

# Construction Code Communicator



State of New Jersey  
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Lt. Governor Sheila Y. Oliver, Commissioner

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## Calculating Substantial Damage/Improvement

Let me begin with two words: prior approval. Calculating the value for substantial damage/improvement is not the construction code official's responsibility. This is done through the prior approval process, so the code official is looking for something in writing from the local floodplain administrator (LFA) stating whether the property is substantially damaged and/or improved. How the LFA made the determination is not our concern.

However, it is useful for code officials to have some information on this topic in order to assist permit applicants who may come to them with questions. The following is a helpful excerpt from a FEMA Fact Sheet entitled, "NFIP Substantial Damage – What Does It Mean?" released September 14, 2017 (release # FS008):

*The decision about a structure being "substantially damaged" is made at a local government level, generally by a building official or floodplain manager.*










*Substantial damage applies to a structure in a Special Flood Hazard Area (SFHA) – or 1-percent-annual-chance floodplain – for which the total cost of repairs is 50 percent or more of the structure's market value before the disaster occurred, regardless of the cause of damage. This percentage could vary among jurisdictions, but must not be below NFIP standards.*

*For example, if a structure's market value before the damage was \$200,000 and repairs are estimated to cost \$120,000, that structure is substantially damaged. **Land value is excluded from the determination.***

The land value portion regarding a substantial damage project is highlighted because the code assistance unit has received multiple questions regarding this. This Fact Sheet contains much more information than what is provided above; the full Fact Sheet can be viewed at <https://www.fema.gov/news-release/2017/09/14/fact-sheet-nfip-substantial-damage-what-does-it-mean>. If permit applicants are questioning the LFA's price for a project, feel free to direct them to this article and advise them to follow up the contacts listed in the Fact Sheet.

Source: Rob Austin  
Code Assistance Unit  
(609) 984-7609

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### The 37<sup>th</sup> Annual Building Safety Conference of New Jersey

The 37<sup>th</sup> Annual Building Safety Conference of New Jersey was held on May 2<sup>nd</sup> through 4<sup>th</sup> at Bally's Atlantic City. Our continued focus was on preparing the next generation of code enforcement officials and bringing together all of our partners in building safety. The International Code Council (ICC) continued to be a large part of our event this year, providing both continuing education seminars and certification academies for special inspectors and permit technicians, as well as staffing a bookstore for our attendees to pick up codes and reference standards. We were honored to have in attendance ICC Board of Directors President, Jay Elbetta, as well as Directors Cindy Davis, Kris Bridges, and Mike Boso.

The "Crackerbarrel" began our Conference, as it always does. This very popular event gives our guests the opportunity to hear from a variety of presenters in a short format style with a focus on new items of particular interest to the code enforcement community. Topics ranged from the emergency lighting requirements to an opportunity to meet with DCA staff to gain insight into recent code changes and guidance.

The centerpiece of the Building Safety Conference was the opportunity to recognize and honor those selected by their associations as Inspectors of the Year and as the Technical Assistant of the Year. This year we also honored the first Construction Official of the Year at the Conference. The Municipal Construction Officials of New Jersey association is now a partner organization with the Building Safety Conference of New Jersey. We were honored to have Director Edward Smith, and retired Directors Cynthia Wilk and William Connolly present for this first award. Each of the Presidents of the respective partner associations made the award presentations at the annual luncheon.

The following awards were presented:



Municipal Construction Officials of New Jersey  
Construction Official of the Year- Jeffrey R. Heiss



New Jersey Association of Technical Assistants  
Technical Assistant of the Year- Lisa Love



New Jersey Building Officials Association  
Building Inspector of the Year- Jay Dilworth



Municipal Electrical Inspectors Association of New Jersey  
Electrical Inspector of the Year- George W. Selah, III



New Jersey Fire Prevention and Protection Association  
Fire Protection Inspector of the Year- Richard A. Vigliotti



New Jersey State Plumbing Inspectors Association  
Plumbing Inspector of the Year- Peter T. Simchera



*Municipal Construction Officials of New Jersey  
Construction Official of the Year – Jeffrey R. Heiss (with retired Director William Connolly)*



*New Jersey Association of Technical Assistants  
Technical Assistant of the Year – Lisa Love (with Deborah Simone, President, South Jersey Technical Assistants’ Association)*



*New Jersey Building Officials Association  
Building Inspector of the Year – Jay Dilworth (with Pat Naticchione, President, NJ Building Officials Association)*



*Municipal Electrical Inspectors Association of New Jersey  
Electrical Inspector of the Year – George W. Selah, III (with George Selah, Jr., NJ Municipal Electrical Inspectors Association)*



*New Jersey Fire Prevention and Protection Association  
Fire Protection Inspector of the Year – Richard A. Vigliotti (with Richard Silvia, President, NJ Fire Prevention and Protection Association and William Johnson, Middlesex County Fire Prevention and Protection Association)*



*New Jersey State Plumbing Inspectors Association  
Plumbing Inspector of the Year – Peter T. Simchera (with Ronald Barbarulo, President, NJ Plumbing Inspectors Association)*



*The award recipients and Association Presidents with retired Director William Connolly*

Congratulations to all for your hard work and dedication to improving code enforcement in New Jersey!

The Building Safety Conference is a unique opportunity to broaden your knowledge of cutting-edge code enforcement and building construction techniques while also providing an opportunity to meet with your peers throughout the State to share ideas and promote camaraderie and collegiality among the code enforcement community. We are proud to say that the Conference continues to grow and the Committee seeks to meet the ever-changing needs of our community by offering new training opportunities. We are always on the lookout for new ideas though! If you have an idea, please pass that along through your association or email me at [john.delesandro@dca.nj.gov](mailto:john.delesandro@dca.nj.gov).

