

and anchor size based upon live and wind loads. The calculations shall be signed and sealed by a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials; and

6. (No change.)

5:14A-13.8 Ride loading and unloading

(a) (No change.)

(b) For completely enclosed, dark structures:

1. Exits shall be marked by readily visible signs in compliance with Section 1013 of the building subcode, Uniform Construction Code of New Jersey (N.J.A.C. 5:23), in all cases where it is not immediately visible to the riders;

2.-4. (No change.)

(c) (No change.)

5:14A-13.9 Materials

(a) (No change.)

(b) Foam padding shall meet the requirements of ASTM F 1918, Section 12.5.2.

#### SUBCHAPTER 14. CLIMBING WALL AMUSEMENT RIDES

5:14A-14.5 Design and construction

(a)-(e) (No change.)

(f) Design of an artificial climbing wall shall be in accordance with EN 12572, Artificial climbing structures—Protection points, stability requirements, and test methods.

(g)-(k) (No change.)

(a)

### DIVISION OF CODES AND STANDARDS

#### Uniform Construction Code

**Adopted Amendments: N.J.A.C. 5:23-2.2, 2.6, 2.7, 2.14, 2.15, 2.15A, 2.20, 2.23, 2.35, 2.37, 3.2, 3.4, 3.8, 3.14, 3.15, 3.22, 4.26, 5.3, and 12.8**

Proposed: February 21, 2017, at 49 N.J.R. 306(a).

Adopted: October 30, 2017, by Charles A. Richman, Commissioner, Department of Community Affairs.

Filed: December 11, 2017, as R.2018 d.021, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3) **and with N.J.A.C. 5:23-2.15(b) and 2.15A(b)4 not adopted, but still pending.**

Authority: N.J.S.A. 52:27D-124.

Effective Date: January 16, 2018.

Expiration Date: March 25, 2022.

#### Summary of Public Comments and Agency Responses:

Comments were received from Charles B. Barbee, Director of Recommendations, U.S. Chemical Safety and Hazard Investigation Board; Eric DeGesero, Executive Director, New Jersey Independent Electrical Contractors; Jeffrey Kolakowski, Vice President of Government Affairs, New Jersey Builders Association; Mitchell Malec, retired former employee of the Department of Community Affairs; and Ben Shapiro, Local Government and Regulatory Affairs Manager, New Jersey Realtors.

1. COMMENT: The U.S. Chemical Safety and Hazard Investigation Board recognizes that the Department's proposal at N.J.A.C. 5:23-2.2 to declassify "equipment, process, or operations that involve dust explosion hazards" as manufacturing, production, or process equipment—and thereby make it clear that such equipment is regulated by the Uniform Construction Code (UCC)—directly addresses the findings from the commenter's investigation of a flash fire in East Rutherford. The commenter encourages the Department to promulgate the proposed amendment as written.

RESPONSE: The Department thanks the commenter for this expression of support.

2. COMMENT: The commenter disagrees with the proposed amendment at N.J.A.C. 5:23-2.2(a)1 relating to the declassification of "equipment, process, or operations that involve dust explosion hazards" as manufacturing, production, or process equipment. According to the commenter, the Department should follow the guidelines set by the Occupational Safety and Health Administration (OSHA), which facilitate the use of recognized and generally accepted good engineering practices. The commenter suggests that local code enforcing agencies and the Department will be less prepared to adequately review dust collection systems than specialized engineers and recommends that the Department exempt dust collection systems designed by engineers that follow recognized and generally accepted good engineering practices provisions.

RESPONSE: The Department disagrees. This proposed amendment implements a suggestion made by the U.S. Chemical Safety and Hazard Investigation Board, and a design professional's services are required for all such applications.

3. COMMENT: The commenter notes that the proposed amendment at N.J.A.C. 5:23-2.2(a)1 does not include a matching amendment to the Uniform Fire Code, and suggests that the Uniform Fire Code is the key source of process equipment compliance. The commenter asks if the Department has considered the impact that the proposed amendment would have on the Uniform Fire Code.

RESPONSE: No corresponding amendment to the Uniform Fire Code is required. N.J.A.C. 5:70-3, the State Fire Prevention Code, requires equipment installed in accordance with the Uniform Construction Code to be properly maintained.

4. COMMENT: The commenter disagrees with the Department's definition of combustible dust particles, and claims that larger particles may pose a deflagration hazard. The commenter recommends that the Department regulate combustible particulate solids, which include dust particles, among other things. The commenter also suggests a definition of combustible dust.

RESPONSE: The Department thanks the commenter for these suggestions. The instant rule is limited to combustible dust as described and, therefore, the suggested changes are beyond the scope of this rulemaking but the Department will take those suggestions under advisement and will consider future proposals if warranted.

5. COMMENT: The commenter suggests that the regulation of combustible dust implies that other aspects of equipment, process, and operations should also be regulated, and provides a list of these cases.

RESPONSE: The instant rule addresses only the combustible dust issue. The Department will take this suggestion under advisement, but as it is beyond the scope of this rulemaking, no change will be made.

6. COMMENT: The commenter suggests that the Department designate combustible dust at N.J.A.C. 5:23-3.11, which applies to enforcement activity reserved to the Department.

RESPONSE: The Department does not believe that the enforcement should be reserved to the Department. To the contrary, the Department has confidence in the ability of those employed by local enforcing agencies to enforce this provision.

7. COMMENT: The commenter is opposed to the amendment at N.J.A.C. 5:23-2.7(c)3i, citing concerns related to the alleged reduction in safety. The commenter states that extending ordinary maintenance to lighting fixtures and "parts thereof" increases the likelihood that non-licensed personnel will perform such services, which would increase risk. Additional considerations related to LED lighting further complicate the associated electrical work.

8. COMMENT: The commenter alleges that because the amendment at N.J.A.C. 5:23-2.7(c)3i removes the voltage limit with respect to the electrical fixtures being replaced, the voltage may increase to potentially hazardous levels, such as 277 and 480 volts, which may be worked on by unlicensed personnel.

RESPONSE TO COMMENTS 7 AND 8: The question of whether a permit is required and the question of whether a licensed contractor must perform the work are separate. This rulemaking addresses only the permitting requirements of the Uniform Construction Code. The Department does not agree that safety is compromised.

