

(3) A reference set of plans that includes and clearly identifies each of the options to be used for the building that is the subject of the permit application. The reference set of plans is not required to be signed and sealed;

(4) Exterior elevations of the specific building;

(5) The prototype file identification number;

(6) The plan number and date of the released prototype plan; and

(7) When an automatic fire sprinkler system is installed, the fire sprinkler system demand, including either hose stream allowances or the required domestic demand, as applicable, at the available water supply shall be documented.

iii. Plans that contain deviations that were not released as part of the prototype shall not be considered a prototype and shall require the submission of a new permit application and application fees for that project to the appropriate plan review agency.

3. Examination of plans: All plans submitted and any amendments thereto accompanied by the required documentation and application, and upon payment of the fee established by the enforcing agency, shall be numbered, docketed and examined promptly after their submission for compliance with the provisions of the regulations.

#### 4. Plan review:

i. Department review: When a review and release of plans by the Department is required pursuant to N.J.A.C. 5:23-3.11 or requested for a prototype plan intended for use Statewide, the owner or agent of the owner shall file an application for construction plan release for each project, along with three sets of plans (two sets for prototypes), specifications and such other supporting information as the Department may require on forms obtained from the Department. The plans, specifications and other supporting information shall conform to the requirements of (e) above.

(1) Release of plans: Plans complying with the provisions of the regulations shall be released by the Department and written notice of approval shall be given the applicant promptly and no later than 20 business days after the submission thereof. Plans failing to comply with the provisions of the code shall be rejected and a written notice of rejection, stating the grounds for rejection, shall be given to the applicant not later than 20 business days after the submission thereof. Whenever plans have been rejected and are thereafter revised and resubmitted, the revised plans shall be released if the 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.

(2) Endorsement of released plans: All plans and amendments thereto, when approved by the department, shall be stamped or endorsed "released", followed by a notation of the date of plan release. One set of such released plans shall be retained by the department, two sets of such released plans shall be submitted to the local enforcing agency with the application for construction permit as herein provided.

(3) Partial filing: When circumstances require, a project may be filed in part (that is, footings, structural, electrical, plumbing, and so forth). Each partial submittal shall include sufficient detail to assure that the proposed portion of work complies with the regulations. A plan "release" for such a portion of work shall be issued without prejudice as to whether a "release" shall be issued for the entire project.

(4) Construction permits: Owners and their agents shall not apply to a local enforcing agency for a construction permit for any building or structure for which a Department plan review and release is required by N.J.A.C. 5:23-3, unless such review and release has been applied for and received by the applicant as evidenced by presentation of released plans to the local enforcing agency.

(A) When plans are submitted for local review that are required to be reviewed by the Department, the local enforcing agency shall so notify the owner or agent in writing no later than three business days after the submission of the plans.

ii. Local enforcing agency plan review: Where a Department plan review is not required by the regulations, an applicant for a construction permit shall be deemed to have applied for a local enforcing agency plan review by filing an application for a construction permit.

(1) When the plans submitted with an application for a construction permit or amendment thereto are accompanied by plans which have been released by the Department, then further municipal plan review and fee therefor shall not be required. Release of the plans by the Department shall not prevent enforcing agency officials from thereafter requiring correction of any errors in said plans or from issuing a stop work order when in violation of the regulations. In such case the enforcing agency shall notify the Department;

iii. Validity of plan or prototype release: The released plans or prototype (Department or local) shall be valid for the purposes of applying for a construction

permit until six months after the operative date of the next edition of the code, as set forth in N.J.A.C. 5:23-1.6.

iv. Time limitation of application: An application for a permit for any proposed work shall be deemed to have been abandoned six months after date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that for reasonable cause, the construction official may grant one or more extensions of time for additional periods not exceeding 90 days each.

v. Amended plans and specifications: Amendments may be filed at any time; such amendments shall be deemed part of the original application and, when released, shall be filed therewith. Amended plans and specifications shall be required where deviations affect matters controlled by the code and, in the judgment of the subcode official having jurisdiction, such amended plans are necessary to assist in the determination of code compliance. The official may require the affected portions of the work to be halted until amended plans and specifications are released. If the amendment involves a substantial deviation from the original application, a new affidavit of consent may be required by the construction official. If a Department plan review was required originally, the enforcing agency shall not permit an amendment to the plans or specifications unless the amendment has been released by the Department.

vi. Building systems: Structural, electrical and mechanical designs performed and certified by licensed architects or engineers need not be checked in detail by the staff of the enforcing agency, but shall remain as the responsibility of the professional certifying such design.

vii. A schematic or sketch plan, when required pursuant to this subsection, shall not be deemed to be a construction copy of a plan and shall therefore not be required to be signed or sealed by a registered architect or licensed professional engineer.

Amended by R.1985 d.352, effective July 15, 1985.

See: 17 N.J.R. 1031(a), 17 N.J.R. 1758(a).

(b)1i: deleted text "The registration number of the contractor", and added "A current validated ... contractor and the".

Amended by R.1985 d.479, effective September 16, 1985.

See: 17 N.J.R. 1462(a), 17 N.J.R. 2248(b).

(b)2ii added. (d) text added "All issued permits ...".

Administrative Correction: Cleaned up typographical errors.

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

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 (a)6 on Class I structure.

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.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.304, effective July 21, 1997.

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

In (e)1, substituted "no fewer" for "no less"; and in (e)1i, inserted reference to accessible routes.

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

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

Amended (a)6, (a)7v and (e)3v; inserted (a)8 and (e)1vii.

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

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

Rewrote the section.

Amended by R.2003 d.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](http://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](http://www.energycodes.gov)" and substituted "at [www.ashrae.org](http://www.ashrae.org)" for "1791 Tullie Circle, NE, Atlanta, GA 30329"; and added (f)1vi(2)(A).

#### 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 rea-

sons 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

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 shall be submitted to the construction official as soon as possible after the installation of the foundation wall. A land surveyor licensed in the State of New Jersey shall prepare the survey. The proposed foundation location as shown on the original plot plan shall also be shown on the foundation location survey.

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

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

iii. Utility services, including septic;

iv. Mid-point inspections shall include the following:

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

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

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

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

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

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

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

(3) Plumbing Subcode: Rough piping.

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

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

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

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

(c) Notice for inspection:

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

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

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

1. Building and Fire Subcode: Installation of all interior and exterior finish materials, sealing of exterior joints, mechanical system and any other required equipment.

2. Electrical Subcode: Wiring, devices and fixtures.

3. Plumbing Subcode: Piping, trim and fixtures.

4. Tests required by any provision of the adopted subcodes.

5. A review for compliance with N.J.A.C. 5:23-7, the Barrier Free Subcode, for all buildings required by N.J.A.C. 5:23-7.1 to be accessible.

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

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

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

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

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

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

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

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

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

Class I inspections added to (b)iv.

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

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

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

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

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

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

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

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

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

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

In (b), rewrote liv.

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

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

Rewrote the section.

Administrative correction.

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

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

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

Added (b)liv(1)(E).

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

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

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

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

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

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

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

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

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

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

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

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

(f) On the Monday following installations, the utility shall submit to each municipality a completed permit application