

1. Ordinary building maintenance shall include:
- i.-vii. (No change.)
 - viii. The replacement or installation of any flooring material with a new material;
 - ix.-xiv. (No change.)
 - 2.-6. (No change.)

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 therefor 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.-2. (No change.)

3. Exception—Plan Release with Conditions and Permit Issuance: In buildings of Group B, F, M, or S, for alteration or reconstruction projects performed in accordance with N.J.A.C. 5:23-6, unless the code official finds that the plans are so deficient that they cannot be used as a means of determining code compliance upon inspection, the construction official shall act on the permit application by identifying and providing to the permit applicant a list of those conditions that require correction for code compliance, as follows:

i. A plan release with conditions shall mean that a list of code deficiencies identified through plan review shall be attached to the plans with the condition that the deficiencies so identified will have been corrected and will be code compliant upon inspection.

ii. The plan release with conditions shall identify any deferred submittals necessary to perform an inspection.

iii. A timeframe for the receipt by the enforcing agency of the deferred submittals and for the correction of code deficiencies shall be specified in the plan release with conditions. If revised drawings are determined to be necessary, a timeframe for submitting revised drawings shall be specified in the plan release with conditions.

iv. The plans shall be released with conditions and the permit application shall be acted upon following the written acceptance by the permit applicant of the conditions attached to the plan release. When the list of conditions attached to the plan release is provided to the permit applicant, the enforcing agency shall provide a copy of the conditions attached to the plan release to the design professional of record.

(1) The issuance of a plan release with conditions notwithstanding, the construction permit shall not be issued until the conditions of all prior approvals, as defined at N.J.A.C. 5:23-1.4, have been met in accordance with N.J.A.C. 5:23-2.15(a)5.

v. Plan release with conditions shall not apply to a change of use or to a change in the character of use in accordance with N.J.A.C. 5:23-6.

(b)-(d) (No change.)

(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.

1. For plans released pursuant to (a)3 above, the conditions shall be attached to the plans that are retained on site and the plans that are retained by the enforcing agency and shall be available for use in performing inspections.

(f)-(k) (No change.)

5:23-2.17A Minor work

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

(c) Minor work:

1.-7. (No change.)

8. Minor work shall mean and include repair and/or renovation work in a Group B, Group F, Group M, or Group S occupancy performed in accordance with N.J.A.C. 5:23-6*, **but shall not include work categorized as ordinary maintenance pursuant to N.J.A.C. 5:23-2.7*.**

(d) (No change.)

(a)

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Adopted Amendments: N.J.A.C. 5:23-2.20, 3.11, 3.14, 4.18, and 4.20

Proposed: June 4, 2012 at 44 N.J.R. 1679(a).

Adopted: September 24, 2012 by Richard E. Constable, III, Commissioner, Department of Community Affairs.

Filed: September 24, 2012 as R.2012 d.179, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

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

Effective Date: November 5, 2012.

Expiration Date: June 13, 2015.

Summary of Public Comments and Agency Responses:

Comments were received from the following persons and organizations: Michael G. McGuinness, CEO, New Jersey Chapter of NAIOP (NAIOP-NJ); Richard J. Cureton, AIA, President, Whitesell Construction Company, Inc.; Kenneth Volk, Vice President, Heller Industrial Parks, Inc.; John DiCola, Partner, KTR Capital Partners; Robert F. Vicci, RPA, Director of Space Preparation, Federal Business Centers; Bill Toland, Federal Business Centers; Brian Townsend, Sr. Vice President, Investments, CenterPoint Properties; Joshua Adler, Bernie Adler, Seth Adler, Jeanne Adler and Matt Adler, Adler Development; Richard A. Soltis, Jr., President, Mercer County Fire Prevention Association and Lawrence Township Fire Subcode Official; Eugene A. Preston, Managing Partner, Woodmont Industrial Partners, LLC; Frank Greek, President and CEO, F. Greek Development; and Michael Allen Seeve, President, Mountain Development Corp.

