

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.-iv. (No change.)

v. The replacement of any window or door, including garage doors, in the same opening without altering the dimensions or framing of the original opening. This shall include storm windows and storm doors. The replacement of means of egress and emergency escape windows and doors may be made in the same opening without altering the dimensions or framing of the original opening, and shall not reduce the required height, width, or net clear opening of the previous window or door assembly. Exception: Opening protectives in fire-resistance rated assemblies;

vi. The repair or replacement of any non-structural component, such as a non-loadbearing partition and a railing in one- and two-family dwellings. Materials or components used shall be identical to, or closely similar to, the existing materials and in the same location as those replaced;

vii. The repair, replacement, or installation of any non-structural elements including, but not limited to, built in or attached furnishings, bookcases, equipment, or accessories, such as cabinets, benches or seats, and bathroom accessories;

viii.-xii. (No change.)

xiii. Notwithstanding (b)2 and 4 above, the repair or replacement of any part of a deck, porch, or stoop that does not provide structural support for any roof or portion of a building. Materials used shall be identical to, or closely similar to, the existing materials and in the same location as those replaced;

xiv.-xvii. (No change.)

2. (No change.)

3. Ordinary electrical maintenance shall include:

i.-iv. (No change.)

v. Replacement of kitchen range hoods in dwelling units, provided that 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 cubic feet per minute (cfm), and provided that the hood recirculates or vents independently to the outdoors;

vi.-vii. (No change.)

4. (No change.)

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

i.-v. (No change.)

vi. Replacement of kitchen range hoods in dwelling units, provided that 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, and provided that the hood recirculates or vents independently to the outdoors;

vii.-viii. (No change.)

ix. The replacement of bathroom exhaust fans in dwelling units, provided that the fan vents independently to the outdoors; and

x. (No change.)

6. (No change.)

5:23-2.17A Minor work

(a) (No change.)

(b) Notice of work; application:

1. Notice of minor work shall be oral or written and submitted in person or electronically to local enforcement agency and shall be given before work commences. Notice shall include a brief summary and the location of the work to be performed. Such notice shall be consent for the enforcing agency to enter and inspect in the same manner a permit application is consent.

2. (No change.)

(c) Minor work:

1.-2. (No change.)

3. Minor work shall also mean and shall include the replacement of existing low-pressure boilers, warm air furnaces, air conditioning units, and air conditioning condensing units with new appliances of like capacity.

4. (No change.)

5. Minor work shall also mean and include the following:

i. (No change.)

ii. The installation of a radon mitigation system provided no new electrical work is required and provided the installation does not involve the penetration of a fire-resistance rated assembly;

iii.-v. (No change.)

6.-7. (No change.)

(d) (No change.)

(a)

**DIVISION OF CODES AND STANDARDS**

**Uniform Construction Code**

**Adopted Amendments: N.J.A.C. 5:23-2.18, 2.35, 3.2, 5.3, 6.2, 6.3A, 6.5, 6.6, 6.7, 6.8, 6.9, 6.11A, 6.17, 6.27, 6.28A, 6.31, 12.2, and 12.8**

Proposed: April 6, 2020, at 52 N.J.R. 561(a).

Adopted: September 9, 2020, by Lt. Governor Sheila Y. Oliver, Commissioner, Department of Community Affairs.

Filed: January 12, 2021, as R.2021 d.015, with non-substantial changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

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

Effective Date: February 16, 2021.

Expiration Date: March 25, 2022.

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

Comments were received from Tom Lampros, a solar installer; Jim McAleer, a former public safety director; and Mitchell Malec, a former employee of the Department of Community Affairs (Department).

1. COMMENT: One commenter expressed general support for the rulemaking, on the basis that it standardizes code requirements across jurisdictions, a boon to solar installers such as himself. The commenter had several questions and recommendations regarding R324.6 and R324.7, subsections of the International Residential Code (IRC).

RESPONSE: The Department thanks the commenter for the support. R324.6 and R324.7 are subsections of the 2018 IRC that had been adopted by reference by the Department in previous rulemaking (see 51 N.J.R. 1399(a)). Thus, questions and recommendations pertaining to R324.6 and R324.7 are outside the scope of this rulemaking.

2. COMMENT: One commenter expressed that he opposes the changes proposed for installation of solar PV on residential buildings on the grounds that it compromises the safety of firefighters. The commenter stated that, in discussing the changes with several fire chiefs and first responders, they are in agreement that today's firefighting protocols discourage being on the roof of a building during an active fire. He elaborated: "The pathway up the side of the roof is dangerous to the personnel walking up the area with heavy turn-out gear and SCAT (sic) packs on, while carrying equipment. As to an area to be used for ventilation, the opposite side of the ridge could be used, however, it is best practices to use the gable end."

RESPONSE: The proposed amendment is made to align with a provision in the one- and two-family dwelling subcode adopted September 3, 2019, and relates to rooftop access when there are solar panels on the roof; this change is necessary to ensure that firefighters are able to access rooftops in the event of a fire. Additionally, the Department's statutory authority allows it to retain a requirement previously adopted or to adopt the language in the most recent edition of the applicable model code (N.J.S.A. 52:27D-123.b(1), (2), (3), and (4)). The 2018 IRC was adopted by reference on September 3, 2019 (see 51 N.J.R. 1399(a)), and the changes contained therein, which the commenter is referencing, cannot be modified at this time.