We hope to see you all next year at Bally's Atlantic City May 1<sup>st</sup> through 3<sup>rd</sup>, 2019. Please save the date and "like" us on Facebook for event updates, room locations, and any other important information!

Source: John Delesandro, Supervisor, Education and Licensing Unit  
(609) 292-7899

## Gazebos, Sheds, and Pergolas: Are Permits Required?

As summertime approaches, homeowners are preparing their backyards for summertime fun. As construction officials, we need to be clear on what types of structures would require permits for proper anchorage. The most common types of residential accessory structures are freestanding gazebos, sheds, and pergolas.

Gazebos are a roofed structure that offer an open view of the surrounding area which are typically used for relaxation or entertainment. Because the occupancy of gazebos is not constant, there is a potential danger of these structures becoming a hazard during higher wind events. For this reason, homeowners need a Uniform Construction Code (UCC) permit from their local construction code official to ensure that gazebos are properly secured to the ground.

Sheds (garden-type utility & similar structures) are simple roofed structures, typically made of wood or metal, used as a storage space, a shelter for animals, etc. In addition to its stored contents weighing it down, the walls enclosing it deflect the wind making this structure more secure. For this reason, homeowners can install sheds without a UCC permit (regardless of floodplain) as long as they meet the following criteria: 200 square feet or less in area; less than 10 feet in mean height; accessory to R-2, R-3, R-4, or R-5; and containing no utilities.

Unlike the above items that have a true roof, pergolas have open joists that act as the “roof,” but clearly allow sunlight to come through. Because wind uplift on these structures is minimal, one should apply the permit allowance for sheds above. Arbors, essentially being a smaller version of a pergola, would also be permitted to follow the above guidance for sheds.

Regardless of UCC permit requirements, homeowners should always check with their local zoning official for the allowance of any of these structures to be placed on their property.

Source: Keith Makai  
Code Assistance Unit  
(609) 984-7609

## Electrical Boxes and Air Barriers

Whether the building thermal envelope air leakage is being verified via Section N1102.4.1.1/R402.4.1.1, Installation; Section N1102.4.1.2/R402.4.1.2, Testing; or a combination of the two (see Bulletin 15-4), one portion of Table N1102.4.1.1/R402.4.1.1, Air Barrier and Insulation Installation, contains an item that raises many questions here in the Code Assistance Unit. Section numbers are from the International Residential Code/2015 and Residential portion of the International Energy Conservation Code/2015, respectively.

- The item – The “Electrical/phone box on exterior walls” row with an air barrier criterion of “being installed behind electrical or communication boxes or air-sealed boxes shall be installed,” along with its usage in Form 392 (Air Barrier and Insulation Checklist);
- The question – How does one accomplish this?

In short, typical penetrations in exterior wall, demising wall and ceiling drywall assemblies include electric penetrations, such as electrical boxes and recessed fixtures. Focusing on the electrical boxes, they can be made air tight in accordance with the above by caulking or sealing all openings in the box (including around wire penetrations) and by sealing the face of the box to the drywall. Another option is to use specially designed airtight electrical boxes with flexible boot seals at wire penetrations and a gasketed flange at the face to provide air barrier continuity.

For further information regarding this, please review the following

- <https://basc.pnnl.gov/printpdf/1006>
- <https://buildingscience.com/documents/information-sheets/sealing-air-barrier-penetrations>

The first source is from Pacific Northwest National Laboratories (the software developers of REScheck and COMcheck), a USDOE subcontractor. The second is from Building Science, which is not necessarily vetted in the official process like the first option, but is a good source.

If you choose to review the links, you will see that both give options to still use typical electrical boxes without having to get specialty air-sealed boxes (yes, pictures are included). And for reference, Bulletin 15-4 and Form 392 can be found at [http://www.nj.gov/dca/divisions/codes/publications/pdf\\_bulletins/b.15\\_4.pdf](http://www.nj.gov/dca/divisions/codes/publications/pdf_bulletins/b.15_4.pdf).

Source: Rob Austin  
Code Assistance Unit  
(609) 984-7609

### DCA Project Numbers on Permit Applications and Certificates

The next time you receive a permit application or issue a certificate, please consider adding the DCA-assigned project number on the paperwork. In Health Care Plan Review (HCPR) at DCA, additional paperwork is needed even after the certificate has been issued by the local official to complete the plan review process. The applicant for a plan review processed by HCPR is asked to send a copy of the certificate issued by the local authority having jurisdiction (AHJ), which confirms the project has been approved. Then, HCPR issues a letter to the applicant, closing out the project for DCA, and allowing the applicant to contact the NJ Department of Health (DOH) for their inspection. DOH will not perform their inspection of a licensed health care facility without the DCA letter.

Long story short, sometimes DCA has to contact the local AHJ to determine whether a project is still continuing or if it has been completed. If the DCA-assigned project number is added to the permit application and the certificate, a lot of confusion can be avoided. Permit or control numbers used by local officials are not yet available when applicants file for plan review with DCA because plan review is too early in the process. However, since the DCA-assigned project number is always shown on released documents (the DCA release stamp), it's readily available at permit filing time. Additionally, the brief descriptions placed on permit applications do not always perfectly match the project descriptions that the DCA receives for the same projects. That can make it difficult for officials performing both plan review and inspections during the course of a project, where coordinating information is vital.

The overall goal is to ensure that the whole code compliance process is proceeding properly. Simply adding the DCA-assigned project number on permit applications and certificates will help to connect DCA project numbers with the associated permits that have been filed, which will help to eliminate much confusion for both local officials and DCA.

Please contact the author if you have any questions.