9. COMMENT: The commenter states that the proposed amendment at N.J.A.C. 5:23-2.7(c)5vi does not account for cases when the replacement hood of a range does exceed 400 cubic feet per minute.

RESPONSE: The amendment defines what counts as ordinary maintenance. Items not listed under ordinary maintenance would require a permit under the Uniform Construction Code.

10. COMMENT: The commenter requests that, with respect to the proposed amendment at N.J.A.C. 5:23-2.7(c)5vi related to kitchen range hoods, CAZ testing be performed to assure that the depressurization does not cause backdrafting of any combustion appliances.

RESPONSE: The Department does not believe that greater measures to account for kitchen range depressurization are necessary considering the current requirements in place in the 2015 International Mechanical Code, which states at 505.2, "exhaust hood systems capable of exhausting in excess of 400 cfm shall be provided with makeup air at a rate approximately equal to the exhaust air rate." Therefore, the makeup air requirements currently in the code are meant to prevent depressurization issues.

11. COMMENT: The commenter claims that the exemption from requiring a construction permit for "the installation of a storable spa or hot tub" is better located at N.J.A.C. 5:23-2.14(b) than it is at N.J.A.C. 5:23-2.7.

RESPONSE: The proposed amendment could arguably go in either place. Ordinary maintenance (the listing of those items that may be performed without permits) is codified at N.J.A.C. 5:23-2.7 and this is the place the Department has chosen.

12. COMMENT: Regarding the amendment at N.J.A.C. 5:23-2.7, the commenter states that the terminology characterizing "storable spa or hot tub" needs clarification and further details. The commenter explains what the definition of a storable spa and tub is according to the National Electric Code (NEC), provides a list of other possible specifications for portable spas and tubs, and claims that the classification does not include a requirement for the spa or tub to be cord connected.

RESPONSE: The Department expects that the terminology, as proposed, is clear enough. If there is future confusion, the Department will consider clarifying what is intended through a Communicator article or bulletin.

13. COMMENT: The commenter suggests that the proposed amendment at N.J.A.C. 5:23-2.7 relating to the installation of a storable spa or tub fails to account for other relevant safety issues, including, but not limited to, considerations related to indoor or outdoor spas or tubs, voltage levels, the impact of ceiling fan services lines, ventilation, if installed indoors, and door alarms. In order to take care of these potential safety hazards, the commenter suggests referring to the ASTM F1346.

RESPONSE: The Department disagrees that the imposition of additional requirements under ASTM F1346 is necessary. The intent of this amendment was to ensure that storable spas or hot tubs provided with a lockable cover are exempt from an electrical technical section. The Department believes these safeguards are sufficient. Therefore, further safeguards are not being considered for inclusion in ordinary electrical maintenance at this time.

14. COMMENT: The commenter claims that the replacement of kitchen range hoods and the replacement of bathroom exhaust fans, which apply to dwellings, at N.J.A.C. 5:23-2.7(c)5vi, should be extended to all uses as an ordinary maintenance category.

RESPONSE: The Department cannot make such a change upon adoption. Further, the Department chose to limit ordinary maintenance to the replacement of hoods with a capacity of 400 cfm or less because that is the trigger for the requirement of makeup air under the mechanical subcode. It is the Department's position that the replacement of a range hood that does not vent to a common shaft and does not require makeup air can be performed as ordinary maintenance. Therefore, further changes are not being considered at this time.

15. COMMENT: The commenter states that the amendments at N.J.A.C. 5:23-2.15(f) maintain outdated references to Bulletin 11-1, IECC/2009, and ASHRAE/2007.

RESPONSE: The amendments replace the outdated references, and the Department appreciates that the commenter supports their replacement. For example, Bulletin 11-1 is replaced with a reference to

the "current energy subcode compliance bulletin," which at this time is Bulletin 15-4.

16. COMMENT: The commenter notes that, with respect to the proposed amendment at N.J.A.C. 5:23-2.15(f)1vi(1), the reference to "above code" program documentation lacks clarity and may create confusion. The commenter recommends removing such language.

RESPONSE: "Above code" refers to programs where participation is voluntary and results in buildings that exceed the energy conservation requirements of the adopted energy subcode. Because there may be more than one such program, and the names of the New Jersey programs may change, it is better for the rule to allow the flexibility to accept other or future program documentation.

17. COMMENT: The commenter expresses approval of the proposed amendments, stating that the changes will make it easier and more affordable for homeowners to do work on their homes. The commenter notes that, due to the ongoing recovery related to Superstorm Sandy, the exemption proposed at N.J.A.C. 5:23-2.37 related to sewer or water service disconnection is one that is favorable to homeowners.

RESPONSE: The Department thanks the commenter for this expression of support.

#### Summary of Agency-Initiated Changes:

1. Corrections have been made at N.J.A.C. 5:23-3.4(d), 3.4(d)1, and 5.3(a) reflecting changes in group categories. The rules for mechanical inspections apply to one- and two-family dwellings, Groups R-3 and R-5. As defined in Chapter 3 of the IBC/2015, Group R-4 applies to therapeutic residences and is not the same as a one- or two-family dwelling. Accordingly, the reference to Group R-4 is deleted upon adoption.

2. Corrections have been made at N.J.A.C. 5:23-3.14(b) upon adoption as a proposed new section number for the building subcode, 1107.5.5., already exists. To avoid duplicate numbering, the Department is assigning a new section number, 1107.5.2.3. As a result of the new section numbering, related sections were renumbered accordingly.

#### Federal Standards Statement

No Federal standards analysis is required because these amendments are not being adopted under the authority of, or in order to implement, comply with, or participate in, any program established under Federal law or any State statute that incorporates or refers to Federal law, standards, or requirements.

Full text of the adoption follows (additions to the proposal indicated in boldface with asterisks \*thus\*; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

#### SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT; PROCESS

##### 5:23-2.2 Matter covered

(a) The provisions of the regulations shall apply to all buildings and structures and their appurtenant construction, including vaults, area and street projections, and accessory additions; and shall apply with equal force to municipal, county, State, and private buildings, except where such buildings are otherwise specifically provided for by the regulations.

