

SPECIAL ADOPTIONS

COMMUNITY AFFAIRS

(a)

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Elevation of an Existing Building

Special Adopted Amendments and Concurrent

Proposed Amendments: N.J.A.C. 5:23-2.15, 2.18, and 3.21

Special Adopted New Rule and Concurrent

Proposed New Rule: N.J.A.C. 5:23-2.37

Special Amendments and New Rule Adopted and Concurrent

Proposed Amendments and New Rule Authorized: October 1, 2014, by Richard E. Constable, III, Commissioner, Department of Community Affairs.

Filed: October 1, 2014, as R.2014 d.161.

Authority: N.J.S.A. 52:27D-124 and P.L. 2014, c. 34.

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

Concurrent Proposal Number: PRN 2014-192.

Effective Date: October 1, 2014.

Expiration Date: May 12, 2015.

Submit written comments by January 2, 2015, to:

Gabrielle N. Gallagher
Department of Community Affairs
PO Box 800
Trenton, New Jersey 08625
Fax No. (609) 984-6696
gabrielle.gallagher@dca.state.nj.us

In accordance with P.L. 2014, c. 34, the Department of Community Affairs has adopted the following amendments and new rule for the elevation of existing buildings. These amendments became effective on October 1, 2014, upon acceptance for filing by the Office of Administrative Law. The specially adopted amendments and new rule shall be effective for a period not to exceed 270 days from the date of enactment of P.L. 2014, c. 34 (August 15, 2014), that is, until May 12, 2015.

Concurrently, the provisions of these amendments and new rule are being proposed for re-adoption in accordance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The adopted amendments and new rule will become effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-6.4(f)) if filed on or before the 270-day expiration date from the date of enactment of P.L. 2014, c. 34.

The agency special adoption and concurrent proposal follows:

Summary

On August 15, 2014, P.L. 2014, c. 34 was enacted. This act calls for the Division of Consumer Affairs, in the Department of Law and Public Safety, to adopt rules for the registration of home elevation contractors, and the Department of Community Affairs is charged with the adoption of rules governing the methods, procedures, and other requirements that must be followed in performing home elevations. The rules promulgated by the Division of Consumer Affairs are published elsewhere in this issue of the New Jersey Register. The following is a summary of the adopted special amendments and new rule and concurrent proposal to amend the State's Uniform Construction Code to establish standards for the elevation of existing buildings.

N.J.A.C. 5:23-2.15 is amended to require that a permit application to elevate an existing home include the registration number of the home elevation contractor.

N.J.A.C. 5:23-2.18 is amended to state that a pile log and certification, prepared by a licensed professional engineer, takes the place of an inspection for pile foundations. The amendments include a description of what the certification must include and a requirement that the certification be based on the engineer's personal observations.

A new rule, N.J.A.C. 5:23-2.37, contains the technical requirements for elevation, including addressing utility service connections, methods and equipment required, and protection of adjoining property.

N.J.A.C. 5:23-3.21 is amended to require the use of American Society of Civil Engineers (ASCE) Standard 24 for the construction of one- or two-family homes on piles. Currently, the use of ASCE 24 is required for buildings other than one- or two-family homes and is listed as an alternative in the one- and two-family dwelling subcode. Because ASCE 24 is recognized as the industry standard for construction on piles, it is being adopted, and concurrently proposed, herein. Alternate designs that do not conform to ASCE 24 may still be used through application for and granting of a variation. It should be noted that, because this is an amendment to an adopted subcode of the Uniform Construction Code, the six-month grace period provided at N.J.A.C. 5:23-1.6 will apply.

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

Social Impact

The proposed amendments and new rule are expected to have the beneficial effect of ensuring that home elevations are performed in a manner that is structurally sound.

