Construction Code Communicator

State of New Jersey
Mikie Sherrill, Governor

Department of Community Affairs
Jacquelyn A. Suárez, Commissioner

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Inspection Request Requirements: "…in Writing?"

The Office of Regulatory Affairs has been noting issues with local enforcing agencies failing to follow the provisions of N.J.A.C. 5:23-2.18 regarding the submission and response of written notices. To get straight to the point, so there's no confusion on this matter, these written notices and responses for inspection are mandatory and apply to all UCC required inspections, except those for minor work (we'll get to that).

Note N.J.A.C. 5:23-2.18(c)1 below:

> 1. The owner or other responsible person in charge of work shall notify the enforcing agency, in writing, when the work is ready for any required inspection specified herein or required by the construction official or appropriate subcode official. This notice shall be given at least 24 hours prior to the time the inspection is desired. This notice shall represent an attestation on the part of the owner, other than single-family owner-occupants performing their own work, or other responsible person in charge of work, that the work has been completed in conformance with the code and is ready for inspection. The request shall be considered received on the next business day after it was sent if the request was sent outside of normal business hours.

As shown in the code section above, when work is ready for the required inspection, the enforcing agency shall be notified in writing. In writing can mean anything that the local enforcing agency requires, i.e., email, paper application, etc. If it's a document that can be kept in the permit file, it counts. If you come across an applicant calling in an inspection request, direct them to the regulation and have them file the request in writing. In addition, the same applies to the required responses that notify when the inspection will take place. In accordance with N.J.A.C. 5:23-2.18(c)2, they must also be sent in writing.

(Continued on next page)

In This Issue

(Inspection Request Requirements: "…in Writing?")

Note N.J.A.C. 5:23-2.18(c)2 below:

> 2. Inspections shall be performed within three business days, or other such time within 30 days, as agreed upon by the enforcing agency and the owner, agent, or other responsible person in charge of work, of the time for which it was requested. The enforcing agency shall notify the owner, agent, or other responsible person in charge of work when the inspection will be performed within 24 hours of official receipt of the notice. The agreed upon time shall be confirmed, in writing, and sent within normal business hours. The work shall not proceed in a manner which will preclude the inspection
> until it has been made.

Now, with that said, we can get into the exception to this requirement, minor work inspections. In accordance with the provisions of N.J.A.C. 5:23-2.17A(b), notice of minor work can be either oral or in writing and submitted in person or electronically. So, with that being the case, requests for inspections for minor work under N.J.A.C. 5:23-2.17A(d) fall under those same requirements. As long as the request for inspection follows the requirements stated in N.J.A.C. 5:23-2.17A(b)1, is communicated in writing or orally, and is submitted in person or electronically, then it is an appropriate request.

So, if someone calls in for an inspection, please do not just dismiss or accept the inspection request. Remember the regulations and advise the caller accordingly. The written record is to protect not only the applicant, but also the local enforcing agency.

Source: Michele Salkind
Office of Regulatory Affairs
(609) 984-7672

Electrical Contractor's Licensing at the Division of Consumer Affairs

Recently, the Board of Examiners of Electrical Contractors implemented its two new licensing types, Class A Electrical Apprentice and Class B Wireman. These licenses are for those working for Licensed Electrical contractors. It has come to our attention that the Board of Examiners of Electrical Contractors and its executive director view Uniform Construction Code (UCC) licensed code officials and inspectors as responsible for verifying these new licensing types in the field.

This is NOT the case. UCC code officials are only responsible for verifying that the respective technical sections are submitted by licensed contractors in good standing. We have no jurisdiction over their licensees otherwise. This applies to all licensed contractors under the Division of Consumer Affairs. Please pass this information around and ensure that we, as UCC code officials, are performing our duties as per the UCC.

Source: Anthony Menafro and Bill Schmidt
Code Assistance Unit and the Office of Regulatory Affairs
(609) 984-7609

LP-Gas "Termination of Service" Requirements

It's time to address the big, silent problem hanging in the background: permit requirements for certain LP-Gas situations, specifically, like-for-like replacements or terminations of service. For example, is a permit required to replace an existing LP-Gas container at the same location when no change in marketer has occurred? The answer is…. maybe! If the container has a 125-gallon water capacity or less, replacing it at the same location does not require a permit, as it is considered ordinary maintenance.

But what if the 125-gallon container is being replaced by a different LP-Gas marketer? That answer is, yes, a permit is required. When a change in marketers occurs, it is considered a "Termination of Service," as you have terminated your service contract with one marketer and begun a new service contract with another. A "Termination of Service" **ALWAYS** requires a permit, whether it is converting from LP-Gas to another energy source, or simply "Terminating the Service" of an ancillary system that is no longer being utilized, such as a pool heater or generator that is away from the home/building acting as an independent system. Examples below.

