

**STATE OF NEW JERSEY  
DEPARTMENT OF COMMUNITY AFFAIRS  
NOTICE OF RULE WAIVER/MODIFICATION/SUSPENSION  
PURSUANT TO EXECUTIVE ORDER NO. 103 (MURPHY) (MARCH 9, 2020)  
COVID-19 STATE OF EMERGENCY**

Temporary Rule Relaxation of certain provisions of Title 5, New Jersey Administrative Code, adopted by Sheila Y. Oliver, Commissioner, New Jersey Department of Community Affairs

Date: March 25, 2020

Authority: N.J.S.A. App.A:9-45 & App. A:9-47; Executive Order No. 103 (Murphy) (“EO 103”)

Effective Date: March 9, 2020

Expiration Date: Concurrent with end of Executive Order 103.

This is an emergency adoption of temporary rule relaxations of the regulatory provisions concerning licensing temporary emergency shelters for the homeless (N.J.A.C. 5:15-1.1 to -4.17), change of use requirements for non-residential facilities to be used as temporary emergency shelters for the homeless (N.J.A.C. 5:23-6.31), and those provisions of the Uniform Fire Code concerning registration of buildings and uses (N.J.A.C. 5:70-2.6) and automated fire and carbon monoxide alarms (N.J.A.C. 5:70-4.9). Section 6 of Executive Order 103, issued in response to the COVID-19 pandemic, authorizes agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Department of Community Affairs is relaxing its rules as follows:

The scope and purpose of the Department of Community Affairs’ regulations for emergency shelters for the homeless state which institutions and facilities the rules apply to and which they do not. N.J.A.C. 5:15-1.2. In light of the COVID-19 emergency, there is an urgent and immediate need for additional temporary emergency shelters for the homeless throughout the State. As the applicability of these rules is not required by statute and is regulated through agency rulemaking, the Department of Community Affairs has temporarily modified N.J.A.C. 5:15-1.1 to -4.17 to exempt those facilities used as temporary housing for the homeless due to the COVID-19 emergency.

The Department of Community Affairs’ Uniform Construction Code requires compliance with N.J.A.C. 5:23-6.31 when the use of building is changed. In light of the COVID-19 emergency, there is an urgent and immediate need for additional temporary emergency shelters for the homeless throughout the State, many of which would be situated in buildings not currently used for residential purposes. As the applicability of these rules is not required by statute, the Department of Community Affairs has temporarily waived its rules to exempt from N.J.A.C. 5:23-

6.31 those non-residential buildings and facilities to be used as temporary housing for the homeless due to the COVID-19 emergency.

The Uniform Fire Code requires the Commissioner or local enforcing agencies to provide registration applications to life hazard uses and makes it a violation for an owner of a building providing life hazard uses to fail to complete and return such an application within 30 days. N.J.A.C. 5:70-2.6(a). In light of the COVID-19 emergency, there is an urgent and immediate need for additional temporary emergency shelters for the homeless and other similar facilities throughout the State, which are ordinarily classified as life hazard uses pursuant to N.J.A.C. 5:70-2.4A(d)(3) (maximum permitted occupancy of fewer than 50 persons), N.J.A.C. 5:70-2.4A(f)(3) (maximum permitted occupancy of 50 or more but fewer than 100 persons), and N.J.A.C. 5:70-2.4A(h)(2) (maximum permitted occupancy of 100 persons or more). Rigid enforcement of barriers to implementing such shelters needed due to the COVID-19 would be detrimental to the public welfare. As the applicability of these rules is not required by statute and is regulated through rules, the Department of Community Affairs has temporarily waived its rules to exempt those buildings and facilities to be used as temporary emergency shelters for the homeless due to the COVID-19 emergency from N.J.A.C. 5:70-2.6(a).