COMMENT: On behalf of its nearly 600 members, NAIOP-NJ commends the Department for this proposal, which addresses two issues of great importance to New Jersey's commercial and industrial building owners, namely the need to allow a 400-foot travel distance in Group F-1 and S-1 occupancies in buildings that are one story in height, equipped with smoke and heat vents, and equipped throughout with a sprinkler system installed in accordance with NFPA-13, and the need to revise the standards for municipal fees to codify the recommendations in Bulletin 79-8 for large, open-volume buildings. These needed rule changes will strengthen New Jersey's crucial transportation, logistics, and distribution center industry, which represents a substantial portion of our State's gross domestic product and employs hundreds of thousands of people. The one change that NAIOP-NJ requests is that the list of types of large, open-volume buildings included in the proposed rule be amended to specifically include distribution centers, a term often used synonymously with warehouse facilities.

RESPONSE: The Department thanks NAIOP-NJ for its support of the proposal. For purposes of clarification, distribution centers are being added upon adoption to the list of examples of large, open volume buildings at N.J.A.C. 5:23-4.18(c)1v.

COMMENT: Restoration of the 400-foot maximum travel distance in sprinklered buildings of Groups F-1 and S-1 would correct a reduction to 250 feet that has severely limited the allowable width of large factory and warehouse buildings unless costly egress tunnels are built. Reducing the

width of a large building is often not practical and the use of tunnels is questionable because people will be hesitant to enter a tunnel during an emergency.

RESPONSE: The Department agrees and is therefore adopting this proposal. The Department thanks the many commenters who expressed support for this change.

COMMENT: While basing construction fees on volume makes sense for some buildings, it does not make sense for very large industrial buildings. An open-volume building with a 40-foot ceiling height does not require more inspection effort than a building with a 20-foot ceiling height and a much higher fee is therefore not justified. (Storage on racks in a higher building already requires an additional permit, thus allowing any issue of installation of goods on racks to be addressed separately.) Construction fees for industrial buildings in New Jersey are much higher than those in Pennsylvania and Delaware. Reducing these fees will make New Jersey more competitive, attract new businesses and spur economic development.

RESPONSE: The Department agrees and is therefore adopting this proposal. The Department thanks the many commenters who expressed support for this change.

COMMENT: The commenter, a fire subcode official, agrees with the proposed change to revert to the 2006 edition of the International Building Code concerning travel distances in Groups F-1 and S-1, thus increasing the travel distance in those groups from 250 feet to 400 feet when the structure is equipped with heat and smoke vents and equipped throughout with a sprinkler system installed under NFPA-13. Several studies concerning buildings with heat and smoke vents and suppression systems have shown that there are great benefits in maintaining visibility for fire suppression forces, as well as benefit in assistance in ventilating these large area structures. Also, there is no significant delay of the suppression system when smoke and heat vents operate.

RESPONSE: The Department appreciates this expression of support of the proposal as addressing fire safety concerns.

COMMENT: The commenter salutes the Department for taking these common sense steps to make New Jersey more competitive for major space users. The commenter knows firsthand the terrific positive impacts that major companies can have on communities in which they settle and, conversely, the major negative effects when they leave and thanks the Department for helping to attract and retain them in the State.

RESPONSE: The Department thanks the commenter for this expression of support.

Federal Standards Statement

No Federal standards analysis is required because these amendments are not being adopted under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or a State statute that incorporates or refers to a Federal law, standards, or requirements.

Full text of the adoption follows (additions indicated in boldface with asterisks ***thus***):

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 in accordance with such inspection and test procedures as may be prescribed by the provisions of the regulations, with the expense of all tests and special inspections to be borne by the owner or lessee or by the contractor performing the work.

1. Except as otherwise provided, tests conducted by persons authorized to conduct such tests in accordance with this chapter are not required to be witnessed by the local enforcing agency, unless the local enforcing agency determines such witnessing to be necessary.

(b)-(d) (No change.)

(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. The bonding and grounding certificate may cover more than one swimming pool, spa, and/or hot tub unit.

5:23-3.11 Enforcement activities reserved to the Department

(a)-(i) (No change.)

(j) The Department shall be the sole enforcing agency for the following work:

1. Amusement rides and any portable generator and associated portable distribution wiring that serves portable amusement rides, portable concessions, portable ticket booths, and other portable structures that are ancillary in nature at carnivals and fairs;

2.-4. (No change.)