1. Manufacturing, production, and process equipment, as defined at N.J.A.C. 5:23-1.4, is not under the jurisdiction of the Uniform Construction Code. Equipment, processes, or operations involving combustible dust as defined by the building subcode shall not be considered manufacturing, production, or process equipment, and, therefore, shall be subject to the requirements of this chapter.

(b)-(e) (No change.)

##### 5:23-2.6 Change of use

(a) (No change.)

(b) Change of use: It shall be unlawful to change the use of any structure or portion thereof without the prior application for and issuance of a certificate of occupancy as provided below.

1. A certificate of occupancy shall be issued, provided such structure shall comply with the provisions of N.J.A.C. 5:23-6, Rehabilitation Subcode. After a change of use has been made to a building or structure, the reestablishment of a prior use is prohibited, unless the building

complies with the provisions of N.J.A.C. 5:23-6, Rehabilitation Subcode, for the prior use.

- i. (No change.)
- 2.-3. (No change.)

#### 5:23-2.7 Ordinary maintenance

- (a)-(b) (No change.)

(c) The following items are ordinary maintenance and shall be treated as such by every enforcing agency. No permit for, inspections of, or notice to the enforcing agency of ordinary maintenance shall be required. This is not an all-inclusive listing of ordinary maintenance.

1. Ordinary building maintenance shall include:

- i.-xii. (No change.)
- xiii. The installation of any roll or batt insulation when installed adjacent to or not more than one and a half inches from an interior finish;
- xiv. Replacement of exterior rain water gutters and leaders; and
- xv. The installation of a storable spa or hot tub that is provided with a lockable safety cover that complies with ASTM F1346.

2. (No change.)

3. Ordinary electrical maintenance shall include:

- i. The replacement of any receptacle, switch, or lighting fixture, or part thereof, with a like or similar item. Receptacles in locations where ground-fault circuit interrupter protection, damp/wet, or tamper-resistant are required shall comply with Section 406.4(D) of the electrical subcode;

- ii.-v. (No change.)

4. (No change.)

5. Ordinary heating, ventilation, and air conditioning maintenance shall include:

- i.-iii. (No change.)
- iv. Repair of air conditioning equipment and systems;
- v. Repair or replacement of control devices for heating and air conditioning equipment;
- vi. Replacement of kitchen range hoods in dwelling units, provided the replacement hood exhaust rate does not exceed the exhaust rate of the existing hood or the exhaust rate of the replacement hood does not exceed 400 cfm;
- vii. Replacement of clothes dryers serving and located within dwelling units, provided that no change in fuel type or location or electrical characteristics is required;
- viii. Replacement of stoves and ovens in dwelling units, provided no change in fuel type or location or electrical characteristics is required; and
- ix. The replacement of bathroom exhaust fans in dwelling units.

6. (No change.)

#### 5:23-2.14 Construction permits—when required

- (a) (No change.)

- (b) The following are exceptions from (a) above:

- 1.-4. (No change.)

5. A gas utility company shall not be required to obtain a permit or give notice to the enforcing agency for the replacement of interior gas utility company-owned metering (meter and related appurtenances) with exterior gas utility company owned-metering provided that the work is performed by qualified employees of the gas utility company.

- i. When the work is performed by a contractor hired by the gas utility, the following shall apply:

- (1) The contractor must be a licensed master plumber or a licensed heating, ventilation, air conditioning, and refrigeration contractor;

- (2) The utility company must have in place a quality control program, staffed by employees of the utility company, to oversee the work of the contractor. The quality control personnel will inspect and provide documentation for all work performed by the contractor;

- (3) The utility company must deliver, to the local enforcing agency, a list of all addresses where the work will be performed;

- (4) The local enforcing agency will randomly choose 10 percent of the addresses and issue permits and perform inspections of the completed work. Fees will be paid for these permits.

- (A) If the rate of failed inspections is 20 percent or greater, the Department shall be notified and 50 percent of all of the utility

company's work associated with this program must be inspected in accordance with this protocol until the failure rate is reduced to below 20 percent; and

(5) Certificates of approval will be issued only for those addresses where construction permits were issued.

- 6.-10. (No change.)

- (c)-(g) (No change.)

#### 5:23-2.15 Construction permits—application

(a) The application for a permit shall be submitted on the standard Construction Permit Application form prescribed by the Commissioner at N.J.A.C. 5:23-4.5(b)2 and shall be accompanied by the required fee, as provided for in this subchapter and N.J.A.C. 5:23-4. The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure, and all portions of the site or lot not covered by the building or structure, and such additional information as may be required by the construction official, which shall include, but not be limited to, the following:

- 1.-5. (No change.)

6. For Class 1 structures or for a smoke control system installed in any structure, a list of all materials and work requiring special inspections, and a list of agencies, qualified licensed professionals, or firms intended to be retained for conducting those inspections in accordance with the requirements of the building subcode;

- 7.-8. (No change.)

- (b)-(c) (No change.)

(d) Application for a permit shall be made by the owner or his or her agent, a licensed engineer, architect, plumbing, electrical, heating, ventilation, air conditioning, and refrigeration, or other contractor employed in connection with the proposed work. If the application is by a person other than the owner, it shall be accompanied by an affidavit of the owner or the authorized person making the application, that the proposed work is authorized by the owner, and that the applicant is authorized to make such application. All issued permits shall remain the property of the owner, even if the application was made by a contractor or authorized agent.

- (e) (No change.)

- (f) Plans, plan review, plan release:

1. Plans and specifications: The application for the permit shall be accompanied by no fewer than two copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. Plans submitted shall be required to show only such detail and include only such information as shall be necessary to demonstrate compliance with the requirements of the code and these regulations or to facilitate inspections for code conformity. When quality of materials is essential for conformity to the regulations, specific information shall be given to establish such quality; and this code shall not be cited, or the term "legal" or its equivalent be used, as a substitute for specific information.