Economic Impact

The proposed amendments and new rule are expected to have the beneficial effect of ensuring that home elevations are performed in a manner that is structurally sound. The requirement to have a registered home elevation contractor in order to obtain a permit under the Uniform Construction Code (N.J.A.C. 5:23-2.15) is contained in the act (P.L. 2014, c. 34) and is not a consequence of this rulemaking. The requirement to have a licensed engineer and to submit a pile log and certification already is contained in the building subcode, and was referenced in N.J.A.C. 5:23-2.18. The special adopted and concurrent proposed amendment state this expressly to make the requirement clearer and specific. The new rule at N.J.A.C. 5:23-2.37 consolidates the requirements for home elevation in a single section for the sake of clarity and to promote uniform enforcement of these requirements. Addressing service connections and providing protection of adjoining property are already required. (See N.J.A.C. 5:23-2.15(a)5. and 2.34.) In the months following Superstorm Sandy, the Department has issued guidance on these subjects. The requirements for a method of elevation that provides for the secure lifting of a house, also contained in the new rule at N.J.A.C. 5:23-2.37, are implicit in following sound engineering practice and are now made explicit as required by P.L. 2014, c. 34. It is not possible to lift an existing building safely without employing the proper equipment and methods. The Uniform Construction Code provides for contractors to demonstrate the equivalence of other equipment or methods. Finally, the special adopted and concurrent proposed amendment at N.J.A.C. 5:23-3.21 mandates the use of ASCE 24. As stated in the Summary above, this currently is allowed as an alternative. The amendment makes the use of ASCE 24 mandatory, but allows for designers to use alternative methods through the granting of a variation. To the extent that contractors have been performing home elevations in a manner that is not in conformance with these amendments and new rule, the rules may result in the imposition of additional costs. However, it is the Department's position that the requirements contained herein are

necessary to protect residents and the public from shoddy and dangerous workmanship and are in keeping with accepted engineering practice.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments and new rule are not being proposed under the authority of, or in order to implement, comply with, or participate in, any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The proposed amendments and new rule are not expected to have an impact on the generation or loss of jobs.

Agriculture Industry Impact

The Department does not anticipate that the proposed amendments and new rule would impact the agriculture industry.

Regulatory Flexibility Analysis

The proposed amendments and new rule would require home elevation contractors, many of which are “small businesses,” as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., to comply with the requirements described in the Summary above. Compliance costs are discussed in the Economic Impact above. As discussed in the Economic Impact above, there are no new requirements for professional services imposed by this rulemaking. The requirements for professional services, including the requirement for a licensed professional engineer to prepare a pile log and certification, are contained in existing rules. There is no basis for any modification of these requirements based on the size or nature of the owning entity as the clear intent of the enabling legislation is to provide for the structurally sound elevation of existing homes regardless of whether the owning entity is a small business.

Housing Affordability Impact Analysis

The proposed amendments and new rule are intended to ensure that the elevation of existing homes is performed in a manner that is structurally sound. It is not anticipated that the proposed amendments and new rule will have an impact on the production of affordable housing.

Smart Growth Development Impact Analysis

The proposed amendments and new rule are intended to ensure that the elevation of existing homes is performed in a manner that is structurally sound. It is not anticipated that the proposed amendments and new rule will have any impact upon housing production within Planning Areas 1 and 2 or within designated centers under the State Development and Redevelopment Plan.

Full text of the special adoption and concurrent proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

5:23-2.15 Construction permits—application

(a) (No change.)

(b) In addition, the following information shall be required on any application for a construction permit when such information is available, but not later than the commencement of work.

1.-8. (No change.)

9. If the work involves home elevation, any contractor performing such work shall be registered pursuant to N.J.S.A. 56:8-136 et seq. and shall be in compliance with the applicable provisions of N.J.A.C. 13:45A-17 and 17A. The registration number of the contractor shall appear on the permit application and the application shall include the certification required pursuant to N.J.S.A. 52:27D-123.16.

i. For purposes of this paragraph, “home elevation” shall mean and include any home improvement that involves raising an entire building of Group R-2, R-3, R-4, or R-5 to a higher level above the ground.

[9.] **10.** (No change in text.)

[10.] **11.** In the event of any change of contractor or person in charge of work under (b)1 through [9] **10** above, such change shall be filed as an amendment to the application.

(c)-(f) (No change.)

5:23-2.18 Inspections

(a) (No change.)

(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];

(1) In the case of pile foundations, [inspections shall be made in accordance with the requirements of the building subcode] a pile log and certification prepared by a licensed professional engineer shall take the place of the inspection required by (b)1i above. Such certification shall include, but not be limited to, verification that the size, type, and location of the piles conforms to the released plans and that the piles are properly set to support the design loads. Such certification shall be based upon personal observations made by the engineer at the site;

ii.-iv. (No change.)

2.-4. (No change.)

(c)-(h) (No change.)

