "8.25 inches (210 mm)", change the minimum tread depth from "10 inches (254 mm)" to "9 inches (229 mm)" and change the minimum winder tread depth at the walk line from "10 inches (254 mm)" to "9 inches (229 mm)." In the same section, Exception 6 shall be deleted.

xxi. In Section 1009.11, Ship ladders, ", in buildings of Group F, H and S from mezzanines not more than 250 square feet (23 m²) in area and which serves not more than 5 occupants" shall be inserted after "occupants" in the first sentence.

xxii. In Section 1011.4, Internally illuminated exit signs, "Chapter 27" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

xxiii. In Section 1011.5.3, Power source, in the last sentence, "Chapter 27" shall be deleted and "the electrical subcode (N.J.A.C. 5:23-3.16)" shall be inserted.

xxiv. In Section 1012.2, Height, add the following text: "Exception: For occupancies of Group R-3, and within individual dwelling units in occupancies of Group R-2, handrails shall have a minimum height of 30 inches and a maximum height of 38 inches measured vertically from the nosing of the treads."

xxv. In Section 1012.4, Continuity, Exception 4 shall be deleted.

xxvi. In Section 1013.2, Height, insert new Exception 1 as follows: "For occupancies in Group R-3 and within individual dwelling units in occupancies of Group R-2, porches, balconies or raised floor surfaces located more than 30 inches (762 mm) above the floor or grade below shall have guards not less than 36 inches (914 mm) in height." In the same section, Exceptions 1 through 4 shall be renumbered as 2 through 5. Additionally, in Exception 3, "34 inches (864mm)" shall be deleted and "30 inches (762 mm)" shall be inserted.

xxvii. Section 1014.2.5, Exit access through suites, shall be deleted.

xxviii. In Section 1015.1, Exits or exit access doorways from spaces, in the exception to Item 1, the first sentence in the exception shall be numbered "1." and "and R-3" shall be deleted. In the same sentence, "20" shall be deleted and "10" shall be inserted. In addition, a new exception shall be inserted as follows: "2. In buildings of Group R-3 occupancy".

xxix. In Section 1016.1, Travel distance limitations, Exceptions 3 and 4 shall be deleted. In the same section, in the last paragraph "Where applicable" shall be deleted and "When permitted by Section 1022.1" shall be inserted.

xxx. In Section 1017.2, Aisles in Groups B and M, in the exception, "Chapter 11" shall be deleted and "the barrier free subcode (N.J.A.C. 5:23-7)" shall be inserted.

xxxi. In Table 1018.1, Corridor Fire Resistance Rating, under the heading "Occupancy," "U" shall be deleted from the third row. In addition, "Not Permitted" shall be deleted from the fifth row and "1" shall be inserted.

xxxii. In Section 1021.1, Exits from stories, delete Exception 3 and renumber Exceptions 4 and 5 as 3 and 4. In new Exception 3, delete “and R-3”. In the same exception, “20” shall be deleted and “10” shall be inserted. Insert new Exception 5 as follows: “5. In buildings of Group R-3 occupancy”.

xxxiii. In Table 1021.2, Stories with One Exit, under the heading “Occupancy,” “U” shall be deleted from the first row.

xxxiv. In Section 1022.1, Enclosures required, in Exception 1 after “occupant load of less than 10” insert “or serves four or fewer dwelling units”.

xxxv. In Section 1028.1.1, Bleachers, after “ICC 300”, insert “Chapters 2, 3 and 4”.

xxxvi. At Section 1028.2, entitled “Assembly main exit”, add the text “other than nightclubs,” after “Group A occupancies” at the beginning of the first sentence.

