

COMMUNITY AFFAIRS

Division Of Codes And Standards
Uniform Construction Code
Construction permit applications
Plan review
Proposed Amendments: N.J.A.C. 5:23-2.15

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 19, 2008 to:

Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
PO Box 802
Trenton, NJ 08625-0802
Fax Number: (609) 633-6729
E-mail: mticktin@dca.state.nj.us

JOSEPH V. DORIA, JR.,
Commissioner

The agency proposal follows:

Summary

This proposed amendment would allow plan review to proceed, even though required State, county or local prior approvals may not have been granted, provided that the application for a permit is otherwise complete and the plan review fee has been paid. However, no permit would be allowed to be issued until all required State, county and local approvals were in place. An exception would be made for permit applicants applying for plan review of individual owner-occupied one- or two family home addition or alteration projects, who would be required to have zoning approval in place before plan review could proceed.

“Prior approvals,” as defined in N.J.A.C. 5:23-1.4, are “the necessary certifications or approvals issued by any Federal or State agency, or any political subdivision of the State, which are not inconsistent with this chapter and which are conditions precedent to the issuance of a construction permit or a certificate of occupancy or approval, as the case may be...” They include, without limitation, municipal zoning approval, highway curb cuts, educational adequacy review of public schools, and various environmental approvals.

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. Though permit applicants would still not receive their permits pending receipt of all prior approvals, they would still know whether their plans met code requirements as filed, or whether revisions would be needed, without having to await the prior approvals. Applicants, who might not want to pay the permit fee before knowing if prior approvals were obtained, or who might wish to await changes in the code before filing plans, would still have the option of filing a permit application only after all prior approvals had been received. The exclusion for owner-occupied one- and two-family dwellings reflects the fact that zoning approval, if required, is likely to be more significant in such cases and it would be problematic to have homeowners pay plan review fees for projects that might not go forward due to zoning issues.

Economic Impact

When a complete set of plans is filed, the plan is entitled to review as soon as the fee is paid. Prior approvals are preconditions to permits, not to plan review. When plans are submitted and there are major changes later that necessitate further review, an additional plan review fee may be charged. There may be cost savings to persons undertaking construction who could use the time during which applications for prior approvals would be pending to make any plan revisions that might be needed in order to comply with code requirements.

Federal Standards Statement

No Federal standards analysis is required because this amendment is not being proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

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

Agriculture Industry Impact

The Department does not anticipate that the proposed amendment would have any impact on the agricultural industry.

Regulatory Flexibility Analysis

The Department expects that the proposed amendment would not impose any recordkeeping, 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.*, or require the employment of any professional services that would not otherwise be required. “Small businesses,” like any other entities that own property or are engaged in construction, would benefit from being able to have plans reviewed at an earlier date that would otherwise be permissible.

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**):

5:23-2.15 Construction permits—application

(a) - (d) (No change.)

(e) Plans plan review, plan release:

1. – 3. (No change.)

4. Plan review:

i. (No change.)

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) If required State, county or local prior approvals have not been granted, plan review shall proceed provided that the application for a permit is otherwise complete and the plan review fee has been paid. No permit shall be issued until all required State; county and local approvals are in place.

A. Exception: Permit applicants applying for plan review of individual owner-occupied one- or two family home addition or alteration projects must have zoning approval in place before plan review shall proceed.

Renumber (1) as (2).

iii. – vii. (No change.)