5:23-2.37 [(Reserved)] Elevation of an existing building

(a) Service connections: Before a building can be elevated, the owner or agent shall notify all utilities having service connections within the building, such as water, electric, gas, sewer, and other connections. A permit to elevate shall not be issued until releases are obtained from all utilities that provide 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) Method of elevation: The permit application shall include the proposed method of elevation or equipment to be used, including an estimate of the lifting load and identification of the locations for the principal lift beams, lateral support beams, and cribbing, if any. All supports, including, but not limited to, jacks, beams, cribbing, and strapping, shall be of sufficient size and strength to support the estimated lifting load.

(c) Equipment: The elevation shall employ a synchronized hydraulic jacking system or a method or equipment deemed to be equivalent. For purposes of evaluating the equivalency of any proposed method or equipment, the construction official or building subcode official may request additional supporting documentation pursuant to N.J.A.C. 5:23-2.19 and 3.7.

(d) Protection of adjoining property: In cases where the lot size or the location of the building on the lot is such that there is a need to protect adjoining property or public rights of way, a plan for providing such protection shall be included as part of the permit application. The construction official may require that the plans be prepared by a New Jersey licensed design professional.

5:23-3.21 One- and two-family dwelling subcode

(a)-(b) (No change.)

(c) The following chapters or sections of the IRC/2009 shall be modified as follows:

1.-2. (No change.)

3. Chapter 3, Building Planning, shall be amended as follows:

i.-v. (No change.)

vi. Section R301.2.4.1, Alternative provisions, shall be deleted in its entirety.

Recodify existing vi.-xxxii. as **vii.-xxxiii.** (No change in text.)

xxxiv. Section R322.1.1, Alternative provisions, shall be deleted in its entirety.

Recodify existing xxxiii – xxxv. as **xxxv. – xxxvii.** (No change in text.)

xxxviii. In Section R322.2.3, Foundation design and construction, “For buildings supported by piles, the design and methods of construction shall meet the applicable criteria of ASCE 24.” shall be inserted after the first sentence.

xxxix. In Section R322.3, Coastal high-hazard area (including V Zones), “through R322.3.6” shall be deleted and “and ASCE 24” shall be inserted in its place.

[xxxvi.] xl. (No change in text.)

xli. Section R322.3.2, Elevation requirements, Section R322.3.3, Foundations, Section R322.3.4, Walls below design flood elevation, Section R322.3.5, Enclosed areas below design flood elevation, and Section R322.3.6, Construction documents, shall be deleted in their entirety.

[xxxvii. Section R322.2.3.6, Construction Documents, shall be deleted in its entirety.]

[xxxviii.] xlii. (No change in text.)

4.-25. (No change.)

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CONSUMER AFFAIRS

Home Improvement and Home Elevation Contractor Registration

Special Adopted and Concurrent Proposed Amendments: N.J.A.C. 13:45A-17.1, 17.2, 17.3, and 17.4

Special Adopted and Concurrent Proposed New Rules: N.J.A.C. 13:45A-17A

Special Amendments and New Rules Adopted and Concurrent Proposed Amendments and New Rules Authorized: October 1, 2014, by Steve C. Lee, Acting Director, New Jersey Division of Consumer Affairs.

Filed: October 1, 2014, as R.2014 d.160.

Authority: P.L. 2014, c. 34.

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

Concurrent Proposal Number: PRN 2014-191.

Effective Date: October 1, 2014.

Expiration Date: May 12, 2015.

Submit written comments by January 2, 2015, to:

Steve C. Lee
Acting Director
New Jersey Division of Consumer Affairs
124 Halsey Street
P.O. Box 45027
Newark, NJ 07101
or electronically at: www.NJConsumerAffairs.gov/proposal/comment/.

In accordance with P.L. 2014, c. 34, the New Jersey Division of Consumer Affairs has adopted the following amendments and new rules for applicants wishing to perform home elevation activities in the State that became effective on October 1, 2014, upon acceptance for filing by the Office of Administrative Law. The specially adopted amendments and new rules shall be effective for a period not to exceed 270 days from the date of enactment of P.L. 2014, c. 34 (August 15, 2014).

Concurrently, the provisions of these amended and new rules are being proposed for re-adoption in accordance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The adopted amendments and new rules will become effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-6.4(f) if filed on or before the 270 day expiration date from the date of enactment of P.L. 2014, c. 34.