(1) In the exception, after “In assembly occupancies” insert “other than nightclubs”.

xxxvii. Add new section 1028.2.1 as follows:

“1028.2.1 Group A-2 Nightclubs. Buildings or portions thereof of Group A-2 nightclubs with an occupant load of 100 or more shall have a main entrance capable of serving as the main exit with an egress capacity for at least one-half the total occupant load. The remaining exits shall be capable of providing two-thirds of the total required exit capacity. Buildings or portions thereof of Group A-2 nightclubs with an occupant load of more than 300 shall have a main entrance capable of serving as the main exit with an egress capacity for at least two-thirds of the total occupant load. The remaining exits shall also be capable of providing two-thirds of the total required exit capacity.”

xxxviii. Section 1029.1, General, shall be amended as follows: In the second sentence, “Basements and” shall be deleted and “sleeping” shall be capitalized. In the same section, Exception 4 shall be deleted its entirety. In Exception 6, “basements or” shall be deleted. In addition, Exception 7 shall be deleted in its entirety.

11. Chapter 11, Accessibility, shall be deleted in its entirety.

12. Chapter 12, Interior Environment, shall be amended as follows:

i. Section 1204, Temperature Control, shall be deleted in its entirety.

13. Chapter 13, Energy Efficiency, shall be deleted in its entirety.

14. Chapter 14, Exterior Walls, shall be amended as follows:

i. In Section 1405.11.4, Grounding, “Chapter 27 of this code and the ICC Electrical Code” shall be deleted

and “the electrical subcode, N.J.A.C. 5:23-3.16” shall be inserted.

15. Chapter 15, Roof Assemblies and Rooftop Structures, shall be amended as follows:

i. In Section 1503.4, Roof drainage, ““International Plumbing Code” shall be deleted and “plumbing subcode, N.J.A.C. 5:23-3.15” shall be inserted.

ii. In Table 1505.1, Minimum Roof Covering Classification for Types of Construction, Note a shall be deleted in its entirety. In addition, at Note b, “and U” shall be deleted from the first sentence.

iii. In Section 1507.2.8.2, Ice barrier, “In areas where there has been a history of ice forming along the eaves causing a backup of water,” shall be deleted and “In areas where the average daily temperature in January is 25 degrees F (-4 degrees C) or less,” shall be inserted.

iv. In Section 1507.5.4, Ice barrier, “In areas where there has been a history of ice forming along the eaves causing a backup of water,” shall be deleted and “In areas where the average daily temperature in January is 25 degrees F (-4 degrees C) or less,” shall be inserted.

v. In Section 1507.6.4, Ice barrier, “In areas where there has been a history of ice forming along the eaves causing a backup of water,” shall be deleted and “In areas where the average daily temperature in January is 25 degrees F (-4 degrees C) or less,” shall be inserted.

vi. In Section 1507.7.4, Ice barrier, “or where there has is a possibility of ice forming along the eaves causing a backup of water,” shall be deleted.

vii. In Section 1507.8.4, Ice barrier, “In areas where there has been a history of ice forming along the eaves causing a backup of water,” shall be deleted and “In areas where the average daily temperature in January is 25 degrees F (-4 degrees C) or less,” shall be inserted.

viii. In Section 1507.9.4, Ice barrier, “In areas where there has been a history of ice forming along the eaves causing a backup of water,” shall be deleted and “In areas where the average daily temperature in January is 25 degrees F (-4 degrees C) or less,” shall be inserted.

16. Chapter 16, Structural Design, shall be amended as follows:

i. New Section 1603.2, Restrictions on loading, from Section 1603.2 of the 2006 International Building Code, shall be inserted as follows: “It shall be unlawful to place, or cause to permit to be placed, on any floor or roof of a building, structure or portion thereof, a load greater than is permitted by these requirements.”

ii. In Table 1607.1, Minimum Uniformly Distributed Live Loads and Minimum Concentrated Live Loads, at Note g, “building official” shall be deleted and “design professional” shall be inserted.

Amended by R.1985 d.324, effective July 1, 1985.

See: 17 N.J.R. 861(c), 17 N.J.R. 1646(a).

(b)3i: amended text.

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

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

Substantially amended.

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

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

Model subcode revisions.

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

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

Added (a)3 and (c).

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

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

Text added at (c)2ii, 4, 5 and 7.

Amended by R.1990 d.325, effective July 2, 1990.

See: 21 N.J.R. 1654(a), 22 N.J.R. 2001(a).

Text added at (b)5xii(1) to conform to Fire Code.