- i.-iii. (No change.)

iv. Plumbing plans and specifications shall contain: Floor plan; fixtures, pipe sizes, and other equipment and materials; riser diagram(s) with pipe sizes, fixture schedule, and sewage disposal.

v. Mechanical plans and specifications shall contain: Floor or ceiling plans; equipment, distribution location, size, and flow; gas riser diagram(s) with pipe sizes and input ratings; location of dampers and safeguards; and all materials.

vi. Energy calculations: Calculations showing compliance with the energy subcode shall be submitted for all new buildings and additions to existing buildings. As provided in (f)1vii below, these calculations shall be signed and sealed by the design professional, with the exception of calculations for class 3 structures, which may be submitted by the heating, ventilation, air conditioning, and refrigeration contractor.

(1) For detached one- and two-family residential buildings and other residential buildings three stories or less in height, compliance may be demonstrated by the submission of NJ Clean Energy Program for Residential New Construction compliance documentation or other "above code" program documentation, the submission of printouts from software recognized by the Department, such as REScheck, or conforming with the prescriptive packages described in the current

energy subcode compliance bulletin. REScheck software is available from the U.S. Department of Energy at [www.energycodes.gov](http://www.energycodes.gov).

(A) To document compliance using REScheck, users shall meet or exceed the applicable provisions of the energy subcode. Please see the current energy subcode compliance bulletin for further guidance.

(2) For all other buildings, compliance may be shown with the COMcheck compliance software or equivalent, submission of the compliance forms found in the COMcheck user's manual or the ASHRAE 90.1 user's manual for the edition of ASHRAE adopted under the energy subcode. The COMcheck user's manual and software are available from the U.S. Department of Energy at [www.energycodes.gov](http://www.energycodes.gov). The ASHRAE 90.1 user's manual is available from the American Society of Heating, Refrigerating and Air-conditioning Engineers Inc., at [www.ashrae.org](http://www.ashrae.org).

(A) To document compliance using COMcheck, users shall meet or exceed the applicable provisions of the energy subcode. Please see the current energy subcode compliance bulletin for further guidance.

vii. Engineering details and specifications: The construction official and appropriate subcode official may require adequate details of structural, mechanical, plumbing, and electrical work, including computations, stress diagrams, and other essential technical data to be filed. All engineering plans and computations shall bear the seal and signature of the licensed engineer or registered architect responsible for the design. Plans for buildings shall indicate how required structural and fire-resistance rating will be maintained for penetrations made for electrical, mechanical, plumbing, and communication conduits, pipes, and systems.

(1) Plumbing plans for class 3 structures may be prepared by persons licensed pursuant to "The Master Plumber Licensing Act," N.J.S.A. 45:14C-1 et seq. Electrical plans for class 3 structures may be prepared by persons licensed pursuant to "The Electrical Contractors Licensing Act," N.J.S.A. 45:5A-1 et seq..

(2) Whenever the licensing board pursuant to either of the above Acts shall provide for a seal evidencing that the holder is licensed, such shall be acceptable to the enforcing agency in lieu of affidavit.

(3) Mechanical plans for class 3 structures may be prepared by licensed heating, ventilation, air conditioning, and refrigeration contractors.

- viii.-xii. (No change.)
- 2.-4. (No change.)

#### 5:23-2.15A Construction permit for a single-family residence

- (a) (No change.)

(b) Plans containing the following information shall be considered to meet the requirements of (a) above:

- 1.-2. (No change.)
- 3. The following details and submissions shall be required:
  - i.-v. (No change.)

vi. Energy subcode compliance, applicable to new residences and additions to existing residences, shall be demonstrated with either detailed calculations, the submission of NJ Clean Energy Program for Residential New Construction compliance documentation or other "above code" program documentation, the submission of printouts from software recognized by the Department, such as REScheck, or conforming with the prescriptive packages described in the current energy subcode compliance bulletin. REScheck software is available from the U.S. Department of Energy at [www.energycodes.gov](http://www.energycodes.gov).

(1) To document compliance using REScheck, users shall meet or exceed the applicable requirements of the energy subcode. Please see the current energy subcode compliance bulletin for further guidance.

- 4.-7. (No change.)

#### 5:23-2.20 Tests and special inspections

- (a) (No change.)

(b) All special inspections, as provided in the building subcode, shall apply to Class 1 buildings and a smoke control system installed in any building. A special inspector shall be independent of the contractor and shall be responsible to the building owner or building owner's agent. Special inspectors shall be certified in the appropriate specialty.

- 1. (No change.)
- (c)-(e) (No change.)

#### 5:23-2.23 Certificate requirements

- (a)-(e) (No change.)

(f) Change of use: It shall be unlawful to change the use of any structure, or portion thereof, without the prior application for, and issuance of, a certificate of occupancy. A certificate of occupancy shall be issued, provided such structure shall comply with the provisions of N.J.A.C. 5:23-6, Rehabilitation Subcode. After a change of use has been made in a building or structure, the reestablishment of a prior use is prohibited, unless the building complies with the provisions of N.J.A.C. 5:23-6, Rehabilitation Subcode, for the prior use.

- (g)-(q) (No change.)

#### 5:23-2.35 Enforcement actions after issuance of certificate(s) of occupancy

(a) Subsequent to the issuance of a certificate of occupancy, the construction official shall issue a notice of violation for any violation of the provisions of the Code in effect at the time of permit application that comes to his or her attention. Pursuant to N.J.S.A. 2A:14-1.1, no notice of violation may be issued to the developer or to any contractor more than 10 years after issuance of the certificate of occupancy.

1. If violations of any of the following provisions of the Code in effect at the time of permit application are found in a residential structure in a development, other than Group R-1, subsequent to the issuance of a certificate of occupancy, the construction official shall issue such notices and orders as may be necessary to ensure that all units within the development that might have similar violations are inspected for such violations and that any such violations found are cited and abated:

- i. N.J.A.C. 5:23-2.32, Unsafe structures;
- ii. The following provisions of the building subcode:

- (1) (No change.)
- (2) Chapter 7, Fire and Smoke Protection Features;
- (3)-(4) (No change.)
- (5) Chapter 10, Means of Egress, except for sections 1011.5.4, 1011.5.5, 1011.11, 1011.12, 1029.13, 1029.15, and 1029.16;

iii. The following provisions of the one- and two-family dwelling subcode:

- (1) Section R302.1, Exterior walls (Fire-Resistant Construction);
- (2) Section R302.2, Townhouses (Fire-Resistant Construction);
- (3) Section R-302.3, Two-family dwellings (Fire-Resistant Construction); and

- (4) Section R314, Smoke Alarms.

iv. The following provisions of the electrical subcode:

- (1) Section 240.3, Other Articles;
- (2) Section 240.4, Protection of Conductors;
- (3) (No change.)