The agency special adoption and concurrent proposal follows:

Summary

On August 15, 2014, P.L. 2014, c. 34 was enacted, amending and supplementing the Contractor's Registration Act, P.L. 2004, c. 16

(N.J.S.A. 56:8-136 et seq.). P.L. 2014, c. 34 establishes a new registration program for those home improvement contractors (HICs) engaged in the business of selling or making home elevations in this State as home elevation contractors (HECs). Pursuant to P.L. 2014, c. 34, and its rulemaking authority, N.J.S.A. 56:8-1 et seq., specifically, N.J.S.A. 56:8-152, the Division of Consumer Affairs (the "Division") is proposing a new subchapter, N.J.A.C. 13:45A-17A, to establish the registration program for HECs, including the application, disclosure, insurance, surety bond, badge identification, and other requirements of the program.

Additionally, the Division is proposing amendments to existing rules at N.J.A.C. 13:45A-17.1, 17.2, 17.3, and 17.4 to clarify that HEC entities possessing valid registrations pursuant to proposed new subchapter N.J.A.C. 13:45A-17A may perform other types of home improvements without also registering as home improvement contractors pursuant to the Contractors' Registration Act (N.J.A.C. 13:45A-17.3). However, registered HECs would be subject to the other rules of N.J.A.C. 13:45A-17 when performing home improvements other than home elevations.

N.J.A.C. 13:45A-17.1 sets forth the purpose and scope of the rules in the subchapter. The Division proposes to amend N.J.A.C. 13:45A-17.1(b) to clarify that HECs registered pursuant to proposed N.J.A.C. 13:45A-17A.3 are subject to the rules of N.J.A.C. 13:45A-17 when performing home improvements other than home elevations. After the effective date of the Act and the special adoption, October 1, 2014, HECs are specifically obligated to provide consumers entering into contracts with evidence of their insurance coverage.

Existing N.J.A.C. 13:45A-17.2 is a definitions section. The Division proposes to add the definition of the term, "home elevation contractor." Additionally, the Division proposes to amend the definition of the term "home improvement" to include home elevation and exclude the construction, installation, replacement, improvement or repair of fire protection devices, security protection devices, and central heating and air conditioning equipment because this work may only be done by a licensed professional. The Division also proposes to exclude from the definition of "home improvement" any other work required by law to be performed by a licensed master plumber, licensed master heating, ventilating, air conditioning, and refrigeration contractor, or licensed electrical contractor.

N.J.A.C. 13:45A-17.3 requires HICs who are not exempt under N.J.A.C. 13:45A-17.4, and entities that advertise as home improvement contractors in this State, to register with the Division in accordance with the provisions of Subchapter 17. This section is proposed to be amended to clarify that HECs registered pursuant to N.J.A.C. 13:45A-17A.3 are permitted to engage in the business of making or selling all home improvements and need not register separately as HICs. N.J.A.C. 13:45A-17.4 is proposed to be similarly amended to exempt from the HIC registration requirements entities holding a valid registration as a HEC pursuant to N.J.A.C. 13:45A-17A.3. However, should the entity's HEC registration cease to be valid, the entity would be required to register as a HIC before engaging in the making or selling of home improvements.

Proposed new subchapter N.J.A.C. 13:45A-17A sets forth the registration requirements for HECs. Proposed new rule N.J.A.C. 13:45A-17A.1 describes the purpose and scope of the rules in the subchapter. Proposed new rule N.J.A.C. 13:45A-17A.2 establishes the definitions for the subchapter.

Proposed new N.J.A.C. 13:45A-17A.3(a) requires HECs in the State to register with the Division in accordance with the provisions of this proposed new subchapter. Proposed subsection (b) prohibits a HEC from advertising home elevation services unless registered as a HEC. Proposed subsection (c) requires persons currently registered as HICs to convert their registrations to HEC registrations if they intend to perform home elevations. In the case of such a conversion, the initial term of the HEC registration would be the unexpired term of the HIC registration that was converted and there would be no additional initial registration fee. Proposed subsection (d) clarifies that a person with a valid HEC registration is not required to register as a HIC. However, if that HEC registration is subsequently surrendered, revoked, suspended, not renewed, or otherwise becomes invalid, the person must register as a HIC prior to making or selling home improvements and must obtain a new badge identifying the person as a HIC. Proposed subsection (e) clarifies