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

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

Text conformed to BOCA National Code/1990.

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

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

Conditional exemption for hoophouses or polyhouses added.

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

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

Article 26 amended at (b)14.

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

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

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

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

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

Text added at (b)10v through viii.

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

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

Amended by R.1995 d.144, effective March 20, 1995 (operative July 1, 1995).

See: 26 N.J.R. 2698(a), 26 N.J.R. 3524(a), 27 N.J.R. 1180(a).

Amended by R.1995 d.477, effective September 5, 1995.

See: 27 N.J.R. 1717(a), 27 N.J.R. 3328(a).

Added (b)2v.

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

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

Rewrote the section.

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

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

Rewrote (b)25.

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)9, added new ix and recodified former ix through xiii as new x through xv.

Amended by R.2001 d.368, effective October 15, 2001.

See: 33 N.J.R. 1990(a), 33 N.J.R. 3673(b).

In (b)9, inserted a new ix and recodified former ix through xiv as x through xv.

Amended by R.2001 d.369, effective October 15, 2001.

See: 33 N.J.R. 2365(a), 33 N.J.R. 3674(a).

In (b), substituted "seven" for "7 1/3 (2335 mm)" in 2vi, rewrote 10, added a new 17, and recodified former 17 through 26 as 18 through 27.

Amended by R.2002 d.215, effective July 1, 2002.

See: 34 N.J.R. 1078(a), 34 N.J.R. 2312(a).

In (b)22, inserted new ii and recodified existing ii through xvii as iii through xviii.

Administrative correction.

See: 34 N.J.R. 3771(b).

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.

Administrative correction.

See: 35 N.J.R. 2864(b).

Amended by R.2003 d.351, effective September 2, 2003.

See: 35 N.J.R. 1177(a), 35 N.J.R. 4051(a).

In (b)9, added xi; recodified existing xi to xiii as xii to xiv.

Amended by R.2003 d.420, effective November 3, 2003.

See: 34 N.J.R. 4248(a), 35 N.J.R. 5073(a).

Rewrote (b).

Administrative correction.

See: 36 N.J.R. 3525(c).

Amended by R.2004 d.423, effective November 15, 2004.

See: 36 N.J.R. 3004(a), 36 N.J.R. 5090(a).

In (b)5, added ii.

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

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

In (b)19, added new iv and recodified former iv and v as v and vi.

Administrative correction.

See: 37 N.J.R. 502(b), 674(a).

Amended by R.2005 d.403, effective November 21, 2005.

See: 37 N.J.R. 2753(a), 37 N.J.R. 4399(b).

Added (b)14xi and recodified former (b)14xi-xiii as (b)14xii-xiv;

added (b)18 and recodified former (b)18-25 as (b)19-26.

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

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

In (b)3viii(3), substituted "one- and two-family" for "single-family"; in (b)3viii(5), "Group R-5 also includes: ..."

Amended by R.2006 d.28, effective January 17, 2006.

See: 37 N.J.R. 2750(a), 38 N.J.R. 485(b).

Rewrote (b)9, 20 and 21.

Amended by R.2006 d.157, effective May 1, 2006.

See: 37 N.J.R. 3108(a), 38 N.J.R. 1824(a).

Rewrote (b)21ii.

Administrative Correction.

See: 38 N.J.R. 3024(a).

Amended by R.2006 d.381, effective November 6, 2006.

See: 38 N.J.R. 35(a), 38 N.J.R. 4691(a).

In (b)15ii, added the last sentence; added new (b)15iv; and recodified former (b)15iv through (b)15xv as (b)15v through (b)15xvi.

Amended by R.2007 d.51, effective February 5, 2007.

See: 38 N.J.R. 375(a), 39 N.J.R. 371(a).

Added new (b)2viii; recodified former (b)2viii through (b)2x as (b)2ix through (b)2xi; added new (b)3iii; recodified former (b)3iii through (b)3viii as (b)3iv through (b)3ix; added new (b)9i; recodified former (b)9i through (b)9xi as (b)9ii through (b)9xii; added new (b)9xiii; recodified former (b)9xii through (b)9xv as (b)9xiv through (b)9xvii; added new (b)10xxii and (b)10xxiii; and recodified former (b)10xxii as (b)10xxiv.