Source: John Paluchowski  
Health Care Plan Review  
(609) 633-8151

### The Construction Official's Responsibility: Hotels and Multiple Dwellings

One responsibility of the Construction Official, regarding newly constructed or rehabilitated hotels and multifamily buildings, is to ensure that these buildings are properly registered with the Bureau of Housing Inspection, Division of Codes and Standards at the Department of Community Affairs. This includes multiple single family dwelling structures as defined in the Hotel and Multiple Dwelling Law (N.J.S.A. 13A-1 et seq.).

N.J.A.C. 5:23-2.24(e) stipulates that the Construction Official shall not issue a Certificate of Occupancy until the owner has provided a copy of the Certificate of Registration issued by the Bureau of Housing Inspection. Also, N.J.A.C. 5:23-2.18(g) authorizes the Construction Official to serve as an agent of the Bureau of Housing Inspection of the Department of Community Affairs for the purpose of inspecting newly constructed and altered hotels and multiple dwellings in order to enforce the provisions of the regulations for the maintenance of hotels and multiple dwellings (N.J.A.C. 5:10-1 et. seq.). See "Hotel and Multiple Dwellings, Building Security, and the UCC," article below for the provisions.

Source: Edwin Tomkiewicz  
Chief, Bureau of Housing Inspection  
(609) 633-6216

### Hotel and Multiple Dwellings, Building Security, and the UCC

There are many items that are building-related but are not necessarily part of the Uniform Construction Code (UCC), N.J.A.C. 5:23. When it comes to building security in hotels and multiple dwellings, Bulletin 79-6 addresses such items.

For those of you who may not know, Bulletin 79-6 was updated March 2014 for code reference purposes only (e.g. lockset reference updated). The Department only reissues a bulletin if it was revised, so if you need a copy, please visit: <http://www.nj.gov/dca/divisions/codes/resources/bulletins.html>. In review of the bulletin, you will note it references N.J.A.C. 5:23-2.18(g), which states, "The construction official shall serve as an agent of the Bureau of Housing Inspection (BHI) of the Department of Community Affairs for the purpose of inspecting newly constructed and altered hotels and multiple dwellings in order to enforce the provisions of the regulations for the maintenance of hotels and multiple dwellings (N.J.A.C. 5:10). Responsibility for inspection may be delegated to the appropriate sub-code official(s)."

To demonstrate such responsibilities, please see the chart on the following page for the building security requirements enforced by the Bureau of Housing Inspection.

*(continued on next page)*

(Hotel and Multiple Dwellings, Building Security, and the UCC)				
		Primary Entrance Doors Leading into Common Area w/ 2 or More Units	Leading into Enclosed Common Area	Leading Directly to the Exterior
<b>Hotel Room Entry Door</b>	Self-Closing	-	Required	Not Required
	Chain Guard	-	Required <sup>(a)</sup>	Required <sup>(a)</sup>
	Viewing Device	-	Required <sup>(a)</sup>	Required <sup>(a)</sup>
	Door Latch & Lockset	-	Required <sup>(b)</sup>	Required <sup>(b)</sup>
<b>Primary Entrance Multiple Dwellings</b>	Self-Closing	Required	-	-
	Self-Locking	Required <sup>(d)</sup>	-	-
	Viewing Device	Required	-	-
<b>Multiple Dwellings Unit Entry Doors</b>	Self-Closing		Required	Not Required
	Chain Guard	-	Required	Required
	Viewing Device	-	Required	Required
	Door Latch & Lockset	-	Required <sup>(b)</sup>	Required <sup>(b)</sup>
<b>Common Area Basements, Cellars &amp; Storage Areas</b>	Self-Closing	-	Required	Required <sup>(c)</sup>
	Lockable	-	Required	Required <sup>(c)</sup>

(a) Only one device required. Either a chain guard or viewer device is acceptable; however, chain door guards shall not be installed as an alternative to viewing devices in dormitories.

(b) Entrance doors to each dwelling unit shall be equipped with a medium duty dead latching lockset (series 160, FF-H-106c, minimum, with a minimum 11/16" by 1/2" minimum throw latch bolt with automatic dead-locking plunger) or with a deadbolt separate from the latch set. "Double keyed" deadbolts are not acceptable.

(c) Multiple Dwellings only.

(d) Every building entrance door or other exterior door permitting access to two or more units of dwelling space shall be equipped with heavy duty dead latching locksets (series 161, FF-H-106c, minimum, with a minimum 7/8" by 5/8" with 1/2" minimum throw latch bolt with automatic dead-locking plunger). Outside cylinders of main entrance door locks shall be operated by the tenant's key, which shall not be keyed to also open the tenant's dwelling unit entrance door.

Since buildings regulated by BHI will not receive their first cyclical inspection until five (5) years after the certificate of occupancy is issued, it is important as a local enforcing agency to be looking for items such as above.

Source: Keith Makai  
Code Assistance Unit  
(609) 984-7609

### Ordinary Maintenance/Minor Work, Continued...

The following are specific questions that the Code Assistance Unit has been receiving from code officials and the general public regarding the need for a permit.

**Re-Roofing** – No permit is required for existing *detached* one- or two-family dwellings for the roof covering materials. This include all buildings such as garages, sheds, pool houses, and the like that are accessory to a detached one- or two-family home (Group R-5). Stripping the roof down to existing sheathing or putting on a second layer of roof covering does NOT require a permit. Townhouses and condos will require roof permits. Replacing sheathing will always require a permit.