3. COMMENT: One commenter recommended that the Department correct citation errors at N.J.A.C. 5:23-6.8(h)13 and 6.31(j).

RESPONSE: The commenter is correct, and a clarifying "M" and "R" will be added to the respective section numbers.

4. COMMENT: The commenter recommended that, because the "Building Subcode and Plumbing Subcode are somewhat interrelated

when determining plumbing fixture count, [...] the Department take a closer look at the plumbing fixture count requirements that are within the Rehabilitation Subcode," for example, N.J.A.C. 5:23-6.12(k), 6.13(k), 6.14(l), 6.28(k), and 6.31(l).

RESPONSE: The commenter is correct in noting that the table at N.J.A.C. 5:23-6.12(k) is modified while the other sections are not; however, the calculation used in determining fixture count is outside the scope of this rulemaking, and changes are not being considered at this time.

#### Federal Standards Statement

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

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks \*thus\*):

### SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT; PROCESS

#### 5:23-2.18 Inspections

(a) (No change.)

(b) Inspections during the progress of work: The construction official and appropriate subcode officials shall carry out periodic inspections during the progress of work to ensure that work inspected conforms to the requirements of the code.

1. Inspections of one- and two-family dwellings for which construction must cease until the inspection is made shall be limited to the following:

i. (No change.)

ii. Foundations and all walls up to grade level prior to covering or back filling;

(1) (No change.)

(2) For new construction, additions, and work that is determined to be a substantial improvement pursuant to N.J.A.C. 5:23-6.3A, the foundation location survey, including the lowest floor elevation and as-built elevation documentation, for a building that is located in a flood hazard area shall be submitted to the construction official and to the local floodplain administrator and shall include elevation certificates as required by section 1612.4 of the building subcode or section R322.1.10 of the one- and two-family dwelling subcode; the documentation and certificates shall be submitted prior to further vertical construction;

iii.-iv. (No change.)

2.-4. (No change.)

(c)-(h) (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. (No change.)

ii. The following provisions of the building subcode:

(1)-(4) (No change.)

(5) Chapter 10, Means of Egress, except for sections 1011.5.4, 1011.5.5, 1011.11, 1011.12, 1029.14, 1029.16, and 1029.17;

iii.-vi. (No change.)

2. (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.-10. (No change.)

11. Construction type, height, and allowable area requirements for commercial farm buildings and structures shall be as specified in the building subcode and shall not exceed the area or height limitations of Tables 504.3 and 506.2 for the type of construction used, except as follows:

i.-iii. (No change.)

12.-13. (No change.)

### 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.-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.-ii. (No change.)

iii. Concrete placement special inspector: Concrete placement special inspectors are authorized to carry out field inspections pursuant to section 1705.3 (excluding section 1705.3.1) and Table 1705.3, rows 1, 2, 3, 4, 5, 6, 7 (excluding shotcrete inspections), 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 (excluding section 1705.3.1), section 1705.8 and Table 1705.3, rows 1, 2, 3, 4, 5, 6, 7 (excluding shotcrete inspections), 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 (excluding section 1705.3.1) and Table 1705.3, rows 1, 2, 3, 4, 5, 6, 7 (excluding shotcrete inspections), 8, 9, 10, 11, and 12 of the building subcode.

vi.-viii. (No change.)

### SUBCHAPTER 6. REHABILITATION SUBCODE

#### 5:23-6.2 Applicability and compliance

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

(c) Compliance: The only requirements of the other subcodes of the UCC that apply are specifically set forth in this subchapter. Compliance with the requirements of the other subcodes of the Uniform Construction Code is not required for work in existing buildings. However, building components already in compliance with the requirements of the other subcodes of the Uniform Construction Code shall be replaced with components that comply. Where no year or edition is given for a standard referenced in this subchapter, the year or edition shall be the one referenced in the other subcode(s) of the UCC.

1.-3. (No change.)

4. As an alternative to compliance with the building and fire protection requirements of this subchapter, a permit applicant shall be allowed to evaluate the building in accordance with Sections 1301.5 through 1301.9 of the International Existing Building Code, as referenced by the building subcode, incorporated herein by reference, and to bring the building into compliance with the standards contained therein.

5. (No change.)

(d)-(j) (No change.)

#### 5:23-6.3A Flood-resistant construction

(a) For buildings in designated flood hazard areas, any work that constitutes a substantial improvement or repair of substantial damage of the existing building, as determined by the local floodplain administrator, shall comply with the applicable flood-resistant construction requirements below. As defined in the National Flood Insurance Program rules, 44 CFR

59.1, “substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the ‘start of construction’ of the improvement. This term includes structures which have incurred ‘substantial damage,’ regardless of the actual repair work performed.” As defined in these Federal rules, “substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.”

1. (No change.)