- v.-vi. (No change.)
- 2. (No change.)

#### 5:23-2.37 Elevation of an existing building

(a) Service connections: Before a building can be elevated, the owner or agent shall notify all utilities having service connections within the building, such as water, electric, gas, sewer, and other connections. A permit to elevate shall not be issued until releases are obtained from all utilities that provide service to the property, stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed or plugged in a safe manner.

1. Exception: No release from the utility shall be required for the disconnection of water or sewer service outside of the utility right-of-way.

- (b)-(d) (No change.)

### SUBCHAPTER 3. SUBCODES

#### 5:23-3.2 Matters covered; exceptions

- (a)-(c) (No change.)

(d) Rules concerning commercial farm buildings are as follows:

- 1.-11. (No change.)

12. Commercial farm buildings exempted under (d)11i above shall meet the following requirements in lieu of those requirements specified

in the subsections of Chapter 10, Means of Egress, of the building subcode:

- i. In lieu of the requirements of Section 1017, the maximum distance of travel from any point in the building to an exit shall not exceed 150 feet;
- ii. In lieu of the requirements of Sections 1006 and 1007, one exit is required for each 15,000 square feet of floor area and fraction thereof;
- iii. In lieu of the requirements of Section 1013, exit signs must be posted. Exit signs are not required to be illuminated;
- iv. The provisions of Section 1008 shall apply in commercial farm buildings where the owner has determined to provide electricity. Where electricity is provided, any electric light provided in the commercial

farm building shall be deemed to meet the means of egress lighting requirements and a back up power source shall not be required unless the commercial farm building will be used as a place of public assembly in accordance with (d)8 above.

- v.-vii. (No change.)
- 13. (No change.)

5:23-3.4 Responsibilities

(a) The enforcement responsibilities of the adopted subcodes are as follows:

- 1. (No change.)
- 2. Plumbing Subcode:

Chapter	Section/Title	Responsibility	
		Plan Review	Inspection
...			
Ch. 10	Water Supply and Distribution	Plumbing (except 10.5.9)	Plumbing
	10.5.9	Fire/Plumbing	Plumbing (except dedicated fire service supply) Fire (dedicated fire service supply)
...			

- 3. (No change.)
- 4. Energy Subcode:

International Energy Conservation Code

Chapter	Section/Title	Responsibility	
		Plan Review	Inspection
...			
Ch. 4 (RE)	Residential Energy Efficiency		
...			

ASHRAE Standard 90.1

(No change.)

- 5. (No change.)
- 6. One- and Two-Family Dwelling Subcode:

Chapter	Section/Title	Responsibility	
		Plan Review	Inspection
...			
Ch. 11	Energy Efficiency		
...			

- 7.-9. (No change.)
- (b)-(c) (No change.)

(d) Any mechanical inspector employed by the Department or by a municipality, and so assigned by the construction official, shall have the responsibility for enforcement of the provisions of the code, except work involving the installation or replacement of backflow preventers or electrical work, for the installation and replacement of heating or cooling equipment or water heaters or other mechanical equipment, such as refrigeration, air conditioning, or ventilating apparatus, gas piping or heating systems, or stand-by power generators, in existing buildings of Group R-3\*[, R-4,]\* or R-5. For a new installation, the mechanical inspector shall have this enforcement responsibility provided that the installation does not penetrate a fire-rated assembly.

1. When no mechanical inspector is assigned, the construction official shall assign the plumbing subcode official or a plumbing inspector, who shall have the responsibility for the enforcement of provisions of the code, except electrical, for the installation and replacement of heating or cooling equipment or water heaters or other mechanical equipment, such as refrigeration, air conditioning, or ventilating apparatus, gas piping or heating systems, or stand-by power generators, in existing buildings of Group R-3\*[, R-4,]\* or R-5. A plumbing subcode official or plumbing inspector need not be a mechanical inspector to perform these inspections.

- 5:23-3.8 Products violating the Code
- (a)-(c) (No change.)

(d) The Commissioner has determined that the following materials and supplies are not in conformance with the State Uniform Construction Code:

1. Building materials and supplies:

i. Wood paneling being used as an interior finish not in conformance with section 803.1 of the building subcode. This section specifies that finish shall be classified in accordance with ASTM E84;

ii. Carpeting used as an interior floor finish material not in conformance with section 804 of the building subcode. This section specifies that interior floor finish shall be classified in accordance with ASTM E648; and

2.-4. (No change.)

5:23-3.14 Building subcode

(a) (No change.)

(b) The following chapters of the building subcode are modified as follows:

1.-9. (No change.)

10. Chapter 11, Accessibility, shall be amended as follows:

i. (No change.)

ii. In Section 1101.2, Design, "amended as follows:" shall be added to the end of the sentence and the following list shall be inserted:

1.-8. (No change.)

9. Sections 804.5.2, entitled "Operable Parts," 804.5.3, entitled "Dishwasher," 804.5.4, entitled "Cooktop," 804.5.5, entitled "Oven," and 804.5.6, entitled "Refrigerator/Freezer," shall be deleted in their entirety.

10.-11. (No change.)

12. Amend section 1003.3.1, entitled "Location," as follows: Insert "1." before the existing exception and delete "unfinished" in two places. Additionally, insert "Exception 2. An accessible route is not required to exterior decks, patios, or balconies that have impervious or improved surfaces that are not more than four (4) inches below the finished floor level of the adjacent interior space of the dwelling unit."

13.-20. (No change.)

iii.-v. (No change.)

vi. Section 1104.1, Multilevel buildings and facilities, shall be deleted and the following shall be inserted:

"1104.4 Multilevel nonresidential buildings and multilevel buildings of Group R-1.