**Re-Siding** – No permit is required for existing one- or two-family dwellings (Groups R-3 and R-5) for siding materials; this includes appurtenances such as garages, sheds, pool houses and the like that are accessory to the dwelling. Siding materials that do not require a permit are wood, vinyl, aluminum, etc. and replacing one for another would also be allowed without permit. However, the installation of any amount of polypropylene siding will require a permit, because it is tested to a different ASTM standard than vinyl. Although, stucco, stone, cultured stone, brick, etc. are exterior wall **coverings** per Section R703 of the 2015 International Residential Code (IRC), they are not specific *siding materials* listed as ordinary maintenance, and permits ARE required for their replacement or installation. Lastly, in the case where one would like to cover over old asbestos-type siding materials with siding materials listed in Section R703/IRC, this would not require a permit.

**Interior finishes** – No permit is required for replacing less than 25% of interior finishes on one- or two-family dwellings (Groups R-3 and R-5); this includes both walls and ceilings. Other than the additional square footage of the entire home versus the old per room, this is business as usual.

(continued on next page)



*(Ordinary Maintenance/Minor Work, Continued...)*

**Decks** – In all occupancies, **no** permit is required for the replacement of any part of a deck, porch or stoop that does not provide support to a building or structure. Any part includes the deck support posts or columns, headers or girders, floor joists, decking, railing, stairs, etc. Replacement of any of these parts will NOT require a permit. A total replacement, from the existing foundation or footing on up, will require a full permit. A total replacement, expansion of an existing deck, or the new installation of a deck will require a full permit, not a minor work permit.

**Insulation** – No permit is required for the installation of insulation in any portion of an existing structure, with the exception of foam plastics. Even if someone would like to install new insulation over old insulation, this would be permitted without permit also. One should look at the insulation in the same way as any other ordinary maintenance item such as doors, windows, flooring, etc.-- No permit, no inspection. The owner/contractor is responsible for complying with the rehabilitation subcode thermal envelope requirements (i.e. fill the void if exposed) in the same manner as any other ordinary maintenance item that has code requirements connected to them.

Source: Code Assistance Unit  
(609) 984-7609

### **Cooperative Sober Living Residence – A New Class of Rooming House**

The Department of Community Affairs proposed amendments to the Regulations Governing Rooming and Boarding Houses, N.J.A.C. 5:27, and the Uniform Construction Code (UCC), N.J.A.C. 5:23, to create a “Class F” rooming house license expressly for a Cooperative Sober Living Residence (CSLR). This proposed amendment was adopted on December 20, 2017 and became effective on January 16, 2018. From that date, the Department of Community Affairs (Department), Bureau of Rooming and Boarding House Standards began accepting applications from individuals and entities seeking to obtain a License to Own/Operate a CSLR.

The intent of a CSLR is to provide a home where up to ten (10) individuals – exclusive of the owner, licensed operator and bona fide employees – recovering from drug or alcohol addiction can live together and support each other during their recovery.

DCA is the regulatory agency appointed to enforce the Rooming and Boarding House Act of 1979 (N.J.S.A. 55:13B-1 et seq.) and the corresponding Regulations regarding the licensure and inspection requirements for rooming/boarding houses. The Act statutorily requires that **any** person or entity apply for and obtain a License to Own/Operate a rooming/boarding house issued by the Bureau before owning/operating a rooming/boarding house in the State.

Because a CSLR is a change in the character of use of a single family home, there is no requirement to obtain a new Certificate of Occupancy. The amendment to the Uniform Construction Code (UCC) designate a CSLR as a R-5 Use Group occupancy and specifies that a CSLR must be located in one or two family dwelling and is to be constructed under the International Residential Code. Pursuant to N.J.A.C. 5:23-3.11(k) of the UCC, the Department is the sole enforcing agency for a CSLR. Once a License is issued for the CSLR, the Owner in Fee must submit an application to the appropriate regional Office of Local Code Inspections when undertaking work that would require a UCC permit.

Upon deeming an application complete, the Bureau of Rooming and Boarding House Standards will refer the property to the Office of Regulatory Affairs (ORA). Since the Department is now the sole enforcing agency for a CSLR, the ORA will retrieve the municipal property file from the Construction Office. In addition, the Bureau will provide the Owner in Fee with a Building Technical Section which will be submitted by the Owner in Fee to either the Northern or Southern Office of Local Code Inspections (OLCI). The OLCI will schedule an inspection of the premises with the Owner in Fee to confirm compliance with the Uniform Construction Code (N.J.A.C. 5:23-6.31(q)) which states:

**Subchapter 6. Rehabilitation Subcode**

*5:23-6.31 Change in Use*

**(q) A change in the character of use of a single-family home to a cooperative sober living residence shall comply with this subchapter except as modified below,**

**1. Single-family dwelling of Group R-3 or R-5 that are being converted to a cooperative sober living residence shall meet the requirements of this section,**

**i. There shall not be more than 10 occupants, excluding staff; each occupant, including staff, shall be capable of prompt self-evacuation;**

*(continued on next page)*

*(Cooperative Sober Living Residence – A New Class of Rooming House)*

**ii. Each home shall have smoke alarms that comply with the Uniform Fire Code (NJAC 5:70-4.19). Fire alarm systems installed in accordance with the One-and Two-Family Dwelling Sub-Code shall also be deemed to comply. Smoke alarms shall be located in each sleeping room, in the area outside separate sleeping rooms, and on each additional story of the dwelling, including basements and habitable attics;**

**iii. In the vicinity of each sleeping area, each home with a fuel burning appliance or with an attached garage shall have carbon-monoxide alarms that comply with the Uniform Fire Code (NJAC 5:70-4.19) or with NJAC 5:27-14.1; and**

**iv. Each bedroom shall have an operable egress window that complies with the Uniform Construction Code (NJAC 5:23).**

Upon verification that the building complies with the UCC, the OLCI will issue a Certificate of Approval (CA) to the Owner in Fee. After the Bureau receives a copy of the CA from the Owner in Fee, the Bureau will issue a License to Own/Operate to the parties.

