



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 802
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PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

April 17, 2023

RE: Seasonal (Temporary) Farm Labor Accommodations

Dear Construction Official:

It has come to the attention of my office that not all agencies have enforced the New Jersey Uniform Construction Code (UCC), specifically N.J.A.C. 5:23-6.31, regarding illegal Seasonal Farm Labor housing. A previous letter was sent regarding this matter on February 4, 2020, and has been attached for your reference. The letter advised that such housing units, which are typically located in pole barns, sheds, or similar structures, must comply with the change of use provisions set forth in the Uniform Construction Code rules at N.J.A.C 5:23-6.31.

As many of you know, several farms challenged the letter in an appeal to the Appellate Division. The court dismissed the appeal on December 13, 2021, and the farms' subsequent petition was denied by the Supreme Court on October 21, 2022. Therefore, any current Notices of Violation resultant from referrals from the Division of Fire Safety should be acted upon immediately.

If you have questions regarding your duties as a Construction Official as they relate to the enforcement of UCC for these Farm Labor Accommodations, you may contact our Office of Regulatory Affairs at (609) 984-7672. Their office will be monitoring the towns in which these Farm labor accommodations exist.

If you have questions regarding code compliance, please contact our Code Assistance Unit at (609) 984-7609.

Sincerely,

Edward M. Smith
Director
Division of Codes and Standards



State of New Jersey
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PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

February 4, 2020

RE: Seasonal (Temporary) Farm Labor Accommodations

Dear Construction Official:

This letter outlines the Uniform Construction Code (UCC) requirements, N.J.A.C. 5:23, for seasonal (temporary) farm labor housing (180 days or less) and specifically the need for the installation of an automatic sprinkler system. Existing pole barns, sheds, or similar structures that are being used as temporary farm labor housing must meet this requirement. New buildings being constructed for use as farm labor housing must also meet this requirement.

By way of background, it is necessary to understand the UCC requirements for an existing building being converted, or that has already been converted, to temporary farm labor housing. When a structure built for the storage of farm equipment and/or supplies is to be used as living quarters, it is considered a *change of use* per the UCC at N.J.A.C. 5:23-6.31. It is also a change of use when a single-family home is utilized to house more than five roomers or lodgers who are unrelated. All such buildings are classified as Residential Group R-2 structures, and must meet all of the requirements of the UCC rehabilitation subcode, N.J.A.C. 5:23-6.1 et seq.

The requirements include:

- The structure must have an automatic sprinkler system.
- The building must have hard-wired interconnected smoke alarms.
- No commercial cooking operations without an approved Type 1 hood (commercial cooking means there is a person cooking and serving meals to the workers).
- A fire extinguisher is to be located within 50 feet of any point within the building.
- Bathroom facilities (temporary or permanent) are to be within 200 feet of the structure.
- Hard-wired carbon monoxide (CO) alarms must be installed when a fuel burning appliance is within the building or there are garage facilities attached to the building.

Compliance with the change of use provisions of the rehabilitation subcode must be initiated before the start of the 2020 growing season. Compliance is considered to be initiated if a schedule of compliance is signed by the property owner and approved by the local code enforcing agency by June 1, 2020. The schedule of compliance must include the date by which the property owner will receive proposals and estimates for the work being performed, the date by which the property owner will enter a signed contract for the required work, the date by which an application for a Uniform Construction Code permit will be submitted, the date by which the required work will commence, the date by which progress inspections will be completed by the local code enforcing agency, and the date by which the required work will be completed. The timeline and content of each schedule will vary from farm to farm; the local enforcing agency will work with owners to establish schedules of compliance as appropriate. The schedule of compliance must state that failure to meet the agreed upon timelines may result in monetary penalties and/or an order to vacate

the structure. Finally, the schedule of compliance must also provide a provision that if circumstances beyond the control of the property owner cause the failure to meet the deadlines in the schedule of compliance, the schedule will be reconsidered on a case by case basis. As an alternative to the entry of a schedule of compliance, the use of a building for residential purposes can always be discontinued.

The UCC does permit an owner to apply for a variation from the UCC requirements. Such a request must satisfy the standard set forth in N.J.A.C. 5:23-2.9: that strict compliance with the subcode provision would result in practical difficulty for the owner, and that if granted, the variation would not jeopardize the health, safety and welfare of intended occupants of the structure or the public. The construction official determines whether or not a *variation* should be granted for any structure. If a variation is denied, the applicant may appeal the decision to the local Board of Appeals; this process typically happens at the County level.

The Department has determined that an acceptable *variation* request from seasonal farms should include, at a minimum, the following:

- A fire sprinkler system designed and installed in accordance with NFPA 13R;
- The system must have a Fire Department Connection;
- The system must be monitored;
- Water supply for the system may be reduced to a NFPA 13D (non fire-rated) tank(s) containing 10 minutes of water supply and pump system; and
- The building must be inspected annually pursuant to Department of Community Affairs, Division of Fire Safety regulations.

This letter and the guidance set forth herein does not apply to farms that operate on a year-round basis. The variation noted above cannot be applied to housing on year-round farms.

The requirements set forth herein relate only to UCC requirements. All other applicable federal, state and local laws, regulations, and permits must be adhered to.

If you have any questions regarding this matter, please contact Justin Henry of the Division's Office of Regulatory Affairs at (609) 984-7672.

Sincerely,



Edward M. Smith, Director
Division of Codes and Standards