

In (j)1, substituted references to close relatives or household members for references to members of the immediate family, and added the second sentence; and deleted former (j)7.

Amended by R.2003 d.363, effective September 15, 2003.  
See: 35 N.J.R. 2426(a), 35 N.J.R. 4281(a).

In (b), added forms F211, F212, F241, F242 and deleted form F240; deleted the revision dates of the referenced forms throughout.

Amended by R.2003 d.385, effective October 6, 2003.  
See: 35 N.J.R. 2423(a), 35 N.J.R. 4713(a).

In (h), added 3.  
Amended by R.2005 d.446, effective December 19, 2005.  
See: 37 N.J.R. 2747(a), 37 N.J.R. 4907(a).

Added (h)lxxii.  
Amended by R.2006 d.75, effective February 21, 2006.  
See: 37 N.J.R. 3110(a), 38 N.J.R. 1183(a).

In (b)2, added Form F390, Framing Checklist.  
Administrative correction.  
See: 38 N.J.R. 1827(b).

In (h)lxxii, substituted "818" for "817" to correct PO Box number.  
Amended by R.2006 d.355, effective October 2, 2006.  
See: 38 N.J.R. 1789(a), 38 N.J.R. 4175(a).

In the table in (b)2, added entries for forms "F101", "F213", and "F214"; in (h)lxxi, deleted "and" from the end; in (h)lxxii, substituted a semicolon for a period at the end; added (h)lxxiii through xxv; and deleted (h)3.

Amended by R.2007 d.46, effective February 5, 2007.  
See: 38 N.J.R. 872(a), 39 N.J.R. 370(b).

Rewrote (h)lxi and (i)lix.  
Administrative correction.  
See: 39 N.J.R. 1249(a).

Amended by R.2007 d.143, effective May 7, 2007.  
See: 39 N.J.R. 7(a), 39 N.J.R. 1672(a).

In (j)1, inserted ", or any other public official or employee having any direct or indirect control over the funding or operations of the enforcing agency or any close relative or household member of any such public official or employee,".

Administrative correction.  
See: 39 N.J.R. 3296(a).  
Amended by R.2007 d.310, effective October 1, 2007.  
See: 39 N.J.R. 135(a), 39 N.J.R. 4113(b).

Added (k).  
Administrative correction.  
See: 40 N.J.R. 113(a).  
Amended by R.2008 d.273, effective September 15, 2008.  
See: 40 N.J.R. 2630(a), 40 N.J.R. 5195(c).

In the introductory paragraph of (j)1, inserted "a" preceding "construction", inserted "knowingly" and inserted a comma following "agency" twice, and deleted "close relative or" preceding the third occurrence of "household member"; and rewrote (j)2.

Amended by R.2010 d.291, effective December 20, 2010.  
See: 42 N.J.R. 1943(a), 42 N.J.R. 3053(a).

In (b)2, (b)3, (c)1, (d)1 and (f), updated the tables; in (h)5, deleted "they" preceding "may purchase", and deleted "A" following "F-110", "F-120", "F-130", "F-140" and "F-310"; and in (j)2, inserted ", or for the maintenance of any equipment or building component the maintenance of which is regulated pursuant to this chapter,".

Amended by R.2011 d.269, effective November 7, 2011.  
See: 43 N.J.R. 904(a), 43 N.J.R. 3008(a).

In entry F-370 of (b)2, substituted "Verification" for "Certification".  
Amended by R.2012 d.139, effective July 16, 2012.  
See: 44 N.J.R. 8(a), 44 N.J.R. 1969(a).

In (b)1, substituted "application forms" for "forms and applications"; in the table in (b)2, inserted entries "F391" and "F392"; in (h)5, inserted "to be used in the office and application forms to be used by the public"; added new (h)lxx; and recodified former (h)lxx through (h)lxxv as (h)lxxi through (h)lxxvi.

Administrative correction.  
See: 44 N.J.R. 3061(a).  
Amended by R.2015 d.029, effective February 17, 2015.  
See: 46 N.J.R. 1507(a), 47 N.J.R. 459(a).

In (j)2, deleted ", or in any municipality adjacent to any municipality in which he is thus employed. For purposes of the prohibition set forth in this paragraph, it shall be immaterial whether the employment by the business, or the providing of goods and services to the business, oc-

curred within the employing municipality or an adjacent municipality or occurred elsewhere" from the end.