The Bureau of Rooming and Boarding House Standards will conduct evaluations at a CSLR to confirm compliance with the habitability and occupancy code standards in the Regulations Governing Rooming and Boarding Houses at least annually, as well as unannounced spot checks, from this point on. The License to Own/Operate must be renewed annually.

Since there is now a path to licensure for “sober living homes,” which have been operating under the radar for some time, when you as the Code Official discover a facility claiming to be a sober living home, and not an unlicensed rooming house, you can now refer the operator to DCA.

If you or your staff have any question or concerns, please feel free to contact the Bureau at: NJ Department of Community Affairs, Bureau of Rooming and Boarding House Standards, 101 S. Broad Street, P.O. Box 804, Trenton, New Jersey 08625-0804 or by telephone at (609) 633-6251.

Source: Jay Raywood  
Chief, Bureau of Rooming and Boarding House Standards  
(609) 633-6251

### **What is a Common Wall?**

As you may know, Section R302.2 of the International Residential Code (IRC)/2015 speaks to common walls separating townhouses by means of two ways:

1. *Where a fire sprinkler system is provided, the common wall is to be not less than a 1-hour fire-resistance-rated wall assembly tested in accordance with ASTM E119 or UL 263.*
2. *Where a fire sprinkler system is not provided, the common wall is to be not less than a 2-hour fire-resistance-rated wall assembly tested in accordance with ASTM E119 or UL 263.*

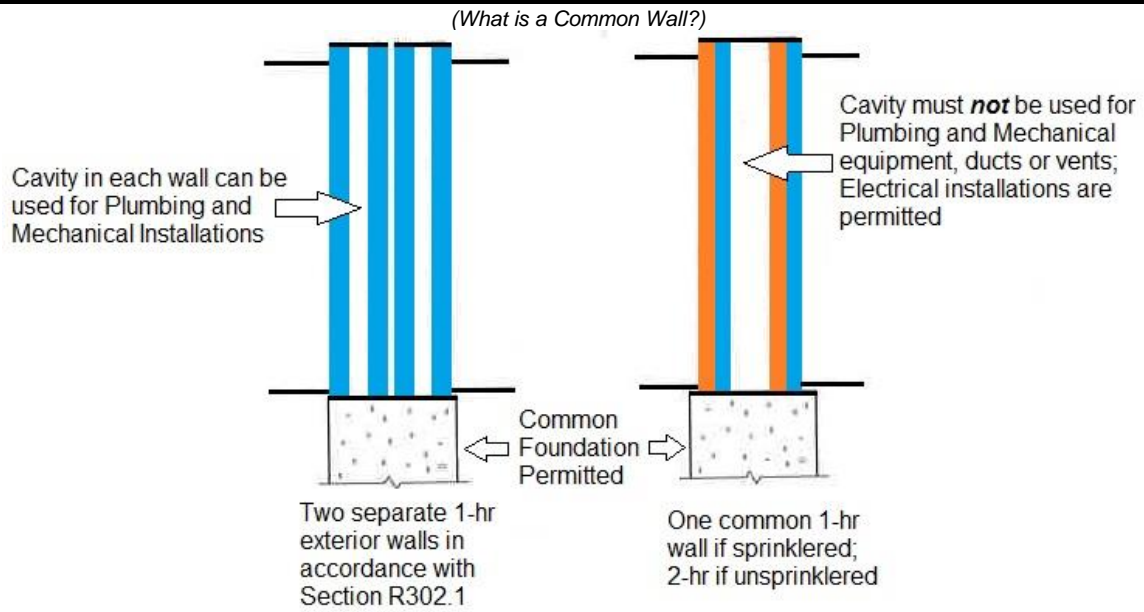
The question: Is the common wall mentioned above allowed to be constructed with plumbing or mechanical equipment (and associated ducts or vents) in the cavity of the wall?

Well, it all depends on the “commonness” of the wall.

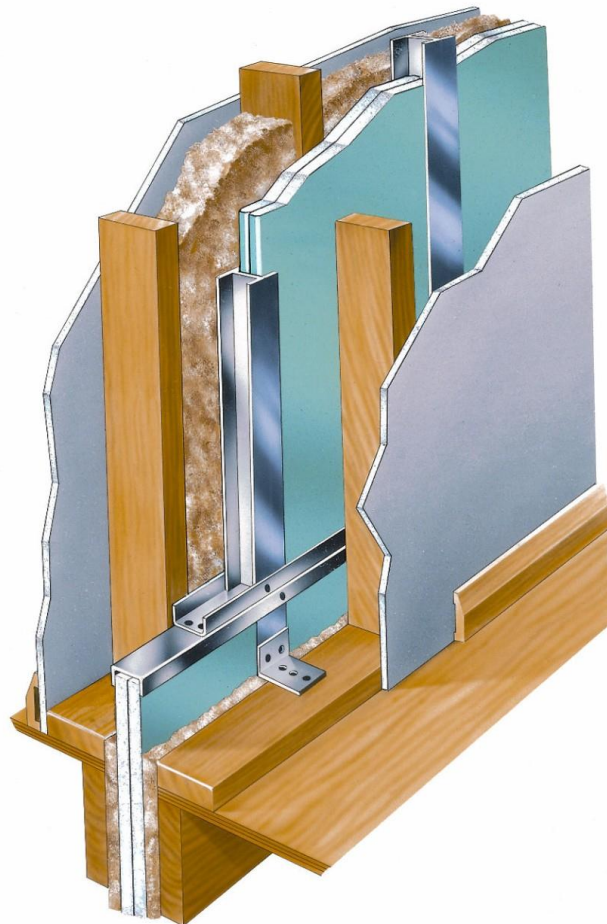
If you have consulted the IRC Commentary, you will find a diagram (Figure R302.2) that shows two options; one permitting plumbing/mechanical and one that doesn't. The one that permits the plumbing/mechanical is a common wall that shares a foundation with two exterior walls butted-up against each other and the walls above the common foundation do not share cavities. The one that does not permit the plumbing/mechanical is one that is truly common, because not only is the foundation shared, but the cavities of the wall are also shared.