When multiple 125-gallon containers are used, and the aggregate capacity exceeds 125 gallons, the permit requirements depend on whether the installation is considered "permanently installed." If the system is a permanent installation, permits are required to replace any or all containers with containers of like capacity. If the system is not "permanently installed," those containers may be replaced without a permit, as this is classified as ordinary maintenance.

Now let's explain the why: DOT cylinders are not considered "permanently installed" because they require periodic recertification, so replacing them at the same location does not require a permit unless the work involves a change of marketer, which creates a Termination of Service. ASME containers are considered "permanently installed" because they do not require periodic recertification and therefore require permits for replacement, whether the work is performed by the same marketer or a new one. The permit requirement for replacing ASME containers of 125 gallons or more exists because these containers cannot be recertified; instead, they are designed to remain in place and in service, with continued use allowed until they are no longer suitable for filling.

Now, onto addressing "Termination of Service" with a few examples.

Example 1: Change In Marketer

When a homeowner switches from Marketer A to Marketer B, the existing tank is no longer part of an active service contract. This constitutes a Termination of Service, and therefore, a permit is required for a container with a water capacity of up to 2000 gallons. The construction office may issue a single permit covering the full scope of work at the site. The key requirement is that the permit application clearly describes the entire scope, including both removal and installation activities.

Example 2: The Retired Pool Heater

A homeowner decides that their pool heater has lived a long life and is ready for retirement, meaning they want it removed, disconnected, and forgotten. This situation is classified as a Termination of Service because propane will no longer be supplied to that appliance, container, or piping serving it, and it is officially "terminated." Since the termination itself is the triggering event, the construction office issues a single permit that covers the full scope of work, including the removal of the existing container or appliance and all associated piping. The same principle applies when a property converts from propane to another fuel source or when any LP-gas system will no longer provide service to an appliance(s).

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(LP-Gas "Termination of Service" Requirements)

Closing out this topic, Local Enforcing Agencies must also be aware that LPG regulations, N.J.A.C. 5:18, prohibit unauthorized use and/or modification of a marketer-owned container by another person without permission.

N.J.A.C. 5:18-1.3(h).

> **(h)** No person shall install, remove, connect, disconnect, fill or refill any liquefied petroleum gas container without permission of the owner of the container.
>
> > **1.** Exception: Containers at one or two-family residential properties may be disconnected and moved provided that the qualified person removing the container secures the fill line, gauge openings, fuel lines and pump connections against tampering and leaves the container in a safe and secure location.

An LPG marketer is permitted to disconnect and move containers owned by another marketer **ONLY** at one-and two-family dwellings. At any other type of occupancy, the rules are stricter. Marketer A must remove its own equipment before Marketer B can install replacement tanks, unless Marketer A explicitly authorizes Marketer B to perform the work. While such coordination is allowed, it is equally true that these exchanges often occur without proper notification, leading to complaints filed with LP-Gas Safety by competing marketers. These situations constitute violations of state rules, and enforcing agencies should recognize that improper container removal or unauthorized handling is a recurring issue that requires careful oversight. If you become aware of these situations, please contact LP-Gas Safety so we can address them.

We hope this clears up any questions; if not, please do not hesitate to contact LP-Gas Safety by phone at (609) 984-4257 or by email at lpgas@dca.nj.gov.

Source: Joseph Imburgia and Anthony Menafro
LP-Gas Safety Unit and Code Assistance Unit
(609) 984-7609

Division of Consumer Affairs and Local Licensing

We have received many questions about local building departments requiring contractors to obtain a license to work in their jurisdiction. We have contacted the Division of Consumer Affairs regarding this issue. Their response is that contractors licensed by the Division of Consumer Affairs in Newark do NOT require a local license to perform any work that is within their scope, per their licensing laws. This applies to licensed electrical contractors, licensed plumbing contractors, licensed HVACR contractors, and licensed master hearth contractors. The Division has provided us with the following language:

Below are the statutes pertaining to a ban on municipal licensing.