1104.4.1 Small Buildings. Small buildings, defined as those with a total gross enclosed floor area of less than 10,000 square feet, shall be required to have at least one accessible entrance on the ground (or first) floor and accessible interior building features on all floors. Except as provided in Sections 1104.4.1.1-1104.4.1.4, small buildings that are not more than two stories shall not be required to have an elevator(s) to provide a vertical accessible route between floors. Small buildings that are three or more stories shall be required to have an elevator(s) to provide a vertical accessible route between floors; however, in such buildings, floors that are less than 3,000 square feet or floors with only mechanical equipment shall not be required to be served by an elevator.

1104.4.1.1 Regardless of the square footage of the buildings or floors, buildings of two or more stories that are owned and occupied by public entities shall provide a vertical accessible route between floors.

1104.4.1.2 Regardless of the square footage of the buildings or floors, buildings of two or more stories that house public transit stations or airport passenger terminals shall provide a vertical accessible route between floors.

1104.4.1.3 Regardless of the square footage of the buildings or floors, buildings of two or more stories that house the professional offices of health care providers shall provide a vertical accessible route between floors.

1104.4.1.4 Regardless of the square footage of the buildings or floors, buildings of two or more stories that house shopping centers or shopping malls shall provide a vertical accessible route between floors.

1104.4.1.4.1 For the purposes of applying this requirement, a shopping center or shopping mall shall mean a building or a series of buildings on a common site, under common ownership or control, or developed as one project or as a series of related projects housing five or more sales or rental establishments.

1104.4.2 Large buildings. Large buildings, defined as those with a total gross enclosed floor area of 10,000 square feet or more, shall provide the accessible building features required of small buildings in Section 1104.4.1. In addition, large buildings shall be required to have an elevator(s) to provide a vertical accessible route between floors; however, in such buildings, floors that are less than 3,000 square feet or floors with only mechanical equipment shall not be required to be served by an elevator.

1104.4.2.1 Where facilities for employees, including rest rooms, lunch rooms, and lockers, and public facilities, including rest rooms and drinking fountains, are provided on a floor or mezzanine that is not required to be served by an elevator and where no vertical accessible route is provided, the facilities provided on the floor or mezzanine must also be provided on the accessible level.

1104.4.2.2 A limited use limited application elevator that complies with ANSI/ASME A17.1 adopted by reference in the building subcode may be used to provide a vertical accessible route to a floor or mezzanine, of less than 3,000 square feet, provided that the travel distance does not exceed 25 feet.

1104.4.3 For the purposes of applying these provisions, buildings separated by firewalls with penetrations intended for human passage shall not constitute separate buildings.

1104.4.4 The following provisions shall apply to a nonresidential building required to be accessible, whether a large building or a small building.

1104.4.4.1 An accessible route available to the general public shall not pass through kitchens, storage rooms, or similar spaces.

1104.4.4.2 In buildings, facilities, or portions thereof that primarily serve children, accessible facilities that comply with the provisions of this subchapter for use by adults shall be provided."

vii. In Section 1105.1, Public entrances, after "... at least sixty percent of all public entrances shall be accessible." insert "The primary entrance(s) used by the general public shall be accessible."

Recodify existing vii.-xvii. as viii.-xviii. (No change in text.)

**\*xix. Section 1107.5.2.3 shall be added as follows: 1107.5.2.3: Assisted living. Assisted living facilities that are licensed by the Department of Health are Group I-2 for compliance with the building subcode, fire protection subcode, and the other subcodes of the Uniform Construction Code and shall be Group R-2 for the purposes of accessibility.**

**1107.5.2.3.1 Dwelling units that are available for occupancy only for 30 or more consecutive days shall be required to comply with Section 1003 of ICC/ANSI A117.1.**

**1107.5.2.3.2 Where an assisted living facility includes dwelling units or rooms that are available for occupancy for fewer than 30 consecutive days, 50 percent of those dwelling units or rooms shall be accessible in conformance with Section 1002 of ICC/ANSI A117.1 and shall include one full bathroom that complies with Section 1002 of ICC/ANSI A117.1 and, where a kitchen is provided, it shall comply with Section 1002 of ICC/ANSI A117.1.**

**1107.5.2.3.3 In dwelling units in an assisted living facility that are designated Group R-2 for the purposes of accessibility, the following may be adaptable:**

**1107.5.2.3.3.1 The threshold for an accessible transfer shower may be adaptable as long as the shower threshold can be adapted with minimal expense and effort to be accessible; and**

**1107.5.2.3.3.2 A transfer-type shower of 36 inches by 48 inches that includes an accessible seat may be provided in individual dwelling units. The threshold of this shower shall not exceed four inches.\***

Recodify existing xix. and xx. as \*xx. and xxi.\* (No change in text.)

\*[xxi. Section 1107.5.5 shall be added as follows: 1107.5.5: Assisted living facilities that are licensed by the Department of Health are Group I-2 for compliance with the building subcode, fire protection subcode, and the other subcodes of the Uniform Construction Code and shall be Group R-2 for the purposes of accessibility.

1107.5.5.1. Dwelling units that are available for occupancy only for 30 or more consecutive days shall be required to comply with Section 1003 of ICC/ANSI A117.1.

1107.5.5.2. Where an assisted living facility includes dwelling units or rooms that are available for occupancy for fewer than 30 consecutive days, 50 percent of those dwelling units or rooms shall be accessible in conformance with Section 1002 of ICC/ANSI A117.1 and shall include one full bathroom that complies with Section 1002 of ICC/ANSI A117.1 and, where a kitchen is provided, it shall comply with Section 1002 of ICC/ANSI A117.1.

1107.5.5.3 In dwelling units in an assisted living facility that are designated Group R-2 for the purposes of accessibility, the following may be adaptable:

1107.5.5.3.1 The threshold for an accessible transfer shower may be adaptable as long as the shower threshold can be adapted with minimal expense and effort to be accessible; and

1107.5.5.3.2 A transfer-type shower of 36 inches by 48 inches that includes an accessible seat may be provided in individual dwelling units. The threshold of this shower shall not exceed four inches.\*

Recodify existing xxi.-l. as xxii.-lii. (No change in text.)

