

## **COMMUNITY AFFAIRS**

### **Division Of Codes And Standards**

#### **Uniform Construction Code**

#### **Barrier Free Subcode**

**Proposed Amendments: N.J.A.C. 5:23-7.2, 7.5, 7.6, 7.10, 7.11 and 7.12**

Authorized By: Joseph V. Doria, Jr., Commissioner, Department of Community Affairs

Authority: N.J.S.A. 52:27D-124

Proposal Number: PRN 2008-

Calendar: See Summary below for explanation of exception to calendar requirement.

Submit written comments by September 5, 2008 to:

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**JOSEPH V. DORIA, JR.  
COMMISSIONER**

The agency proposal follows:

### **Summary**

At N.J.A.C. 5:23-7.2(b) 20, the reference to Table 802.10 is proposed to be deleted and to be replaced with a cross reference to N.J.A.C. 5:23-7.11(a) 3. The requirements for accessible seating in assembly uses, such as stadiums, are more stringent in the Barrier Free Subcode than in the International Code Council/American National Standards Institute (ICC/ANSI) A117.1-2003 standard. When the International Code Council/ American National Standards Institute (ICC/ANSI) A117.1-2003 standard was adopted, the Department did not intend to reduce the required number of accessible seats. The conflict in requirements would be resolved by this amendment.

At N.J.A.C. 5:23-7.2(b) 21, the exception from the accessibility requirements for the height of the sink in a kitchenette that does not contain a cook top has been reworded for accuracy. The current language does not specify that the exception applies to the height of the sink only, leading some users of the subcode to conclude that the faucets did not have to be accessible. This rewording would make the exception clear.

At N.J.A.C. 5:23-7.2(b) 29, the requirement that laundry equipment be accessible would be deleted. The Barrier Free Subcode does not regulate equipment. The requirements for clear floor space would be retained.

At N.J.A.C. 5:23-7.2(b) 26, the proposed amendment would exempt exterior spaces, such as balconies and patios, that are improved or constructed of impervious materials and that are not more than four inches from the adjacent interior space from the requirement to provide an accessible route. This provision comes from the Federal Fair Housing Amendments Act and is proposed to further the effort of the Department to ensure that the provisions of the Barrier Free Subcode are in concert with all Federal accessibility laws. There is no equivalency review for the multifamily housing provisions of State and Federal law, but the Department believes that code users are better served by consistency whenever possible.

At N.J.A.C. 5:23-7.5, the section would be amended to ensure that the requirement for one full bathroom is clearly understood, as well as to make it clear that the requirements of the Barrier Free Subcode apply to all rooms that are required to be accessible.

At N.J.A.C. 5:23-7.6 would be amended to comply with the provision of the Federal Fair Housing Act regarding sites that are so steeply sloped that they qualify for an exemption from providing accessible entrances. That provision contains a qualification that such sites must nonetheless provide a minimum of 20% accessible entrances. When the Department adopted the provisions of the Federal Fair Housing Amendments Act for site impracticality, the provision for a minimum of 20% accessible entrances was inadvertently omitted. This rule proposal corrects the omission. The interiors of all the units subject to the Barrier Free Subcode are required to be adaptable. The exception applies only to the entrances of multifamily buildings on steeply sloped sites.

At N.J.A.C. 5:23-7.10, the rule would be clarified to ensure that it is clearly understood that accessible parking spaces must be the closest parking spaces to the accessible entrance and that those spaces must be on an accessible route.

At N.J.A.C. 5:23-7.11(c), the proposed amendment would clarify the requirements for accessible laboratory space in buildings of Group E and in laboratories used for educational (but not for research) purposes at institutions of higher education. These amendments would allow laboratory space in Group E to be constructed either to be accessible (34 inches high) or to be adaptable (28-34 inches high). The Department has received several questions recently about the accessibility of laboratory space; this rule proposal would provide clarity.

At N.J.A.C. 5:23-7.12, the word "service" would be inserted before each reference to "counters" in the section on accessible service counters. This should avoid any confusion caused by the provisions in the International Code Council/American National Standards Institute (ICC/ANSI) A117.1-2003 standard for requirements for accessible dining surfaces, work surfaces, counters, and service counters. The Department has received multiple questions about the distinction between "counters," "service counters," and "work surfaces."

As the Department has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a) 5.

#### **Social Impact**

The Department anticipates that proposed amendments would have a positive social impact. All code users will benefit from harmonization between State and Federal law regarding accessible multifamily housing.

#### **Economic Impact**

The Department does not anticipate that the proposed amendments would have any economic impact on homeowners, municipalities, or the construction industry. These amendments are primarily clarifications and not changes in rule requirements. The addition of two provisions of the Federal Fair Housing Amendments Act is expected to improve compliance, but does not impose new requirements since the Federal Fair Housing Amendments Act has applied to the construction of multifamily housing since its adoption by the Department of Housing and Urban Development (HUD) in 1991.

#### **Federal Standards Analysis**

The purpose of these proposed amendments is to make the Barrier-Free Subcode consistent with comparable provisions of the Federal Fair Housing Amendments Act. They would therefore match, but not exceed, applicable Federal standards.