Although municipalities are permitted to require registration of certificates of insurance under N.J.S.A. 40A:10A-2, they may not require that licensed electrical contractors obtain a municipal license or business permit pursuant to N.J.S.A. 45:5A-17 "Powers of municipalities; violations of municipal ordinances," which states:

> This act shall not deny to any municipality the power to inspect electrical work or equipment or the power to regulate the standards and manner in which electrical work shall be done but **no municipality shall require any business permit holder or electrical contractor licensed under this act to obtain a municipal license or business permit to engage in the business of electrical contracting in such municipality.**

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(Division of Consumer Affairs Local Licensing)

In addition, N.J.S.A. 40A:10A-2 permits registration of certificates of insurance only in the municipality in which the business is located:

> (a) The owner of a business, owner of a rental unit or units, and the owner of a multi-family home of four or fewer units, one of which is owner occupied, **shall annually register the certificate of insurance demonstrating compliance with section 1 of [C.40A:10A-1] of this act with the municipality in which the business, rental units, or multi-family home is located.**

Additional statutes:

N.J.S.A. 45:16A-6: Issuance, renewal by other agency prohibited.

> "On or after the effective date of this act, a municipality, local board of health or any other agency shall not issue or renew any Master HVACR contractor's license." (Master HVACR law)

N.J.S.A. 45:16A-37: Powers of municipality.

> "The provisions of P.L.2019, c.260 (C.45:16A-29 et al.) shall not deny to any municipality the power to inspect hearth professional work or the equipment of a master hearth specialist, or the power to enforce the standards and manner in which hearth professional work shall be done, but no municipality, local board of health, or other agency shall require any master hearth specialist under P.L.2019, c.260 (C.45:16A-29 et al.) to obtain any additional license, apply for or take any examination, or pay any licensing fee." (Master Hearth law)

N.J.S.A. 45:14C-12.2: Ban on new municipal licenses

> "On or after the effective date of this 1987 amendatory and supplementary act, a municipality, local board of health or any other agency shall not issue any plumber's license." (Master Plumber law)

Source: Anthony Menafro
Code Assistance Unit
(609) 984-7609

Regulation Update: Building Permits for Developments Containing Income-Restricted Units

The New Jersey Housing and Mortgage Finance (NJHMFA) would like to inform code officials of regulatory changes impacting building permit issuance. Changes to the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.1 et seq. require that developers of certain for-sale or rental housing projects containing affordable housing units demonstrate a signed preliminary instrument prior to the issuance of a building permit. This change applies to only those units subject to UHAC. See Table 1 for applicability.

Regulation Details:

The building permitting changes can be found at N.J.A.C. 5:80-26.6(e) and N.J.A.C. 5:80-26.12(e).

Under N.J.A.C. 5:80-26.6(e), developers of new ownership developments containing affordable units must record the preliminary instrument, included in the rules under N.J.A.C. 5:80-26 Appendix P-1, prior to the issuance of a building permit. N.J.A.C. 5:80-26.6(e) states:

(Continued on next page)

(Regulation Update: Building Permits for Developments Containing Income-Restricted Units)

> "…Prior to the issuance of any building permit for the new construction of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument in the form set forth at N.J.A.C. 5:80-26 Appendix P-1, incorporated herein by reference…"

Under N.J.A.C. 5:80-26.12(e), developers of new or rehabilitated rental developments containing affordable units must record the preliminary instrument, included in the rules under N.J.A.C. 5:80-26 Appendix P-2, prior to the issuance of a building permit. N.J.A.C. 5:80-26.12(e) states:

> "…Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality shall record a preliminary instrument in the form set forth at N.J.A.C. 5:80-26 Appendix P-2, incorporated herein by reference…"

Table 1: Applicability

Units Subject to UHAC	**Units Exempt from UHAC**
Units receiving credit towards a municipality's affordable housing obligation under Round One, Two, Three, or Four or later (except those whose financing make them explicitly exempt)	Units created with Low Income Housing Tax Credits (LIHTC) follow the QAP rather than UHAC although newly constructed units are subject to affirmative marketing and random selection provisions
Units created with Affordable Housing Trust Fund monies from DCA (formerly the Neighborhood Preservation Balanced Housing Program)	Units created with Balanced Housing Funds through NJHMFA's Home Express Program
Units created with federal HOME Investment Partnerships monies, 24 CFR Part 92, from DCA	Units created with federal Home Investment Partnerships monies, 24 CFR Part 92, from HUD (HOME)
Units created with UHORP, MONI, or CHOICE monies from NJHMFA	Units created with HUD Section 202 Supportive Housing for the Elderly Program monies, 24 CFR Part 891
	Units created with HUD Section 811 Supportive Housing for Persons with Disabilities Program monies, 24 CFR Part 891
	Units created with HUD HOPE IV Program monies
	Units created with Federal Home Loan Bank Affordable Housing Program monies, 12 CFR Part 1291
	Units created with National Housing Trust Fund Program monies, 24 CFR Part 93
	Transitional housing units
	Housing units that do not meet any of the criteria listed under the "Units Subject to UHAC" column

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(Regulation Update: Building Permits for Developments Containing Income-Restricted Units)

Learn More: https://www.nj.gov/dca/hmfa/about/uhac/

Source: Keith Henderson
Local Planning Services
(609) 292-3000

Registration of Multiple Dwellings and Local Construction Offices

Three (3). That is the magic number to be a multiple dwelling. Along with this magic number comes registering with the Bureau of Housing Inspection (BHI) at time of a UCC Certificate of Occupancy (CO). Note that the magic three (3) not only applies to properties with three or more dwelling units, it also includes townhomes and condominiums. Another number to note, properties of ten (10) or more, two-unit structures are also under the jurisdiction of the BHI.