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.

Administrative correction.

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

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)3i and (b)3ii; and recodified former (b)3i through (b)3vii as (b)3iii through (b)3ix.

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

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

Added new (b)24iii; and recodified former (b)24iii as (b)24iv.

Administrative correction.

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

Amended by R.2008 d.184, effective July 7, 2008.

See: 39 N.J.R. 2176(a), 40 N.J.R. 3990(a).

Deleted former (b)9vii; and recodified former (b)9viii through (b)9xli as (b)9vii through (b)9xli.

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

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

In (b)3iii, inserted "(not including food or drink consumption)"; added new (b)5ii; recodified former (b)5ii as (b)5iii; added new (b)5v and (b)5v; recodified former (b)5iii through (b)5ix as (b)5vi through (b)5xii; in (b)7i, deleted "at" preceding and "and group U when used as an accessory to Group R3" following "Note b"; added new (b)8iii; recodified former (b)8iii through (b)8v as (b)8iv through (b)8vi; in (b)8v, substituted "Exceptions 4 and 6" for "Exception 4" and "their" for "its"; in the second paragraph of (b)9ii, deleted ".1" following "903.1.2"; in (b)9v1, deleted "that conforms to the requirements of Section 1005.3.6," following "stairway" and substituted "1023" for "1003.3.4"; in the introductory paragraph of (b)9vi, substituted "903.2.14" for "903.2.16"; in (b)9xii3, substituted "903.3.1.1" for "906.2.1"; rewrote (b)9xiii

through (b)9xli; added (b)9xlii; rewrote (b)10, (b)17xiv through (b)17xxii; added new (b)18v; recodified former (b)18v through (b)18xi as (b)18vi through (b)18xii; rewrote (b)21; and in (b)22iv, deleted “In” preceding “Section” and “Item 3” preceding “shall”.

Amended by R.2009 d.126, effective April 20, 2009.

See: 41 N.J.R. 16(a), 41 N.J.R. 1725(a).

Added new (b)18v; and recodified former (b)18v through (b)18xii as (b)18vi through (b)18xiii.

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

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

In (b)21ii, inserted “insert” twice, substituted “8.6” for “8.6.1.6.5” and deleted “shall be inserted” preceding “after” twice.

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

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

Rewrote the section.

Case Notes

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

5:23-3.15 Plumbing subcode

(a) Rules concerning subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c. 217, as modified by P.L. 1996, c. 53, the Commissioner hereby adopts the Model Code of the Plumbing Heating-Cooling Contractors—National Association, known as “The National Standard Plumbing Code/2009,” as the plumbing subcode for New Jersey.

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

2. “The National Standard Plumbing Code/2009,” 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 “Dead End, Potable Water” shall be deleted in its entirety.

x. The definition of “tempered water” shall be amended as follows: before “temperature,” delete “desired” and after “temperature,” delete “for its intended use, typically” and insert “of.”

xi. The term and definition of “nuisance” are deleted.

xii. 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 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 third 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.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Administrative correction.

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

Case Notes

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

5:23-4.18 Standards for municipal fees

(a) General:

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

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

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

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

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

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

(b) Plan review fees:

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

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

3. If a municipality has not established a plan review fee by ordinance, 20 percent of the construction permit fee shall be designated as the plan review fee for prototype plans.

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

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

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

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

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

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

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

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

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

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

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

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

viii. Fees for retaining walls shall be as follows:

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

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

(3) A newly constructed retaining wall of any size at other than a Class 3 residential structure shall be based on the cost of the construction.

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

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

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

4. Fees shall be based upon the number of sprinkler heads, standpipes, and detectors (smoke and heat) and shall be reasonable unit charges. Fees may also be charged for the inspection of premanufactured fire suppression systems, for gas and oil fired appliances not connected to the plumbing system, for kitchen exhaust systems and for incinerators, replacement of an existing transmission means as per N.J.A.C. 5:23-2.17A(c)5v, and crematoriums. The municipal ordinance shall clearly set forth what fees are to be charged for what devices.