11.-26. (No change.)

5:23-3.15 Plumbing subcode

(a) (No change.)

(b) The following pages, chapters, sections, or appendices of the plumbing subcode shall be amended as follows:

1.-8. (No change.)

9. Chapter 10 of the plumbing subcode, entitled “Water Supply and Distribution,” shall be amended as follows:

i.-iv. (No change.)

v. Section 10.5.9a, Protection from Fire Systems, Exception (4) shall be deleted and the following inserted: “(4) Where fire protection systems supplied from a potable water system include a fire department connection which is located less than 1,700 feet from a non-potable water source, the water supply shall be protected by one of the following:

(i) Reduced pressure backflow preventer assembly; or

(ii) Reduced pressure detector assembly.”

vi.-viii. (No change.)

10.-19. (No change.)

5:23-3.22 Fuel gas subcode

(a) (No change.)

(b) The following chapters, sections, or pages of the International Fuel Gas Code/2015 shall be amended as follows:

1.-5. (No change.)

6. Chapter 6 of the fuel gas code, entitled “Specific Appliances,” shall be amended as follows:

i. In Section 614.10, Common exhaust systems for clothes dryers located in multistory structures, item 7, insert “, if provided,” after the word “and”.

ii.-iii. (No change.)

7.-9. (No change.)

SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

5:23-4.26 Certification of building elements

(a) Building elements shall be certified in accordance with the following provisions:

1. Building elements, such as fire walls, fire separation walls, wall panels, pre-stressed/prefabricated floor or roof panels, and pre-engineered structural frames, built in accordance with the New Jersey Uniform Construction Code, may be approved by (a) i or ii below:

i.-ii. (No change.)

iii. If applicable, Fabricator Approval per Section 1704.2.5.1 of the building subcode is required for Class 1 buildings in addition to (a) i or ii above.

SUBCHAPTER 5. LICENSING OF CODE ENFORCEMENT OFFICIALS

5:23-5.3 Types of licenses and certifications

(a) Rules concerning code enforcement licensure and certification categories are:

1. Technical licenses: Subject to the requirements of this subchapter, persons may apply for and may be licensed in the following specialties:

i.-vi. (No change.)

vii. Mechanical inspector: Mechanical inspectors are authorized to carry out field inspection and plan review work for all work under the mechanical subcode in existing structures of Group R-3\*[ , R-4,]\* or R-5. Only a person already holding a valid inspector’s license may apply for a mechanical inspector’s license.

2.-3. (No change.)

4. Special inspector certifications: Subject to the requirements of this subchapter, persons may apply for and may be certified in the following specialties:

i. Structural welding special inspector: Structural welding special inspectors are authorized to carry out field inspections pursuant to sections 1705.2.1, 1705.2.2, and 1705.3.1 of the building subcode.

ii. Structural steel and bolting special inspector: Structural steel and bolting special inspectors are authorized to carry out field inspections pursuant to section 1705.2.1 of the building subcode.

iii. Concrete placement special inspector: Concrete placement special inspectors are authorized to carry out field inspections pursuant to section 1705.3, except section 1705.3.1, section 1705.7 and Table 1705.3, rows 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, and 12 of the building subcode.

iv. Reinforced concrete special inspector: Reinforced concrete special inspectors are authorized to carry out field inspections pursuant to section 1705.3, except section 1705.3.1, section 1705.8 and Table 1705.3, rows 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, and 12 of the building subcode.

v. Prestressed concrete special inspector: Prestressed concrete special inspectors are authorized to carry out field inspections pursuant to section 1705.3, except section 1705.3.1 and Table 1705.3, rows 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of the building subcode.

vi. Structural masonry special inspector: Structural masonry special inspectors are authorized to carry out field inspections pursuant to section 1705.4 of the building subcode.

vii. Spray-applied fireproofing special inspector: Spray-applied fireproofing special inspectors are authorized to carry out field inspections pursuant to section 1705.14 of the building subcode.

viii. Exterior insulation finish system (EIFS) special inspector: EIFS special inspectors are authorized to carry out field inspections pursuant to section 1705.16 of the building subcode.

SUBCHAPTER 12. ELEVATOR SAFETY SUBCODE

5:23-12.8 Alterations, minor work, ordinary elevator maintenance

(a) For the purposes of this subchapter, alteration of an elevator device means any change to equipment other than minor work as provided in (b) below and ordinary maintenance, as defined in N.J.A.C. 5:23-2.7(c)6. Alteration of an elevator device shall comply with the applicable requirements of Section 8.7 and Appendix L of the most recent edition of ASME A17.1, referenced in the building subcode, or with the applicable requirements of the most recent edition of ASME A18.1, or ASME A90.1 referenced in the building subcode.

(b) (No change.)

(a)

**DIVISION OF CODES AND STANDARDS****Uniform Construction Code****Rooming and Boarding Houses**

**Adopted Amendments: N.J.A.C. 5:23-3.11, 3.14, 6.31; and 5:27-1.4, 1.5, 1.6, 1.9, 2.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, 3.9, 3.12, 4.2, 4.9, 6.3, 7.3, 7.4, 8.1, 8.2, 8.3, 8.4, 9.1, 10.1, 11.1, 12.1, 13.1, and 14.1**

Proposed: June 5, 2017, at 49 N.J.R. 1276(a).

Adopted: December 20, 2017, by Charles A. Richman, Commissioner, Department of Community Affairs.

Filed: December 20, 2017, as R.2018 d.060, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3) **and with the proposed amendments to N.J.A.C. 5:27-4.1, 4.3 through 4.8, 6.1, 6.2, 7.1, and 7.2 not adopted.**

Authority: N.J.S.A. 52:27D-124 and 55:13B-6.

Effective Date: January 16, 2018.

Expiration Date: March 25, 2022.