From the UCC side, this is typically a Residential Group R-2 but with the other types of dwellings note above, there may be multiple attached 2-families (Group R-3) or single-family attached townhouses (Group R-5, or R-3 if over 3 stories). Obviously, the correct UCC occupancy classification is important, but it is also the role of the local construction offices to make these properties registered as multiple dwellings prior to the issuance of their certificates. Taking a citation right out of the UCC, see N.J.A.C. 5:23-2.24, Conditions of certificate of occupancy, and specifically to the regulations located at N.J.A.C. 5:23-2.24(e):

> *No certificate of occupancy shall be issued for a hotel or multiple dwelling, as defined in the Hotel and Multiple Dwelling Law (N.J.S.A. 55:13A-1 et seq.), except after filing by the owner with the construction official of a photocopy of a certificate of registration issued by the Bureau of Housing Inspection of the Department of Community Affairs.*

The ultimate goal here is to ensure the safety and compliance of all regulated properties. Unregistered multiple dwellings are a significant cause for concern due to the dangerous conditions that may arise due to a lack of oversight. In many instances, the failure to register can be caught at the varying levels of municipal review and approval. So, if there is a multiple dwelling requesting a Certificate of Occupancy in your municipality, please ensure proof of registration with the Bureau of Housing Inspection prior to the issuance of the certificate to help keep tenants and the municipality protected. For further information, please call (609) 633-6337 or email us at BHIInspections@dca.nj.gov.

Source: Rob Austin, Chief
Bureau of Housing Inspection
(609) 633-6216

Membrane Structures Letter: Office of Regulatory Affairs

State of New Jersey
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MIKIE SHERRILL
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Commissioner

April 7, 2026

Re: Membrane Structures

As a result of the collapse of five membrane structures, four (4) air-supported and one (1) framed, and questions received regarding the proper construction of these types of structures, the Office of Regulatory Affairs (ORA) has been contacting local enforcing agencies (LEA) and collecting information on membrane structures located in the State of New Jersey. From the information received, there are approximately 85 membrane structures in New Jersey, 22 of which are air-supported. Of these air-supported structures, ORA has begun reviewing the Uniform Construction Code (UCC) files, associated drawings, and conducting site visits for these projects.

In reviewing the applicable code requirements, as far back as the 1984 Building Officials and Code Administrators Basic/National building code in some cases, and in consultation with the Code Assistance Unit (CAU) and the International Code Council (ICC), ORA has concerns that the air-supported membrane structures may have been incorrectly designed, plan reviewed, constructed and/or inspected. This information, along with the collapse of five (5) such structures, four (4) air-supported and one (1) framed membrane structures, has necessitated the need for action by the Department. ORA will be meeting with local code officials where such air-supported structures are located and providing guidance as to how those officials are to proceed if the structures appear noncompliant. ORA will follow a similar process for the framed membrane structures after concluding the air-supported structures.

William B. Schmidt
Supervisor of Enforcement
Office of Regulatory Affairs

DCA Community Affairs

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Source: Bill Schmidt
Office of Regulatory Affairs
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Certificate Requirements: Use and Occupancy Prior to a CO/CA/TCO

The certificate requirements found in the Uniform Construction Code (UCC) at N.J.A.C. 5:23-2.23 appear to be clear. Depending on the type of work performed, a building, structure, or portion thereof cannot be used or occupied until a certificate of occupancy (CO), certificate of approval (CA), or a temporary certificate of occupancy (TCO) has been issued by the construction official. But the question remains: What is considered using or occupying a structure, building, or portion thereof prior to issuance of a CO/CA/TCO? Where do you draw the line?

I'll start with the obvious: It is not a violation of the UCC for contractors, architects, engineers, UCC inspectors, and similar persons to be on-site and within a building, structure, or portion thereof undergoing permitted construction. They are not occupants and are integral to the work being performed as part of the permitted construction project and are necessary for obtaining a CO/CA/TCO. Likewise, it is not a violation of the UCC for an owner or tenant of any type of building, structure, or portion thereof that is under construction to meet with a contractor, architect, UCC inspector, etc., at the site for any reason related to the ongoing permitted construction project.