Amended by R.2018 d.153, effective August 20, 2018.  
See: 49 N.J.R. 2332(a), 50 N.J.R. 1888(a).

In the table in (b)2, added entry "F102".  
Amended by R.2020 d.130, effective December 7, 2020.  
See: 52 N.J.R. 835(a), 52 N.J.R. 2097(a).

In (b)2 and (b)3, updated the tables; in (b)5, inserted a comma following "format" and "copy" and updated all form references to delete the dash following "F"; in (c)1, substituted "L710" for "L-710"; in (d)1, substituted "R811" for "R-811" and "R812" for "R-812"; in the introductory paragraph of (d)2, deleted "using UCCARS I" following "electronically"; deleted (d)3 and (d)4; and in (f), substituted "R800" for "R-800".

### Case Notes

Former N.J.A.C. 5:23-4.3 regarding conflict of interest valid. *New Jersey State Plumbing Inspectors Assn., Inc. v. Sheehan*, 163 N.J.Super. 398, 394 A.2d 1244 (App.Div.1978), certiorari denied 79 N.J. 484, 401 A.2d 239 (1979).

Adopting Initial Decision's conclusion that 60-day suspension of license, rather than revocation, was sufficient punishment for infractions where there was no evidence that the municipal building code official intended to receive an economic benefit, within the meaning of N.J.A.C. 5:23-4.5(j), on the transfer of stocks of the official's former plumbing business (adopting 2007 N.J. AGEN LEXIS 763 as modified). *Mazzer v. Office of Regulatory Affairs*, OAL Dkt. No. CAF 07898-07 (On Remand), 2008 N.J. AGEN LEXIS 12, Final Decision (January 10, 2008).

Construction official violated N.J.A.C. 5:23-4.5(j)(2), where the official performed architectural services on an ongoing basis for a builder undertaking construction in the municipality in which the official was employed, as well as in the adjoining municipality. *Easse v. Dep't of Community Affairs*, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842, Final Decision (July 24, 2007).

Location of the projects for which an official receives compensation for services from a builder is not relevant to the analysis of whether N.J.A.C. 5:23-4.5(j)(2) was violated; an official may not perform services for a builder anywhere, once that builder undertakes construction in the municipality in which the official is employed or an adjoining municipality. *Easse v. Dep't of Community Affairs*, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842, Final Decision (July 24, 2007).

Code official does not have to commit a criminal offense in order to be in violation of N.J.A.C. 5:23-4.5(j)2. A code official is in violation of N.J.A.C. 5:23-4.5 (j)2 if he or she enters into, or maintains, any involvement with any person or business entity that is involved in construction under circumstances where such involvement might reasonably be perceived as compromising the objectivity of the official and, thus, the integrity of the code enforcement system. *Easse v. Dep't of Community Affairs*, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842, Final Decision (July 24, 2007).

Willfulness is not an element of violation of the Uniform Construction Code rules. *Easse v. Dep't of Community Affairs*, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842, Final Decision (July 24, 2007).

Code official's issuance of permits to a builder during the same period of time in which the official was providing compensated architectural services to the builder violated not only N.J.A.C. 5:23-5.25(a)5, but also N.J.A.C. 5:23-4.5(j)2. *Easse v. Dep't of Community Affairs*, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842, Final Decision (July 24, 2007).

Multiple incidents involving conflicts of interest under N.J.A.C. 5:23-4.5(j)2 warranted revocation of all of the official's Uniform Construction Code licenses, and a previously "unblemished" record did not overcome the seriousness of the violation. *Easse v. Dep't of Community Affairs*, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842, Final Decision (July 24, 2007).

Monetary penalty against builder for code violations was not reduced for financial hardship, but was reduced by half to secure prompt compli-

ance. *Bureau of Housing Inspection v. Regency Village Apartments*, 95 N.J.A.R.2d (CAF) 37.

Fraud and deceit while practicing as a licensed code enforcement official or inspector warranted license revocation. *Regulatory Affairs v. Zieniuk*, 95 N.J.A.R.2d (CAF) 15.

Conflict of interest precluded employment as elevator inspector. *Kunz v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 32.