**Summary of Public Comments and Agency Responses:**

Comments were received from Tonia Ahern, Cape May County; Jim Anders; Barbara Anderson, Chief Executive Officer (CEO)/Consultant, Greater Good Group; Nicole Bragg, Serenity House Alumna; Sheila Buckley, Active Recovery Advocate, Camden County; Terri Burns, New Jersey Alliance of Recovery Residences (NJARR); Barbara Byrne, Active Recovery Advocate, Gloucester County; Diane Cain; Patrice Canin; Donna Catlow; Linda Cooper, Egg Harbor Township, New Jersey; Diana Curry; Douglas D'Alfonso, Active Recovery Advocate, Gloucester County; Keith A. Davis, Esq., Nehmad, Perillo, and Davis, PC; Rose DeFinis; Sherlyn DiPaolo, Enlightened Solutions; John Doe, May's Landing; John Drucker, Assistant Construction Official, Borough of Red Bank; Chanel Dupree; Maria Farhat-Tanzola; Warren Flax; Anthony Gallo; William Gee, President, Ocean County Fire Prevention and Protection Association; Dr. Nancy Greenbarg; Laurel Guenther, Pitman, New Jersey; Edwina Hansen, Ole Hansen and Sons, Inc.; Jennifer Hansen, Hansen Foundation; Roger Hansen, Ole Hansen and Sons, Inc.; Emete Hassan, Hassan Clean and Sober House; Steven Hauck, Director, Edgewater House and Lehigh House; Christine Henshaw; Bob Hogg, President, Steelman, Graves, and Waters, Inc.; Meerah Kim, Serenity House Resident; Cliff Koblin, Addiction Recovery Specialist; Ian Koch, Executive Director, Surfside Recovery Services; Alice LaRocca, Active Recovery Advocate, Atlantic County; Bruce Lynch, Principal, Clifton Larson Allen, LLP; Mitchell Malec; Charlene Maycott, C.C.A.R., C.A.R.C.; John Moriarty, III; Marcella Pettorossi, Active Recovery Advocate, Gloucester County; Donna A. Parker, Addiction Counseling Specialist; Janet Passio; Mark Shepard; Leannek Taylor; Lisa Valentine, President, Valentine Foundation, Inc.; Ginny Weigelt, Recovery Coach; and Debra Wentz, Ph.D., President and Chief Executive Officer, New Jersey Association of Mental Health and Addiction Agencies, Inc.

1. COMMENT: Several commenters asked that a public hearing be held.

RESPONSE: The Department thanks the commenters for their request. Because comments that were wide-ranging in both breadth and depth were received on this rule proposal, the Department believes that it is not necessary to hold a public hearing.

2. COMMENT: Several commenters suggested that, rather than the proposed rules, the Department should adopt the current National Alliance of Recovery Residences (NARR) standards.

RESPONSE: The National Alliance of Recovery Residences (NARR) standards cover four different "levels" of facilities. These range from a Level 1, which most closely coincide with Oxford Houses, to Level 4, which provide for paid staff and on-site treatment services. These standards, thus, provide a spectrum of different types of facilities meeting different levels of need by residents. New Jersey has a similar range of facilities available, which also provide different levels of

services. Some of these (such as rooming and boarding houses) are regulated by the Department of Community Affairs ("DCA" or "the Department"), while others are regulated by other State agencies, such as the Department of Health, and the Department of Human Services. Cooperative sober living residences (CSLRs) represent just one type of facility, intended to offer a specific, limited, therapeutic environment, with a live-in owner/operator and no personal services. The Department believes that the CSLRs rule provides a clear definition and a set of standards that are appropriate within the framework of existing New Jersey facilities. In addition, standards for licensing these facilities are established in New Jersey law. The Department believes that this rule establishes clear standards that fit into the current regulatory and statutory framework.

3. COMMENT: Several commenters stated that the rules should not include a 10-resident limit, particularly when compared to the 16-person limit for Oxford Houses, which provide less oversight. They argue that a higher permitted number of residents would be more financially sustainable for facilities. In place of the 10-person limit, the commenters suggest using the NARR standard, which is based on a minimum of 50 square feet per person for each bedroom. Finally, a commenter suggested that the 10-person limit might violate the Americans with Disabilities Act (ADA) and the Federal Fair Housing Act.

RESPONSE: The 10-person occupancy is based on the International Building Code's occupancy limit for a transient congregate dwelling. Because these residences are not required to be sprinklered, to enhance the safety of these residences, the occupant limit was established at the 10-person maximum for a transient congregate dwelling, rather than the 16-person maximum for a non-transient congregate residence. The concern over the ADA/FHA seems premised on the commenter's equating CSLRs with Oxford Houses; the two are not equivalent, as CSLRs involve a level of control by an operator and constitute boarding houses subject to the Rooming and Boarding House Act, unlike Oxford Houses.

4. COMMENT: Several commenters stated that the rules should further define the term "adequate means of egress." They propose that two points of egress, the back and front doors, should be a sufficient standard.

RESPONSE: The term "means of egress" is a code term that is well-understood. The Uniform Construction Code consists of adopted subcodes, which establish technical requirements. The means of egress requirements are established in the International Building Code, which is the adopted building subcode of the Uniform Construction Code (N.J.A.C. 5:23-3.14), and is the code section amended by this rulemaking. An "adequate" means of egress would be a code-compliant one. The reference to "adequate means of egress" is in the summary statement, not in the rule text, so the Department sees no need to further amend this section.

5. COMMENT: Several commenters contended that the term phrase "lack of probity" is vague and should be further defined.

RESPONSE: The Department believes that the phrase "lack of probity" is readily understandable and does not require further explanation. It should also be noted that this term is existing language (at N.J.A.C. 5:27-3.3(b)) and is not proposed for change.

6. COMMENT: Several commenters stated that the rules are not clear as to what types of alarms are required for a CSLR.

RESPONSE: The types of alarms required are, in fact, clearly spelled out in the rules. Specifically, proposed N.J.A.C. 5:27-1.5(c)iii states that each facility shall have smoke alarms that comply with the Uniform Fire Code (UFC). The rules go on to say that fire alarm systems installed in accordance with the one- and two-family dwelling subcode shall also be deemed to be compliant. Smoke alarms are required to 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. In addition, the rules separately require carbon monoxide alarms (N.J.A.C. 5:27-14.1). Because alarm requirements have changed over time, the specific type of smoke alarm required depends on the code under which the building was constructed.

7. COMMENT: Two commenters stated that the rules require a Federal Standards Statement.