On the other hand, it is a violation of the UCC if a builder or owner hosts prospective buyers, realtors, or tenants for the purpose of selling the building, structure, or portion thereof prior to the issuance of a CO, CA, or TCO. In the eyes of the UCC, this type of activity is akin to using or occupying the building, structure, or portion thereof as a showroom, not unlike a model home. Once a buyer or tenant is secured by the builder or owner, the buyer or tenant then becomes part of the permitted construction process and can visit the site for construction-related activities as explained earlier.

Finally, it is also a violation to begin to furnish a building, structure, or portion thereof prior to the issuance of a CO, CA, or TCO unless those furnishings are part of the construction project. For instance, furnishings such as drafting tables, filing cabinets, desks, etc., for a contractor's on-site office within a building are acceptable, as this office is considered temporary and may be necessary for a contractor's operations. However, a homeowner, builder, building owner, realtor, etc., is not permitted to supply a building, structure, or portion thereof with movable furnishings considered to be part of the intended final use or occupancy for which the issuance of a CO, CA, or TCO is required. For instance, an addition to a single-family home for a new bedroom cannot be furnished with a bed, dressers, etc., prior to the issuance of a CO/TCO. Also, a newly constructed home cannot be "staged" prior to the issuance of a CO/TCO.

Source: Keith Thedinga
Code Assistance Unit
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Copies may be read or downloaded from the division's website at: 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.

Sheathing Inspections... Are They Required?

There seems to be considerable confusion regarding if and when a sheathing inspection is required. N.J.A.C. 5:23-2.18(b)1iv(1) covers mid-point inspections as they relate to the Building Subcode and states:

> Building Subcode: All structural framing, connections, wall and roof sheathing, and insulation.

This language clearly includes wall and roof sheathing within the required inspection scope, meaning construction must pause until the inspection is completed in accordance with N.J.A.C. 5:23-2.18(b)1. However, while N.J.A.C. 5:23-2.18(b)1iv(1) establishes timing for four specific mid-point inspections in subsections (A) through (D), it does not provide explicit timing for the sheathing inspection.

Taking a trip down memory lane, the UCC did provide this clarity at N.J.A.C. 5:23-2.18(b)1iv(1)(A), which stated: “The wall and roof sheathing inspection shall be performed prior to covering with finish or infill material.” This language was straightforward and left little room for interpretation. Around 2003, however, this provision was removed and replaced with a requirement that “the inspector shall use a Department-approved checklist.”

Following this change, the Department’s position shifted to allow sheathing to be inspected from the interior during the framing inspection. This approach promotes construction efficiency and allows the building to be weather-protected more quickly.

You may be asking yourself, what exactly is to be inspected from the interior of the building? For this, we use the Framing Checklist (Form F390). For exterior walls, inspectors can confirm panel thickness, span rating, and grade, which are typically specified by the designer and stamped on each plywood sheet. While verifying layout and corner bracing is more challenging, this is addressed by ensuring the responsible person in charge completes the applicable checklist requirements before exterior finishes are installed.

The same general approach applies to roof sheathing. In addition, edge blocking and panel clips, where required, can be observed from the interior. Fire-retardant-treated (FRT) roof sheathing within four feet of firewalls can also be verified by labeling.

That said, certain critical elements, such as specific nailing patterns for wall bracing, portal frames, and exterior uplift connections, are not visible from the interior and rely more heavily on contractor compliance and documentation.

If a municipality prefers to require an exterior sheathing inspection, it may do so under N.J.A.C. 5:23-2.18(b)3 by identifying it as an additional inspection in the released permit documents. Unlike required mid-point inspections, this would NOT be a “cease” inspection, and construction may proceed without interruption. In such cases, the responsible person in charge must notify the municipality when the sheathing installation is ready for inspection.

In summary, although the code clearly includes wall and roof sheathing within the scope of required mid-point inspections, the lack of defined timing has led to varying interpretations. The prevailing practice, using the framing checklist and verifying from the interior, strikes a reasonable balance between compliance and efficiency. Regardless of the approach taken, consistency within each municipality is essential.