So where does this leave a core wall? It does not share any cavities, as the core is solid in the middle. Unlike the truly-common wall mentioned above, this type of wall (core) should not have the potential to create an interconnection between the adjacent dwellings. In other words, this type of wall is a hybrid of the above; it may share some components, but it does not share cavities from either side. So, in this case, plumbing/mechanical equipment may be installed in the stud cavity of the walls that abut the core, provided they do not penetrate the core. The penetrations of the outer membranes of the stud walls would be dictated by the limitations on the rated assembly.

*(Continued on next page)*



MS Paint version of Figure R302.2  
Dwelling Unit Separation for Townhouses



AREA SEPARATION "CORE" WALL  
Courtesy of USG Corp

## State and Federal Laws Regarding Accessibility

Accessibility for people with disabilities is required by several laws. The Americans with Disabilities Act is a Federal civil rights law that prohibits discrimination against people with disabilities in employment; government programs, services, and activities; and public accommodations and commercial facilities. The Americans with Disabilities Act applies to new construction and also requires that building owners improve the accessibility of their existing buildings, but no specific building improvements are required. The Americans with Disabilities Act exempts private clubs and religious entities from compliance. The enforcement of the Americans with Disabilities Act is through a civil law suit filed with the United States Department of Justice (DOJ) alleging discrimination.

The Federal Fair Housing Amendments Act is a Federal civil rights law that prohibits discrimination against people with disabilities in housing. The Federal Fair Housing Amendments Act applies to buildings with four or more dwelling units in a single structure that were constructed after March 1991. The Federal Fair Housing Amendments Act does not apply to buildings that were occupied for the first time prior to March 1991. The Federal Fair Housing Amendments Act is enforced by a complaint to the Department of Housing and Urban Development alleging discrimination. The FFHAA references the ANSI A117.1 standard for accessible design as a safe harbor, so compliance with the ICC/ANSI A117.1 technical standard referenced in Chapter 11 should result in compliance with the FFHAA.

Both these Federal laws include technical standards that provide direction on how to create an accessible building and building site. Failure to comply with the technical standards could result in a determination of discrimination.

New Jersey has a state civil rights law, the Law Against Discrimination. The Law Against Discrimination does not contain technical standards, but instead references the New Jersey Uniform Construction Code (UCC), specifically the Barrier Free Subcode (BFSC) as its standard of compliance. The Law Against Discrimination is enforced by a complaint filed with the New Jersey Division on Civil Rights.

The Barrier Free Subcode (Chapter 11, IBC) of the UCC sets the requirements for accessibility in new construction; the Rehabilitation Subcode (Subchapter 6 of the UCC) sets the requirements for accessibility in construction projects in existing buildings. It is important to note that the UCC does not require a building owner to undertake a construction project, but whenever a project is undertaken, there are specific standards of accessibility that must be met.

The interaction of these laws means that a project that is undertaken with the intention of complying with the Americans with Disabilities Act will be required by the local code enforcement office to meet the standards of the Barrier Free Subcode. The technical standards adopted as part of the Americans with Disabilities Act are much the same as those adopted as part of the BFSC. The Department reviews the Federal standards before proposing an updated model code to ensure that the dimensional requirements of the BFSC meet those of the ADAAG. The Department also reviews guidance issued by the US DOJ to ensure that any changes in the scoping of projects are also included.

It is also important to note that although the Americans with Disabilities Act exempts some buildings (those that are owned and operated as private clubs and those that are owned and operated by religious entities), private clubs and religious entities are subject to the Uniform Construction Code. So, when a private club or a religious entity undertakes a construction project, the Uniform Construction Code, including the Barrier Free Subcode, applies.

An example might be helpful: A building owner could decide to install a ramp to make a building entrance accessible. If the building is a commercial building, the building owner could be doing this to improve accessibility, as is required by the Americans with Disabilities Act. The construction plans for the ramp would be submitted to the local code enforcement office and reviewed for compliance with the Barrier Free Subcode. If an exempt entity decides to install a ramp, that decision would be made not for compliance with the Americans with Disabilities Act, but simply to improve accessibility. The construction documents for that ramp would also be submitted to the local code enforcement agency and reviewed for compliance with the Barrier Free Subcode. The standards for a ramp are the same in both the Americans with Disabilities Act and the Barrier Free Subcode.

There are three general areas of possible conflict between the scoping of the ADAAG and the BFSC or the dimensional requirements of ADAAG and the BFSC. These are: areas where ADAAG is more stringent; areas where the NJ IBC is more stringent; and, finally, areas where there is a difference, such as a dimensional difference that does not impact usability, where both dimensions cannot be met. The actions to take are:

- Where the scoping requirements of the ADAAG or FFHAA are more stringent than the BFSC, allow compliance with the ADAAG or FHAA.
- Where the BFSC is more stringent than ADAAG or FFHAA, enforce the provisions of the BFSC.
- Where there is a difference, such as a dimensional difference, that does not clearly impact usability or safety, allow compliance with the ADAAG and require a variation. The variation will provide a legal record of the deviation from the UCC requirements.