5:23-3.14 Building subcode

(a) (No change.)

(b) The following chapters of the building subcode are modified as follows:

1.-8. (No change.)

9. Chapter 9, Fire Protection Systems, shall be amended as follows:

i.-xlv. (No change.)

xlvi. Insert the text of Section 910.2.3 of the 2006 edition of the International Building Code as follows: "910.2.3 Exit access travel distance increase. Buildings and portions thereof used as Group F-1 and S-1 occupancy where the maximum exit access travel distance is increased in accordance with Section 1016.2."

Recodify existing xlvi.-liii. as xlvii.-liv. (No change in text.)

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

i.-xxix. (No change.)

xxx. In Table 1016.1 Note a, insert the text of the 2006 edition of the International Building Code as follows: "Section 1016.2: For increased limitations in Group F-1 and S-1."

xxxi. Insert the text of Section 1016.2 from the 2006 edition of the International Building Code as follows: "1016.2 Roof vent increase. In buildings that are one story in height, equipped with automatic heat and smoke roof vents complying with Section 910 and equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, the maximum exit access travel distance shall be 400 feet (122 m) for occupancies in Group F-1 and S-1." Renumber Section 1016.2 as 1016.3.

Recodify existing xxx.-xxxviii. as xxxii.-xl. (No change in text.)

11.-27. (No change.)

5:23-4.18 Standards for municipal fees

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

(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.-iv. (No change.)

v. The unit rates may vary for different occupancy groups or structures of different sizes within the same occupancy group. The unit rate for large, open-volume buildings*,* such as barns, silos, greenhouses, warehouses*, **distribution centers***, and other agricultural, recreational, and storage-use buildings*,* shall be less than the unit rate for other types of buildings and occupancy classifications. This shall be clearly indicated in the ordinance and schedule;

vi.-ix. (No change.)

2.-6. (No change.)

(d)-(f) (No change.)

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

1.-3. (No change.)

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

(h)-(j) (No change.)

(k) The fee charged for the annual electrical inspection of a swimming pool, spa, or hot tub shall be a flat fee and the amount of the fee shall be set to cover the cost. A reduced fee shall be set for each additional swimming pool, spa, or hot tub on a site.

(l) (No change.)

5:23-4.20 Department fees

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

(c) Departmental (enforcing agency) fees shall be as follows:

1.-3. (No change.)

4. For cross connections and backflow preventers that are subject to annual re-testing, the fee shall be \$10.00 for each device.

5.-9. (No change.)

10. The fee for the annual electrical inspection of a swimming pool, spa, or hot tub shall be \$45.00. The fee for the annual electrical inspection of each additional swimming pool, spa, or hot tub on a site shall be \$30.00.

(d)-(e) (No change.)

ENVIRONMENTAL PROTECTION

(a)

LAND USE MANAGEMENT

DIVISION OF LAND USE REGULATION

Coastal Zone Management

Public Access

Adopted Amendments: N.J.A.C. 7:7-1.3, 7.5 through 7.14, 7.17, 7.18, 7.24, 7.26, and 7.29; and 7:7E-1.8, 3.22, 3.23, 3.43, 3.48, 3.50, 7.2, 7.3, 7.4, 7.7, 7.11, 8.11, and 8.12

Adopted Repeals: N.J.A.C. 7:7E-8A and 7:7E Appendix 6

Proposed: April 4, 2011 at 43 N.J.R. 772(a).

Notice of Proposed Substantial Changes upon Adoption: March 19, 2012 at 44 N.J.R. 614(a).

Notice of Proposed Additional Substantial Changes upon Adoption: July 2, 2012 at 44 N.J.R. 1864(a).

Adopted: October 3, 2012 by Bob Martin, Commissioner, Department of Environmental Protection.

Filed: October 4, 2012 as R.2012 d.182, **with substantial changes** to proposal after additional notice and public comment, pursuant to N.J.S.A. 52:14B-4.10, and **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 13:19-1 et seq., 12:3-1 et seq., 12:5-3, and 13:9A-1 et seq.