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

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

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

(d) Demolition permit fees: Permit fees for demolition of a building or structure shall be a flat fee. This fee may vary according to type of structure or whether there has been a

condemnation, but this shall be clearly indicated in the ordinance and schedule.

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

(f) Certificate fees:

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Rules concerning the appeal of fees are:

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

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

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

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

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

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

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

(j) Fees to be charged by municipalities where private on-site inspection and plan review agencies carry out subcode official responsibilities shall not exceed those amounts to be paid to those private agencies for those services, pursuant to the contract between the private agency and the municipality, plus such amount as may be sufficient to cover a proportionate share of administrative costs incurred by the local enforcing agency in connection with inspections performed by private agencies.

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

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

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

Section substantially amended.

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

Old (a)4 deleted and new text substituted.

Amended by R.1986 d.213, effective June 16, 1986.
See: 17 N.J.R. 2490(a), 18 N.J.R. 1266(a).

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

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

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

Minor technical changes made throughout section.

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

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

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

Added sections (c)4; (k)1iv and v.

Deleted sections (e), "Removal permit fees"; (l)1ii, "Fire subcode"; and (l)4, "Elevator fees . . .", with renumbering and recodification.

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

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

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

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

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

Form numbers changed in (a)5.

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

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

No inspection fee for gas service entrances.

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

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

Added (c)5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rewrote (f) and (g).

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

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

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

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

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

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

In (c)5, inserted reference plumbing inspector.

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

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

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

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

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

Rewrote (f).

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

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

In (c), rewrote 5.

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

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

In (b), rewrote 2, deleted the N.J.A.C. reference in 3 and added 4; deleted former (i) and recodified former (j) through (l) as (i) through (k).

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

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

Added (c)lviii.

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

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

In (c)5, added "including the bonding conductor (jumper)."

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

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

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

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

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

Added (c)lix, (i)3 and (l).

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

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

Added (c)6.

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

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

Added (b)5.

Administrative correction.

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

Amended by R.2012 d.139, effective July 16, 2012.

See: 44 N.J.R. 8(a), 44 N.J.R. 1969(a).

In (c)4, inserted "replacement of an existing transmission means as per N.J.A.C. 5:23-2.17A(c)5v,".

Case Notes

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

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

5:23-4.19 New Jersey State permit surcharge fees

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

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

(3) The minimum fee shall be \$58.00.

iii. The fee for a certificate of occupancy shall be \$35.00.

iv. The fee for a certificate of occupancy granted pursuant to a change of use group shall be \$151.00.

v. The fee for a certificate of continued occupancy issued under N.J.A.C. 5:23-2.23(c) shall be \$151.00.

vi. The fee for the first issuance and the renewal of a temporary certificate of occupancy shall be \$35.00.

(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 nondepletable energy source provisions of the energy subcode shall be \$345.00 for one- and two-family dwellings (Group R-3 or R-5 of the building subcode), and for light commercial structures having the indoor temperature controlled from a single point, and \$1,725 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 \$748.00 for class I structures and \$151.00 for class II and class III structures. The fee for resubmission of an application for a variation shall be \$289.00 for class I structures and \$82.00 for class II and class III structures.

ix. The fee for a permit for lead hazard abatement work shall be \$176.00. The fee for a lead abatement clearance certificate shall be \$35.00.

4. For cross connections and backflow preventers that are subject to testing, requiring reinspection annually, the fee shall be \$58.00 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) \$840.00/worker; each additional worker over 25, \$292.00/worker.

(2) Prior to the issuance of the annual permit, a training registration fee of \$176.00 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 of Group R-3, R-4, or R-5, and for elevator devices wholly within dwelling units in structures of Group R-2 shall be \$63.00 for each device.

7. The fee for plan review for elevator devices in structures of Groups other than R-3, R-4, or R-5 and devices in structures of Group R-2 exempted by (c)6 above shall be \$328.00 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 structure of Group R-3 or R-5 by a mechanical inspector shall be \$54.00 for the first device and \$13.00 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 \$45.00.