Source: Emily W. Templeton, Code Development Unit, (609) 984-7609



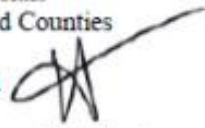
State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO Box 802  
TRENTON, NJ 08625-0802

PHILIP D. MURPHY  
*Governor*

LT. GOVERNOR SHEILA Y. OLIVER  
*Commissioner*

MEMORANDUM

TO: Construction Officials  
in Sandy-Impacted Counties

FROM: Edward M. Smith   
Director  
Division of Codes and Standards

DATE: May 15, 2018

SUBJECT: Homes with a Substantial Damage Determination  
Required to elevate extended to 2021

On November 27, 2017, I informed you that under the National Flood Insurance Program (NFIP), homes determined by the floodplain administrator to be substantially damaged were allowed six years from the date of the event to comply with the requirement to elevate. On April 11, 2018, that deadline was again extended by FEMA to nine years from the date of the event or October 29, 2021 (see attached).

Those municipalities that have issued Temporary Certificates of Occupancy or Certificates of Occupancy with conditions to allow homeowners to return to their homes in advance of completing the required elevation of the home, please continue to monitor their progress.

As mentioned in the November 27, 2017 memorandum, we will be contacting Sandy-impacted communities prior to the FEMA established completion date for the number and addresses of the homes in your municipality that were categorized as substantially damaged, are currently occupied and have not yet been elevated.



(Homes with a Substantial Damage Determination Required to Elevate Extended to 2021)

U.S. Department of Homeland Security  
Washington, D.C. 20472




FEMA

W-18010

April 11, 2018

MEMORANDUM FOR: Write Your Own (WYO) Company Principal Coordinators and the National Flood Insurance Program (NFIP) Direct Servicing Agent

FROM:   
David I. Maurstad  
Assistant Administrator for Federal Insurance  
Federal Insurance and Mitigation Administration

SUBJECT: Three-Year Extension of Deadline for Completing ICC Claims Resulting from Superstorm Sandy

### I. Background

The Standard Flood Insurance Policy (SFIP) provides Increased Cost of Compliance (ICC) coverage to pay up to \$30,000 towards the cost of floodproofing (non-residential only), relocating, elevating, or demolishing an insured building required to become compliant with state or local floodplain management laws or ordinances following a flood loss.<sup>1</sup> In general, policyholders claiming ICC must complete eligible work within six years from the date of loss.<sup>2</sup>

### II. Extension of ICC Deadline

Most policyholders required to bring their properties into compliance with their communities' floodplain management laws following Superstorm Sandy have completed the required work and received appropriate compensation under their SFIP's ICC coverage. However, a small number of policyholders has not completed the required compliance work due to external factors beyond their control, such as participation in the Sandy Claims Review, various recovery grant programs, or delayed substantial damage declarations in some communities.

To provide these policyholders with a reasonable opportunity to complete their ICC claims, I am extending the deadline for completing ICC claims from Superstorm Sandy by an additional three years. Policyholders affected by Superstorm Sandy may now complete their ICC claims no later than the nine-year period following the date of loss.

This extension also includes ICC claim assignments to communities for the non-federal cost-share match in conjunction with a FEMA-funded mitigation grant project related to Sandy.

<sup>1</sup> See *Standard Flood Insurance Policy*, 44 CFR Part 61, Appendix A(1)-(3), Article III.D.

<sup>2</sup> See SFIP Art. III.D.5.e.(2) (requiring completion of ICC work within two years of date of loss); WYO Bulletin W-15038 (Aug. 10, 2015) (extending deadline for completing ICC work to six years from date of loss for all losses occurring on or after January 1, 2011).

(Continued on next page)

*(Homes with a Substantial Damage Determination Required to Elevate Extended to 2021)*

Three-Year Extension of Deadline for Completing ICC Claims  
Resulting from Superstorm Sandy  
April 11, 2018  
Page 2

### III. Applicability

This extension applies only to ICC claims associated with the following FICO numbers related to Superstorm Sandy:

FICO Number	State	Dates of Loss
300	North Carolina	October 27, 2012 - October 31, 2012
301	Virginia	October 27, 2012 - October 31, 2012
302	District of Columbia	October 28, 2012 - October 31, 2012
303	Maryland	October 28, 2012 - November 6, 2012
304	Delaware	October 28, 2012 - November 6, 2012
305	New Jersey	October 28, 2012 - November 6, 2012
306	New York	October 28, 2012 - November 6, 2012
307	Pennsylvania	October 28, 2012 - November 6, 2012
308	Connecticut	October 28, 2012 - November 6, 2012
309	Rhode Island	October 28, 2012 - November 6, 2012
310	Massachusetts	October 28, 2012 - November 6, 2012
311	New Hampshire	October 28, 2012 - November 6, 2012
312	Vermont	October 28, 2012 - November 6, 2012
313	Maine	October 28, 2012 - November 6, 2012

### IV. Authority

This waiver is made pursuant to 44 CFR 61.13(d) and SFIP Dwelling Form, Article VII.D; SFIP General Property Form, Article VII.D; SFIP Residential Condominium Building Association Policy Form, Article VIII.D.

Please direct any questions regarding this bulletin to FIMA Claims at [FEMA-FIDClaimsMailbox@fema.dhs.gov](mailto:FEMA-FIDClaimsMailbox@fema.dhs.gov).

cc: IBHS, FIPNC, Government Technical Representative

Required Routing: Accounting, Claims, Underwriting

## OPRA Requests – Access to Building Plans

Have you ever received a request to view a government record from the public? Then you are not alone. The State and municipalities receive many requests to view records.

The OPRA Act (the “Act”) is intended to do the following:

- Expand the public’s right of access to government records;
- Create an administrative appeals process if access is denied; and
- Define what records are and are not “government records.”

While the Act gives the public the right to access government records, not all records produced or maintained by the government are public records.

The Open Public Records Act (N.J.S.A. 47:1A-1) defines a public record and, in the definition, exempts some records. Included among records that are not public are “emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein.”