Source: Adam Matthews
Code Assistance Unit
(609)984-7609

Let's Explore Something Really Boring

I'll start with this, exploratory boring per the 2021 International Building Code (IBC) is supposed to include Section 1802.1 of the 1996 BOCA National Building Code. For some history, it started with the 2000 IBC, and when we adopted that code on May 5, 2003, we stated in the comment/response portion:

> 71. At N.J.A.C. 5:23-3.14(b)16iii, the proposed amendment to Section 1802.4.1 of the IBC/2000, entitled "Exploratory boring," would require that there be at least one exploratory boring to rock or an adequate depth below the load bearing strata for every 2,500 square feet of built over area. Currently, the 1996 BOCA National Building Code, in Section 1802.1, establishes a minimum number of exploratory borings; the IBC/2000 assigns the decision regarding exploratory borings to the design professional. The Department believes that the specific area requirement for exploratory borings in Section 1802.1 of the 1996 BOCA National Building Code provides designers and builders a level of predictability for what is required. Therefore, the Department is proposing that the text of Section 1802.1 of the 1996 BOCA National Building Code be retained.

For context, here is the text from the 1996 BOCA:

> 1802.1 Where required: In the absence of satisfactory data from immediately adjacent areas, the owner or applicant shall make borings, test pits or other soil investigations of the loadbearing materials at such locations and to sufficient depths as to satisfy the code official. **For all buildings which are more than three-stories or 40 feet (2192 mm) in height, and whenever it is proposed to use float, mat or any type of deep foundation, there shall be at least one exploratory boring to rock or to an adequate depth below the loadbearing strata for every 2,500 square feet (232.5 m2) of built-over area, and such additional tests as the code official requires**. Where the safe sustaining power of the soil is in doubt, or were a loadbearing value superior to that specified in this code is claimed, the code official shall require that the necessary borings or tests be made.

Over the years, the height requirements and the 2,500 sq ft area got separated. This was never the intent, and in the 2021 IBC, one should read and interpret Section 1803.3.1, Scope of the Investigation, to insert Section 1803.5.13, Building Height, as the starting text of the 2,500 sq ft area statement as such:

> 1803.3.1 Scope of investigation. The scope of the geotechnical investigation including the number and types of borings or soundings, the equipment used to drill or sample, the in-situ testing equipment and the laboratory testing program shall be determined by a registered design professional. **Buildings subject to Section 1803.5.13, there** shall be at least one exploratory boring to rock or to an adequate depth below the load-bearing strata for every 2,500 square feet (232 m2) of built-over area, and such additional tests as the code official requires.
>
> 1803.5.13 Building height. For all buildings that are more than three stories or 40 feet (12 192 mm) in height above the grade plane, the building official shall request soil tests.

This will be corrected in an upcoming proposal to the 2024 IBC.

Source: Rob Austin, Manager
Office of Construction Code Enforcement
(609) 292-7899

Accessible Parking and Electric Vehicle Charging Stations: Two Different Animals

If you have ever looked at a parking lot plan and thought, "We already have accessible EV spaces, can't those count toward our accessible parking requirement?" You are not alone. It is a reasonable assumption. Both involve accessibility. Both involve designated spaces. Both involve signs. So why can't one space satisfy both requirements?

The short answer is because the Uniform Construction Code (UCC) and the International Building Code (IBC) require it. The slightly longer answer is worth understanding, because this is a point of genuine confusion that is increasingly appearing in plan review submissions as EV charging becomes more common. And the super, longer answer involves the DCA Model Statewide Municipal EV Ordinance, administered by the Office of Local Planning Services, https://www.nj.gov/dca/dlps/home/modelEVordinance.shtml. This ordinance contains the requirements for when EV charging spaces and point back to the UCC/IBC for accessibility.

The two requirements come from Sections 1106, General accessible parking, and Section 1107, Electric Vehicle charging stations. These are separate and independent requirements, each with its own scope, dimensional standards, and purpose. The fact that they both use the word "accessible" does not make them interchangeable.

Think of it this way. Your building must have two fire extinguishers and two exit signs. You cannot satisfy both requirements with one item that doubles as a fire extinguisher and an exit sign. Similarly, you cannot satisfy two separate parking requirements with a single space that serves double duty.

Accessible Parking: Under Section 1106.2 (Required), where parking is provided, accessible parking spaces shall be provided in accordance with Table 1106.2. The table is scaled with the lot's size.

> For example, a lot with 1 to 25 spaces requires 1 accessible space, a lot with 51 to 75 spaces requires 3, and so on up to 2 percent of total spaces for lots with 501 to 1,000 spaces.
>
> For every six or fraction thereof, accessible parking spaces required, at least one must be van-accessible per Section 1106.6. Van spaces are wider, with a 132-inch minimum space width paired with a 60-inch access aisle, or an 8-foot space with a 96-inch access aisle.
>
> The accessible spaces required by Section 1106 serve a straightforward purpose — to ensure that people with disabilities have parking close to the building entrance, with enough room to deploy a wheelchair ramp or exit a vehicle safely.