#### **Jobs Impact**

The Department does not anticipate that any jobs would be created or lost as a result of adoption of the proposed amendments.

#### **Agriculture Industry Impact**

The Department does not anticipate that the proposed amendments will have any impact on the agricultural industry.

#### **Regulatory Flexibility Analysis**

The Department expects that these proposed amendments would not impose any record keeping, reporting or compliance requirements on "small businesses", as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The addition of two provisions of the Federal Fair Housing Amendments Act is expected to improve

compliance, but does not impose new record keeping, reporting, or compliance requirements since the Federal Fair Housing Amendments Act has applied to the construction of multifamily housing since its adoption by the Department of Housing and Urban Development (HUD) in 1991.

### **Smart Growth Impact**

The Department does not expect that the proposed amendments would have any impact upon either the achievement of "smart growth" or the implementation of the State Development and Redevelopment Plan.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

### **5:23-7.2 Accessibility standard**

(a) (No change.)

(b) Dimensions and construction specifications for sites, buildings and structures required by this subchapter to be accessible shall comply with ICC/ANSI A117.1-2003, modified as follows:

1. - 19. (No change.)

20. **In the first sentence, Section 802.10 shall be amended to delete "Table 802.10" and to insert "in accordance with N.J.A.C. 5:23-7.11(a) 3. Table 802.10 shall be deleted in its entirety."**

Renumber 20 as 21. In section 804.4, entitled "Sinks," add the following:  
"Exception: [Spaces that do not provide a cook top or conventional range shall not be required to provide an accessible sink.] **In spaces that do not provide a cook top or conventional range, the sink may be installed at a conventional height of 36 inches; a parallel approach must be provided.** "

Renumber 21. - 24. as 22. -25. (No change in text.)

26. **Amend section 1003.3, entitled "Accessible route" as follows:**  
**"Exception: Exterior decks, patios, or balconies that are part of an accessible or adaptable dwelling unit and that have impervious or improved surfaces that are not more than four (4) inches below the finished floor level of the adjacent interior space of the dwelling unit."**

Renumber 25. - 26. as 27. - 28. (No change in text.)

Renumber 27. as 29. **Section 1003.10, Laundry equipment, shall be deleted in its entirety.**

Renumber 28. -29. as 30. - 31. (No change in text.)

### **5:23-7.5 Residential buildings other than buildings of Group R-1**

(a) Buildings of Group R-2, R-3 or R-5 with four or more dwelling units in a single structure shall comply with the provisions of this subchapter.

1. - 2. (No change.)

3. When being applied to a dwelling unit, the term "adaptable" shall mean a Type A dwelling Unit as per the ICC/ANSI A117.1-03 standard and shall mean that the dwelling unit has an accessible entrance; an accessible interior route into and throughout the dwelling unit, including maneuvering space at doors; and required clear floor spaces and reach ranges in all rooms **required to comply with this subchapter.** The dwelling

unit shall have either the adaptable features in the kitchen and **one full** bathroom as per Section 1003 of ICC/ANSI A117.1-03 or a fully accessible kitchen and **one full** bathroom as per Section 1002 of ICC/ANSI A117.1-03.

- 4. - 6 (No change.)
- (b)-(g) (No change.)

**5:23-7.6 Exception for accessible entrance due to site impracticability**

- (a) – (d) (No change.)
- (e) The exemption from an accessible building entrance notwithstanding, a minimum of 20 per cent of the dwelling units shall have an accessible entrance.**

**5:23-7.10 Accessible parking**

- (a) Accessible parking spaces shall be the closest parking spaces **provided** and **those spaces** shall be on the shortest **route, which shall be an** accessible route, to an accessible entrance.
- (b) – (e) (No change.)

**5:23-7.11 Requirements applicable to specific nonresidential groups and Group R-1**

- (a) – (b) (No change.)
- (c) In buildings of Group E and in education buildings at an institution of higher education, where fixed or built-in seats or tables include work areas, such as, but not limited to, counters or laboratories, five (5%) percent of the fixed or built-in seats or tables, but not fewer than one, shall be accessible.**
  - i. Exception: Work areas that are adjustable or replaceable as a unit to provide a work surface at heights between 28 inches minimum and 34 inches maximum shall be deemed to be accessible.**

Redesignate (c) as (d) (No change in text.)

**5:23-7.12 Requirements applicable to all nonresidential [use] groups, including spaces other than guestrooms in [Use] Group R-1**

- (a) – (e) (No change.)
- (f) Customer service facilities shall be accessible as follows:
  - 1. (No change.)
  - 2. Where service counters or windows are provided, one of the following accessible options shall be provided:
    - i. A portion of the **service** counter which is a minimum of 36 inches in height;
    - ii. An auxiliary **service** counter with a maximum height of 36 inches in close proximity to the main **service** counter; or
    - iii. Equivalent facilitation, such as a folding shelf attached to the main **service** counter or space at the side of the **service** counter.
  - 3. (No change.)
- (g) – (l) (No change.)