(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.

(e) Hourly charges and fees for development-wide inspection of homes after issuance of a certificate of occupancy shall be in such amount as may be reasonable and necessary in order to ascertain whether a violation exists or to verify that any work performed has abated the violation.

1. The hourly charge shall be the same as the hourly charge set forth at N.J.A.C. 5:23-4.20(b)4 times the number of hours spent by the code official in determining whether a violation exists or verifying that any work performed has abated the violations.

2. Any appeal of a charge levied by the Department pursuant to this subsection shall be made in accordance with N.J.A.C. 5:23-2.38.

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.
 Amended by R.2004 d.67, effective February 17, 2004.
 See: 35 N.J.R. 4627(a), 36 N.J.R. 949(b).
 Added references to Group R-5 throughout.
 Amended by R.2004 d.144, effective April 5, 2004.
 See: 35 N.J.R. 4944(a), 36 N.J.R. 1753(a).
 Rewrote (c)1.
 Amended by R.2004 d.260, effective July 6, 2004.
 See: 35 N.J.R. 3474(b), 36 N.J.R. 3274(a).
 In (c)3, rewrote ii.
 Amended by R.2005 d.446, effective December 19, 2005.
 See: 37 N.J.R. 2747(a), 37 N.J.R. 4907(a).
 In (c), added 2i(8).
 Amended by R.2006 d.355, effective October 2, 2006.
 See: 38 N.J.R. 1789(a), 38 N.J.R. 4175(a).
 Added (e).
 Amended by R.2007 d.231, effective August 6, 2007.
 See: 39 N.J.R. 722(a), 39 N.J.R. 3295(a).
 In (c)2iii(10), deleted "in accordance with (c)2iii(2) through 5 above" and inserted "as follows:"; and added (c)2iii(10)(A) through (c)2iii(10)(C) and (c)2iii(13).
 Amended by R.2007, d.384, effective December 17, 2007.
 See: 39 N.J.R. 2684(a), 39 N.J.R. 5211(a).
 In (c)2iii(6), substituted "\$55.00" for "\$46.00" and "under-water" for "under-water".
 Amended by R.2009 d.48, effective February 2, 2009.
 See: 40 N.J.R. 5319(a), 41 N.J.R. 733(b).
 In (c)2i(1), substituted "chapters 3 and 6, respectively," for "articles 3 and 4".
 Amended by R.2009 d.77, effective March 2, 2009.
 See: 40 N.J.R. 5895(a), 41 N.J.R. 1009(b).
 Updated the fees throughout; in (c)2i(1), substituted "buildings" for "building" following "farm"; in (c)2i(2), inserted "for the first \$50,000, prorated" and substituted "fee on the amount exceeding \$50,000" for "additional fee", the second occurrence of "prorated" for "above \$50,000", "fee on the amount exceeding \$100,000" for "additional fee", and the third occurrence of "prorated" for "above \$100,000"; and in (c)2iii(2), substituted "under-water" for "under-water".
 Amended by R.2012 d.139, effective July 16, 2012.
 See: 44 N.J.R. 8(a), 44 N.J.R. 1969(a).
 Added (c)2iv(10).

5:23-4.21 Private enforcing agency authorization and reauthorization fees

(a) Authorization fee: Any onsite inspection agency submitting an application to the Department under N.J.A.C. 5:23-4.12 for approval as an inspection agency shall pay a fee of \$2,800 for each subcode for which authorization is sought.

(b) Reauthorization fee:

1. Any onsite inspection agency submitting an application to the Department under N.J.A.C. 5:23-4.12 for re-approval as an inspection agency shall pay a fee of \$1,400 for each subcode for which authorization is sought plus an amount equal to two percent of the gross revenue earned from State Uniform Construction Code enforcement activities during the previous 12-month period.

i. The fee of \$1,400 per subcode plus two percent of gross revenue earned from State Uniform Construction Code enforcement activities shall be applicable to all applications for authorization or reauthorization required to be filed on or after November 1, 2005.