EV Accessible Charging Spaces: Now, along comes the electric vehicle era. Section 1107.2 requires that, where electrical vehicle charging stations are provided, not less than 5 percent of vehicle spaces served by those charging systems, but not fewer than one for each type of charging system, shall be accessible.

The accessible EV space itself must comply with van-accessible parking space dimensions, 132” minimum in width with an adjoining 60” access aisle, per Section 1107.2.2. So dimensionally, an accessible EV space looks just like a van-accessible space. But here is the catch. The Section 1107 requirement exists to ensure that EV charging infrastructure is usable by people with disabilities who drive electric vehicles. That is a specific accessibility obligation tied specifically to the charging function. It is not a general parking accessibility requirement, and it does not satisfy Section 1106.

> **Practical Example:** Imagine a new mixed-use development with a surface parking lot containing 100 spaces, of which 10 are equipped with EV chargers.
>
> Under Section 1106.2 and Table 1106.2, four accessible parking spaces are required for the 100-space lot, including at least 1 van-accessible space per Section 1106.6.

(Continued on next page)

(Accessible Parking and Electric Vehicle Charging Stations: Two Different Animals)

Under Section 1107.2.1, five percent of the 10 EV spaces, rounded up to a minimum of one, must be accessible. So at least one of the 10 EV spaces must be an accessible EV space meeting van-accessible dimensions. Total required = four accessible spaces under Section 1106 plus one accessible EV space under Section 1107. That is five designated spaces in total, not four, and certainly not one.

The accessible EV space cannot be counted toward the four required by Section 1106, and the Section 1106 spaces cannot be counted toward the Section 1107 EV requirement unless they are actually equipped with a charging station.

The Takeaway: Two code sections. Two separate requirements. One space cannot satisfy both. As EV charging becomes a standard feature of new construction, this distinction will only become more relevant. Planners should review the Statewide EV Ordinance and can review the Frequently Asked Questions at https://www.nj.gov/dca/dlps/pdf/EVSE%20Ordinance%20FAQ%20FINAL_011924.pdf. From there, design professionals and applicable contractors should account for both requirements independently from the earliest stages of site planning, not as an afterthought during plan review.

When in doubt, check the local EV ordinance, count your required accessible spaces under Section 1106 first, and then layer in your EV accessibility requirements under Section 1107 separately. Your plan reviewer will thank you.

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Energy Codes in Mixed-Use Buildings

This article is written in hopes of clearing up the ever-popular question: *Which energy code applies to mixed-use buildings?* If you've ever found yourself flipping between code books thinking, "It can't be this complicated," you're not alone. Let's start simple.

Commercial buildings—those with occupancy types found in Chapter 3 of the 2021 International Building Code (IBC) that are not residential, must comply with ASHRAE 90.1-2019. Easy enough.

Residential buildings, or residential portions, can follow the International Energy Conservation Code Residential Provisions (IECC-R), but only if they qualify as a "residential building." If they don't, then it's back to ASHRAE 90.1 (whether you like it or not).

According to the IECC-R Provisions, a residential building is:

"Residential building. For this code, includes detached one- and two-family dwellings and townhouses as well as Group R-2, R-3 and R-4 buildings three stories or less in height above grade plane."

So far, so good.

Now the fun begins, because it always does when you combine residential and non-residential uses in the same building. For guidance, we turn to New Jersey's Energy Subcode, N.J.A.C. 5:23-3.18(b), which includes amendments to the IECC Commercial and Residential Provisions, along with references to ASHRAE 90.1-2019. Much of the IECC-Commercial Code includes New Jersey amendments that point you right back to ASHRAE 90.1. One of the key sections, C101.4.1 Mixed residential and commercial buildings, found at N.J.A.C. 5:23-3.18(b)1ii, states:

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(Energy Codes in Mixed Use Buildings)

> "Where a building includes both residential building and commercial building portions, each portion shall be separately considered and meet the applicable provisions of the IECC-Commercial Provisions by means of the ASHRAE Standard 90.1 or IECC-Residential Provisions."

Translation: you don't get to pick just one code and call it a day. Each portion of the building has to comply with its respective requirements. Yes, separately. Yes, all of them. This applies even to podium buildings designed under Section 510 of the IBC. So, if you were hoping the podium would somehow simplify things, it doesn't.

This is where things get just a little more interesting.

Remember that "three stories or fewer above grade" requirement for low-rise residential buildings? It matters more than you might think. Imagine a building with one story of S-2 parking and three stories of R-2 apartments above. Sounds like a classic residential building setup, right? Not so fast.