The Uniform Fire Code requires all buildings of use group R-2 to have approved smoke detection systems in all interior common areas. N.J.A.C. 5:70-4.9(a)(3)(i). Rigid enforcement of barriers to providing temporary emergency shelters for the homeless due to the COVID-19 emergency would be detrimental to the public welfare. As the applicability of these rules is not required by statute and is regulated through rules, the Department of Community Affairs has temporarily waived its rules to exempt those buildings and facilities to be used as temporary emergency shelters for the homeless due to the COVID-19 emergency from N.J.A.C. 5:70-4.9(a)(3)(i).

**Full text** of the proposed modifications follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

§ 5:15–1.2 Scope and purpose

(a) – (d) (No change).

**(e) During the effective period of Executive Order 103 (Murphy), these rules shall not apply to facilities used as temporary housing due to the COVID-19 emergency.**

§ 5:23-6.31 Change of use

(a) – (q) (No change.)

**(r) During the effective period of Executive Order 103 (Murphy), these rules shall not apply to non-residential buildings or facilities used as temporary housing due to the COVID-19 emergency. Fire safety requirements for temporary occupancy of such buildings or facilities**

**shall be accomplished by a permit from the local fire marshal if all permit requirements are met.**

§ 5:70-2.6 Registration of buildings and uses

(a) Whenever the Commissioner or any local enforcing agency shall have cause to believe that a building or use is a life hazard use, then the Commissioner or the agency shall submit a registration application to the owner. It shall be a violation of the Code for an owner to fail to complete and return such an application within 30 days. **The provisions of this section shall not apply to the life hazards uses of homeless shelters and other similar facilities referenced in N.J.A.C. 5:70-2.4A(d)(3) (maximum permitted occupancy of fewer than 50 persons), N.J.A.C. 5:70-2.4A(f)(3) (maximum permitted occupancy of 50 or more but fewer than 100 persons), and N.J.A.C. 5:70-2.4A(h)(2) (maximum permitted occupancy of 100 persons or more) that are being used as temporary emergency shelters for the homeless due to the COVID-19 emergency. The owner or operator of the temporary emergency shelters for the homeless due to the COVID-19 emergency, shall submit a plan to the local fire official, which must include the following information: the location, name and contact information of the responsible party, the date(s) when the building will be used for housing, the number of persons to be housed, a floor plan showing the location(s) where those being housed will sleep, the other spaces to be made available to them, and the exit access from each space.**

1. Whenever the use of a building or any portion thereof is conducted on a seasonal basis, the Commissioner may require the owner of the building to comply with this registration requirement for any use conducted therein.

(b) – (h) (No change.)

§ 5:70-4.9 Automated fire and carbon monoxide alarms

(a)(1) – (a)(2) (No change.)

3. In all buildings of Use Group R–2 as follows:

i. All buildings of Use Group R-2, including multiple dwellings and rooming houses with six or more occupants, shall have approved smoke detection systems located in all interior common areas. Such systems shall be powered by an alternating current (AC) constantly active electric circuit that cannot be deactivated by the operation of any interconnected switching device and shall comply with the adopted electrical subcode of the Uniform Construction Code in effect at the time of installation, except as otherwise provided in this section. Such systems shall be on circuitry that is connected into the building owner's electric meter.

(1) In multiple dwellings six stories or more in height and having 30 or more dwelling units, such systems:

(A) Shall be connected to a supervisory type listed control panel conforming to U.L. 864 requirements and NFPA 72 standard in effect at the time of installation, except as otherwise provided in this section;

(B) Shall be powered by an approved emergency power source installed in conformance with the adopted electrical subcode of the Uniform Construction Code in effect at the time of installation; and

(C) Shall have a control panel of the multi-zoned type that will visually indicate the floor or zone from which the alarm is activated, which panel shall be located in accordance with NFPA 72 standard in effect at the time of installation or as directed by the local fire subcode official.

**The provisions of this subsection shall not apply to temporary emergency shelters for the homeless and similar facilities opened due to the COVID-19 emergency.**

(a)(3)(ii) – (a)(3)(vii) (No change.)