Because the statutory reference to “security...procedures” is broad, the Department promulgated a rule that further clarifies this provision. At N.J.A.C. 5:3-2.2, the regulations state that in addition to the limitations set by the Act, “building plans submitted in conjunction with any permit application” are exempt and may not be accessed through a standard OPRA request. This does not mean that the public may never gain access to building plans.

The public may request access to building plans under the common law right of access. The OPRA Act makes this clear, stating “nothing...shall be construed as limiting the common law right of access to a government record” (N.J.S.A. 47:1A-8).

In order to make a common law right of access request, the individual requesting the record must submit in writing the reason for obtaining or viewing the record. If the explanation is reasonable, access to the record is granted.

For local code enforcement officials, when there is a question as to whether the explanation is reasonable, the municipal attorney may be consulted for advice.

Source: Emily W. Templeton  
Code Development Unit  
(609) 984-7609

## License Check - Prior Approval

It has come to the Department’s attention that there have been some construction projects, unbeknownst to the construction official, that have allowed persons that are non-licensed/registered to perform work. Please remember that as per NJAC 5:23-2.15(b), the construction official and his/her staff should be checking that licenses and/or registrations are valid through the appropriate regulatory authority. Since the “other DCA,” as in the Division of Consumer Affairs, within the Department of Law and Public Safety, contains the majority of licensed/registered professionals, I have included a screenshot of the “Boards & Committees” portion of their website at <http://www.njconsumeraffairs.gov/>. Along with the Boards/Committees, the Office of Consumer Protection (under the Division Units tab) contains Home Improvement Contractor and Home Elevation Contractors. In all cases, one can see if a license/registration is valid at <http://www.njconsumeraffairs.gov/Pages/verification.aspx>.

*(Continued on next page)*

The Construction Code Communicator is an online publication of the New Jersey Department of Community Affairs’ Division of Codes and Standards. It is typically published four times a year.

Copies may be read or downloaded from the division’s website at: [www.nj.gov/dca/divisions/codes](http://www.nj.gov/dca/divisions/codes).

Please direct any comments or suggestions to the NJDCA, Division of Codes and Standards, Attention: Code Development Unit, PO Box 802, Trenton, NJ 08625-0802 or [codeassist@dca.nj.gov](mailto:codeassist@dca.nj.gov).



(License Check – Prior Approval)



# NEW JERSEY DIVISION OF CONSUMER AFFAIRS

Home   Division Units ▾   **Boards & Committees ▾**   NJPMP   News ▾   Contact ▾

- |  |                                      |  |
|--|--------------------------------------|--|
| Accountancy                                    | <b>HVAC and Refrigeration</b>        | Professional Counselor                     |
| Acupuncture                                    | Interior Designer                    | <b>Professional Engineer/Land Surveyor</b> |
| Alcohol and Drug Counselor                     | <b>Joint Architects and Engineer</b> | Professional Planner                       |
| <b>Architect</b>                               | <b>Landscape Architect</b>           | Psychoanalyst                              |
| Art Therapy                                    | Marriage and Family Therapy          | Psychologists                              |
| Athletic Training                              | Massage and Bodywork                 | Real Estate Appraiser                      |
| Audiology and Speech-Language Pathology        | Medical Examiners                    | Respiratory Care                           |
| Cemetery                                       | Midwifery                            | Social Work                                |
| Chiropractic Examiner                          | Mortuary                             | Veterinary                                 |
| Cosmetology and Hairstyling                    | Nursing                              |  |
| Court Reporting                                | Occupational Therapy                 |  |
| Dentistry                                      | Ophthalmic Dispenser/Technician      |  |
| <b>Electrical Contractor</b>                   | Optometrist                          |  |
| Electrologist                                  | Orthotics and Prosthetics            |  |
| <b>Elevator/Escalator/Moving Walkway</b>       | Perfusionist                         |  |
| <b>Fire Alarm, Burglar Alarm and Locksmith</b> | Pharmacy                             |  |
| Genetic Counselor                              | Physical Therapy                     |  |
| Hearing Aid Dispenser                          | Physician Assistant                  |  |
| Home Inspection                                | <b>Plumber</b>                       |  |
| Homemaker-Home Health Aide                     | Polysomnography                      |  |

This is only a partial listing, as there are other regulatory authorities that license/register/certify professionals. For example, NJ Department of Environmental Protection has Certified Radon Mitigation Businesses and Licensed Site Remediation Professionals (think underground storage tanks). Please visit <https://www13.state.nj.us/DataMiner/> and select Radon or Site Remediation category, as applicable, to ensure that the Radon Business is certified or the Site Remediation Professional is licensed. The general websites for the above are:

- <http://www.state.nj.us/dep/rpp/radon/index.htm>; and
- <http://www.nj.gov/dep/srp/unregulatedtanks/>.

Other examples would fall under NJ Department of Labor for licensed crane operators and licensed boiler operators. You can find more information on their licensing at:

- [http://nj.gov/labor/lasse/employee/Licensing\\_of\\_Crane\\_Operators.html](http://nj.gov/labor/lasse/employee/Licensing_of_Crane_Operators.html); and
- <http://www.nj.gov/labor/lasse/content/bbpvc.html>.

Lastly, landscape irrigation contractors, under this Division, can be verified by visiting [https://www.nj.gov/dca/divisions/codes/advisory/Landscp\\_Irr\\_Cont.html](https://www.nj.gov/dca/divisions/codes/advisory/Landscp_Irr_Cont.html) and selecting “NJ Certified Landscape Irrigation Contractors.”

Source: Rob Austin  
Code Assistance Unit  
(609) 984-7609

New Jersey Department of Community Affairs  
Division of Codes and Standards  
101 South Broad Street  
P.O. Box 802  
Trenton, NJ 08625-0802

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