#### 5:23-4.5A (Reserved)

Repealed by R.2006 d.128, effective April 3, 2006.

See: 37 N.J.R. 4106(a), 38 N.J.R. 1573(a).

Section was "Selection of private on-site inspection and plan review agencies".

#### 5:23-4.6 Interlocal enforcing agencies—establishment

(a) Parties: Any two or more municipalities may, by resolution, join to administer and enforce this chapter and any adopted subcode. Any municipalities that are party to an agreement establishing one enforcing agency having jurisdiction for all subcodes may further provide for the establishment of a joint board of appeals.

(b) Agreement: Except as this section may add or substitute requirements, the procedures for the execution of any agreement pursuant to this section shall be governed by the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1 et seq.).

1. Upon the adoption of a resolution pursuant to the Uniform Shared Services and Consolidation Act, a copy of such resolution, the contract, and any other pertinent information shall be forwarded to the department;

2. The term of any contract entered into pursuant to this section shall be four years.

3. The contract shall stipulate that the term of office of any construction or subcode official shall, except for good cause, be four years.

4. Such contract shall provide a mechanism for administration and enforcement within each of the contracting municipalities by one or more of the contracting municipalities, on an interim or emergency basis, should such agreement be invalidated by a court of competent jurisdiction or prove otherwise unenforceable.

5. The contract shall additionally stipulate the information contained in N.J.A.C. 5:23-4.7(b) and 4.8(a).

Amended by R.2011 d.269, effective November 7, 2011.

See: 43 N.J.R. 904(a), 43 N.J.R. 3008(a).

Rewrote (a), the introductory paragraph of (b), and (b)1.

#### 5:23-4.7 Interlocal enforcing agencies—organization

(a) General: Except as is provided in this section, enforcing agencies organized pursuant to this section shall, insofar as is practicable, be organized in the same manner as are municipal enforcing agencies.

(b) Exception: Nothing contained in N.J.A.C. 5:23-4.3, with respect to offices, shall require that only one central office be established pursuant to this section. Whenever municipalities join pursuant to this section, they shall establish offices which are reasonably accessible in terms of distance, location and function.

#### 5:23-4.8 Interlocal enforcing agencies—administration and enforcement

(a) General: Enforcing agencies organized pursuant to this article shall administer and enforce the regulations in the same manner as municipal enforcing agencies.

(b) The provisions of N.J.A.C. 5:23-4.3 regarding conflict of interest shall be applicable to interlocal enforcing agencies, including all municipalities party to the interlocal agreement, to the extent that the agreement covers specific subcode activities.

#### 5:23-4.9 State enforcing agencies—establishment

(a) Department of Community Affairs:

1. The Bureau of Local Code Enforcement in the Division of Codes and Standards is constituted as the enforcing agency for the purpose of administering and enforcing the code in those municipalities which have decided, pursuant to N.J.A.C. 5:23-4.3, not to enforce the code.

2. Pursuant to Reorganization Plan No. 004-1996, the Department is constituted as the sole plan review agency for the administration and enforcement of Federal and State standards applicable to the construction, alteration, demolition, or maintenance of health care facilities, as defined in N.J.A.C. 5:23-1.4.

(b) Division of Building and Construction, Department of the Treasury:

1. The Division of Building and Construction is constituted as the enforcing agency for the purpose of performing plan review if the Department of Community Affairs cannot approve plans within the 20-day period provided for in N.J.S.A. 52:27D-131, with respect to buildings built under the supervision of the Division of Building and Construction.

Administrative Correction to (a)1.

See: 22 N.J.R. 2503(b).

Amended by R.1997 d.417, effective October 6, 1997.

See: 29 N.J.R. 3387(a), 29 N.J.R. 4285(a).

In (a)1, changed enforcing agency and amended N.J.A.C. references; deleted (a)1i and (c); inserted (a)2; and recodified former (d) as (c).

Amended by R.2000 d.166, effective April 17, 2000.

See: 31 N.J.R. 4151(a), 32 N.J.R. 1376(a).

In (b)1, substituted "performing plan review" for "administering and enforcing the regulation" following "purpose of"; and deleted a former (c).

Administrative correction.

See: 36 N.J.R. 466(a).

Administrative correction.

See: 50 N.J.R. 1714(c).