Effective Date: November 5, 2012.

Expiration Dates: December 15, 2014, N.J.A.C. 7:7; July 7, 2013, N.J.A.C. 7:7E.

The Department is adopting amendments to the public access rules at N.J.A.C. 7:7, Coastal Permit Program, and N.J.A.C. 7:7E, Coastal Zone Management. On April 4, 2011, the Department proposed amendments to public access requirements contained in these rules.

The amendments establish public access requirements for new development based upon the type of development, for example, residential versus marina development. The rules also establish the ability of towns to develop Municipal Public Access Plans.

On March 19, 2012, the Department published a notice of proposed substantial changes upon adoption to the proposed rule amendments based on comments received on the proposal of amendments to the public access rules at N.J.A.C. 7:7 and 7:7E. The changes included providing increased transparency and public participation in both the Department and the municipal review process of Municipal Public Access Plans; restoring provisions requiring that public access incorporate, to the maximum extent practicable, fishing access and associated amenities; providing a paragraph to address public access requirements for public highways; specifying a standard formula to calculate a payment amount for linear projects when a Municipal Public Access Plan requires a monetary contribution to be used to provide new or enhanced public access; and establishing a process by which the Department can revoke a municipal public access plan for good cause.

On July 2, 2012, the Department filed a notice of proposed additional substantial changes upon adoption to the public access rules at N.J.A.C.

7:7E. The changes address public access requirements for public highways, and result from consultation with the New Jersey Department of Transportation (NJDOT) and the New Jersey Turnpike Authority. The changes include amendments to make public access requirements applicable to linear transportation projects similar to the requirements applicable to commercial, industrial, and other public development. With respect to the NJDOT, the changes provide that when NJDOT is required to provide new or enhanced public access, that if the Department and NJDOT determine that it is appropriate, the NJDOT may provide funding for such access project to the Department or the municipality pursuant to an agreement between NJDOT and the Department. Additionally, the amendments allow and encourage transportation agencies and counties to develop Transportation Public Access Plans, and seek Department approval of Transportation Public Access Plans, similar to Municipal Public Access Plans.

The Department is adopting the amendments proposed on April 4, 2011 as modified in the two subsequent notices of proposed substantial changes.

The Department held a total of seven public hearings to provide interested parties the opportunity to present oral comments on the proposal, the substantial changes to the proposal and the additional substantial changes to the proposal. The hearings were as follows:

Hearings for the October 4, 2011 Proposal

Thursday, May 12, 2011

Liberty State Park Central Railroad Terminal Building
Jersey City, NJ 07305

Tuesday, May 17, 2011

Richard Stockton College of New Jersey
Pomona, NJ 08420

Monday, May 23, 2011

Seaside Heights Municipal Court House
Seaside Heights, New Jersey 08751

Thursday, June 2, 2011

Township of Long Beach
Municipal Court Room
Brant Beach, New Jersey 08008

Hearings for the March 19, 2012 Proposed Substantial Changes upon Adoption

Wednesday, April 18, 2012

Avalon Court Meeting Room
Avalon, New Jersey 08202

Wednesday, April 18, 2012

Long Branch Council Chambers
Long Branch, New Jersey 07740

Hearing for the July 2, 2012 Proposed Additional Substantial Changes upon Adoption

Tuesday, July 31, 2012

New Jersey Department of Environmental Protection
Trenton, NJ 08625

Ray Cantor, Chief Advisor to the Commissioner, New Jersey Department of Environmental Protection, was the Hearing Officer for all seven public hearings. After listening to the oral comments presented at the hearings and reviewing the hearing transcripts and written comments received by the Department, the Hearing Officer recommended that the proposed rule amendments with substantive changes be adopted with the amendments described below in the Summary of Public Comments and Agency Responses. The Department accepts the Hearing Officer's recommendation.

Records of the public hearings are available for inspection in accordance with applicable law by contacting:

Department of Environmental Protection
Office of Legal Affairs
ATTN: DEP Docket No. 05-11-03
401 East State Street
Mail Code 401-04L
PO Box 402
Trenton, NJ 08625-0402