Because that parking level counts as a story above grade, the residential portion is technically four stories above grade. And just like that, it no longer qualifies as a residential building, meaning it must comply with ASHRAE 90.1. (Yes, even if it *feels* like a residential building.)

For compliance, Bulletin 22-1 offers guidance on tools like REScheck and COMcheck. IECC-R projects can use REScheck, while commercial projects, those following ASHRAE 90.1, will use COMcheck. Think of it as choosing the right calculator for the job, except the calculator is also judging your building design.

Looking ahead, the upcoming adoption of the 2024 IECC and ASHRAE 90.1-2022 won't change this framework. The relevant sections and definitions remain the same, so the same rules and the same head-scratching moments will continue to apply.

In short, mixed-use buildings require a bit more attention, a bit more coordination, and occasionally a deep breath. But once you break it down by occupancy and apply the codes separately, it all starts to make sense… eventually.

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Expiration of GFCI Requirements Exemption for Outdoor HVAC Units

This exemption is set to expire on September 1st, 2026. The HVAC industry and GFCI Manufacturers have been working on the issue with outdoor outlets for HVAC for the last 3 to 4 years, with the main concern being the unwanted tripping of GFCI technology when protecting HVAC equipment with Power Conversion for the compressor motors. This equipment has shown that leakage current at frequencies above 60 Hz was generated, creating some tripping where the current was beyond the 4-6mA Class A GFCI protection. The shock hazards of high-frequency leakage currents have been determined not to be the same as 60 Hz. Based on research conducted years ago, there is a weighted measure of higher-frequency leakage currents that will not trip the GFCI below the comparable 4-6 mA 60Hz level.

UL 943 has been updated and includes a device marked HF. These devices respond differently to high-frequency currents, thereby addressing unwanted tripping concerns, yet remain Class A GFCIs. A Class A GFCI marked HF would meet the requirements of any code section that requires a Class A GFCI. In addition, the 2026 NEC has a new informational note highlighting this solution.

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(Expiration of GFCI Requirements Exemption for Outdoor HVAC Units)

The effective date will coincide with manufacturers rolling out the new Class A GFCI Type HF circuit breakers or wiring devices. Most likely in the second quarter of 2026. Several have said already that they have begun production of the HF GFCI Circuit breaker.

In addition to Class A GFCIs being marked HF, other new technologies have been introduced, including the Class C GFCI as part of the UL 943C Standard. You may know these as the Special Purpose GFCIs, which have been part of the National Electrical Code since the 2023 edition. This protection option is also allowed under the exceptions in Article 210.8(F).

For more information, please contact Jack Lyons, NEMA Technical Field Representative at jack.lyons@nema.org.

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Occupancy Loads and Plumbing Fixtures 

“You can’t have your cake and eat it too!” Why would I want cake if I couldn’t eat it?! I have heard that said TOO many times in my life, but it does seem to be true when it comes to occupancy loads.
Let me explain. Sections 7.21.2a and 7.21.2b of the NSPC show you how to determine occupancy loads in two different ways. Let’s start at Section 7.21.2a:

> a. The minimum number of plumbing fixtures shall be based on the number of persons to be served by the fixtures, as determined by the person responsible for the design of the plumbing system.

So, based on the use group, 100 people are allowed to occupy the facility, but you only want to provide plumbing fixtures for 50 because you only want to have half of the plumbing fixtures due to space or budget. So, you post the facility's occupancy load as 50 due to the plumbing design, but you always maintain egress requirements based on the full 100-person load for life safety.
Now, Section 7.21.2b

> b. Where the occupant load is not established and is based on the egress requirements of a building subcode, the number of occupants for plumbing purposes shall be permitted to be reduced to two-thirds of that for fire or life safety purposes.

Here’s where we get to the cake! The occupancy load is based on egress, and you want to reduce the occupancy by one-third to provide fewer plumbing fixtures, but still want to keep the posted occupancy load at the higher number. No, you CANNOT have your cake and eat it too! The posted occupancy would be set at the requested one-third reduction per Section 7.21.2b.

Now, the UCC says the following in N.J.A.C. 5:23-3.4(b):

> (b) Posted occupancy load: Every building and structure and part thereof designed for use as a place of public assembly or as an institutional building for harboring people for penal, correctional, educational, medical or other care or treatment (use groups A, E and I) shall be posted with an approved placard designating the maximum occupancy load.

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(Occupancy Loads)

This “maximum occupancy load” is based on the requested “design,” not the facility's egress load. Again, you CANNOT have your cake and eat it too.

Now go have a piece of cake… and eat it too!!!

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Governor Mikie Sherrill joining Director Office staff for the DCA 60th Anniversary Celebration

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