(a)(4) – (d) (No change.)

I find that relaxation of the above noted rules above is necessary because enforcement of the existing rules would be detrimental to the public welfare during this emergency.

3/25/2020  
Date March 25, 2020

  
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Sheila Y. Oliver  
Commissioner, Dept. of Community Affairs

Temporary Use of Non-residential Buildings for Housing  
Outline of Fire Safety Requirements

1. The owner/operator shall submit a plan to the local fire official, which must include the following information: the location, name and contact information of the responsible party, the date(s) when the building will be used for housing, the number of persons to be housed, a floor plan showing the location(s) where those being housed will sleep, the other spaces to be made available to them, and the exit access from each space.
2. Fire drills: A fire drill shall be conducted on the first day of occupancy and procedures must be reviewed when new persons are brought into the occupancy. The fire drill shall include gathering at a designated spot outside the building and taking attendance to ensure all persons have evacuated safely. A record of all such fire drills shall be maintained and shall be made available to the local fire official upon request.
3. Supervision: There shall be one person designated by the operator remaining awake overnight in any building being used for housing. (Note: The local person(s) designated by the operator assigned to stay awake overnight are to ensure the safety of the housed persons in the event of a fire or other emergency in the building. ) The person or persons assigned shall be familiar with the evacuation procedure to be followed in an emergency, with the building layout and with the fire detection or suppression systems, if any, and shall be capable of notifying the fire department in the event of an emergency. Emergency numbers, including numbers for those responsible for the facility, shall be posted in a conspicuous location. The person or persons assigned shall have a record of the names of all persons being housed on a given night.
4. Smoke alarms and carbon monoxide alarms: Each sleeping room shall have battery-powered smoke alarms and carbon monoxide alarms. The smoke alarms shall be installed in the sleeping room(s) and throughout the exit access leading to the required exit or exits.

All smoke alarms and carbon monoxide alarms shall be maintained in accordance with the State Fire Prevention Code (N.J.A.C. 5:70-3). Monthly tests shall be conducted for other than battery-powered smoke alarms and weekly tests shall be conducted for battery-powered smoke alarms. A log shall be kept on site documenting the required testing. Smoke alarms must be of the ten-year sealed battery type at a minimum.

Buildings with automatic fire alarm systems with complete smoke detection installed shall be deemed to meet the requirement for smoke alarms.

5. Exits: Each sleeping room shall have at least two means of egress. The main means of egress shall be a door of not less than 32 inches in width. The second means of

- egress may be an emergency egress window or an exterior door. An emergency egress window shall have a sill height of not more than 44 inches and a minimum opening of 5.7 square feet measured from head to sill and side to side. The minimum width shall be 20 inches and the height shall be at least 24 inches. A second means of egress is not required when the sleeping room is served by an exit door to a corridor providing access to two remote exits or when the building is protected throughout by an automatic fire sprinkler system.
6. Location of sleeping rooms: Sleeping rooms shall be located at the level of exit discharge unless the building is equipped throughout with an automatic fire alarm system. Sleeping in a basement shall not be permitted unless the building is equipped throughout with an automatic fire sprinkler system.
  7. Vertical opening protection: A minimum one-hour fire barrier shall be provided to protect all interior stairways and other vertical openings. Existing 30-minute vertical opening protection shall be allowed to remain in buildings housing 25 or fewer persons or in buildings where all sleeping rooms are located at the level of exit discharge.
  8. Habitable space: Each sleeping room shall provide at least 40 square feet per occupant.
  9. Lighting: Artificial lighting of a minimum of one-foot candle shall be required at all times throughout the space to be occupied, including any exit access and exit discharge.
  10. Emergency egress lighting and exit signs: Egress lighting and illuminated exit signs shall be required for any building housing 50 persons or more.
  11. All buildings being used for temporary housing shall be subject to quarterly inspection by the local fire official.