2. The fee shall be paid to the Department in 12 equal installments, beginning with the month immediately following the end of the 12-month period for which the fee is calculated. Payment shall be made prior to the last business day of each month.

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

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

Section substantially amended.

Amended by R.1985 d.353, effective July 15, 1985.

See: 17 N.J.R. 1032(a), 17 N.J.R. 1758(b).

(b)1: substantially amended.

Public Notice: Notice of Petition to amend section.

See: 17 N.J.R. 2688(a).

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text on inplant inspection agencies deleted.

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

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

In (a), authorization fee increased from \$2,000 to \$2,600. In (b), reauthorization fee increased from \$1,000 to \$1,300.

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

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

Fees increased.

Amended by R.2006 d.207, effective June 5, 2006.

See: 38 N.J.R. 1121(a), 38 N.J.R. 2418(a).

In (b), added the designations for 1 and 2; in (b)1, substituted "two" for "five" and inserted (i).

5:23-4.22 (Reserved)

Amended by R.1984 d.481, effective November 5, 1984.

See: 16 N.J.R. 2031(a), 16 N.J.R. 3006(a).

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

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

Substantially amended.

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Modular unit fee of \$100.00 deleted; title changed.

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

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

In (a) and (b), insignia fee increased from \$50.00 to \$65.00.

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

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

Fees increased.

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

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

Section was "Building element and manufactured home add-on unit insignia of certification fees".

5:23-4.23 Payment of fees

(a) All fees paid to the Department under the regulations shall be nonrefundable except as otherwise specifically set forth in the regulations. All fees shall be paid by check or money order, payable to the "Treasurer, State of New Jersey".

5:23-4.24 Plan review by the Department of Community Affairs

(a) There is established in the Department of Community Affairs, Division of Codes and Standards, a Bureau of Construction Projects Review, hereinafter "the plan review bureau." The plan review bureau shall review plans, applications and specifications submitted to the Department in its enforcing agency capacity, and as further required or permitted by this section.

(b) Plan review:

1. Plan review shall be required for all uses except as may be otherwise provided in the regulations whenever the department acts as an enforcing agency in any municipality.

2. Special or hazardous uses and types of construction:

i. N.J.A.C. 5:23-3 divides all construction into three classes according to its 'complexity and potential hazard to the public health and safety. N.J.A.C. 5:23-5 provides for three levels of subcode official certification which correspond to the three classes in N.J.A.C. 5:23-5.

ii. For class 1, department plan review and release shall be required on the effective date of the regulations prior to the issuance of a construction permit unless the construction official and each appropriate subcode official in the municipal enforcing agency is certified by the commissioner as a class one construction official or subcode official.

iii. For class two, department plan review and release shall be required after January 1, 1981, prior to the issuance of a construction permit unless the construction

official and each appropriate subcode official in the municipal enforcing agency is certified by the commissioner as a class one or class two construction official or subcode official.

iv. For class three, departmental plan review shall not be required except when the department acts as the enforcing agency.

v. Installations of elevators, escalators, and moving walks, except devices in structures of Group R-3, R-4, or R-5 and those devices in structures of Group R-2 that are otherwise exempted in N.J.A.C. 5:23-3.11(b), shall require Departmental plan review and release.

3. Premanufactured construction: Department plan review and release shall be required for all modular construction other than those authorized to be approved by an inplant inspection agency as provided in N.J.A.C. 5:23-4A.10.

(c) The plan review bureau shall review all applications, plans and specifications for conformance to the regulations.

(d) Plans reviewed by the Department that are judged to be in conformance with the regulations shall be stamped with the word "released" and signed and dated by the reviewing official of the Department.

(e) All plans submitted, and any amendments thereto, accompanied by the required fee, shall be numbered, docketed, and examined promptly after their submission for compliance with the regulations. In the case of plans submitted by an architect or engineer bearing his or her signature, registration number, and seal, plan examination may, except for compliance with exit requirements, be limited to a supervisory check.

(f) If the Department judges a plan not to be in conformance with the regulations, it shall notify the applicant in writing of the reason for rejection.

(g) The Department shall provide such technical assistance to the applicant as may be appropriate pursuant to the regulations.