2. All other buildings:

i. Building subcode: Sections 802.4, 1202.4.4, 1403.6, 1403.7, 1603.1.7, 1605.2.1, 1605.3.1.2, 1612, 1804.5, and 1805.1.2.1.

ii.-iii. (No change.)

#### 5:23-6.5 Renovations

(a)-(d) (No change.)

(e) The following products and practices shall be required, when applicable:

1.-12. (No change.)

13. The total replacement of a building lighting system or a newly installed building lighting system shall meet Section R404 (N1104) of the residential energy code or Section 9.1.2 of the commercial energy code, as applicable. (A “lighting system” is defined by the commercial energy code as “a group of luminaires circuited or controlled to perform a specific function.”)

i. (No change.)

14. (No change.)

(f)-(h) (No change.)

#### 5:23-6.6 Alterations

(a)-(d) (No change.)

(e) The following products and practices shall be required, when applicable:

1.-11. (No change.)

12. In buildings of Use Groups R-3, R-4, and R-5:

i. When the work being performed creates living space over a private garage, the private garage shall comply with Section 406.3.2 of the building subcode or R302.6 of the one- and two-family dwelling subcode, as applicable, for fire resistance rating.

ii.-iii. (No change.)

13.-19. (No change.)

20. The total replacement of a building lighting system or a newly installed building lighting system shall meet Section R404 (N1104) of the residential energy code or Section 9.1.2 of the commercial energy code, as applicable. (A “lighting system” is defined by the commercial energy code as “a group of luminaires circuited or controlled to perform a specific function.”)

i. (No change.)

21.-24. (No change.)

(f)-(l) (No change.)

#### 5:23-6.7 Reconstruction

(a)-(d) (No change.)

(e) The following products and practices shall be required, when applicable:

1.-17. (No change.)

18. The total replacement of a building lighting system or a newly installed building lighting system shall meet Section R404 (N1104) of the residential energy code or Section 9.1.2 of the commercial energy code, as applicable. (A “lighting system” is defined by the commercial energy code as “a group of luminaires circuited or controlled to perform a specific function.”)

i. (No change.)

19.-22. (No change.)

(f)-(l) (No change.)

#### 5:23-6.8 Materials and methods

(a) (No change.)

(b) Building and Fire Protection Materials and Methods: The following sections of the building subcode (N.J.A.C. 5:23-3.14) shall constitute the

building and fire protection materials and methods requirements for this subchapter:

1. The following sections of Chapter 5 entitled “General Building Height and Areas”:

i. Section 505 shall apply to newly constructed “Mezzanines and Equipment Platforms”;

2. The following sections of Chapter 7 entitled “Fire and Smoke Protection Features”:

i. (No change.)

ii. Sections 705.2.1, 705.2.2, 705.4;

iii.-xix. (No change.)

3. All of Chapter 8 entitled “Interior Finishes”;

4. All of Chapter 9 entitled “Fire Protection Systems” except Sections 902, 903.2, 904.2, 905.3, 906.1, 907.2, 908, 910.2, 911, 917, 918;

5. The following sections of Chapter 10 entitled “Means of Egress”:

i. Sections 1010.1.4.1, 1010.1.4.2, 1010.1.4.3, 1010.1.4.4, 1010.1.4.5, 1010.1.9, 1010.1.10.1, 1010.1.10.2;

ii.-iv. (No change.)

6. The following sections of Chapter 12 entitled “Interior Environment”:

i. Section 1202.5.2 shall apply to new sources of contaminants; and

ii. Section 1209;

7. All of Chapter 14 entitled “Exterior Walls” except Sections 1401, 1402.2, 1402.3, 1402.4;

8. All of Chapter 15 entitled “Roof Assemblies and Rooftop Structures” except Sections 1501, 1502, 1503.4, 1510.9;

9.-13. (No change.)

14. All of Chapter 22 entitled “Steel” except Section 2201;

15. All of Chapter 23 entitled “Wood” except Section 2301.1;

16. (No change.)

17. All of Chapter 25 entitled “Gypsum Board and Plaster” except Sections 2501.1, 2502;

18.-20. (No change.)

(c) Plumbing Materials and Methods: The following sections of the plumbing subcode (N.J.A.C. 5:23-3.15) shall constitute the plumbing materials and methods requirements for this subchapter:

1.-15. (No change.)

(d) Electrical Materials and Methods: The following sections of the electrical subcode (N.J.A.C. 5:23-3.16) shall constitute the electrical materials and methods requirements for this subchapter:

1. (No change.)

2. All of Chapter 1 entitled “General” except Sections 110.8 Wiring Methods, 110.26 Spaces About Electrical Equipment (1,000 Volts, Nominal, or less), 110.32 Work Space About Equipment (over 1,000 Volts, Nominal) and 110.33 Entrance to Enclosures and Access to Working Space;

i. (No change.)

3.-10. (No change.)

(e) Mechanical Materials and Methods: The following sections of the mechanical subcode (N.J.A.C. 5:23-3.20) shall constitute the mechanical materials and methods requirements for this subchapter:

1.-11. (No change.)

12. All of Chapter 14, entitled “Solar Thermal Systems.”

(f) (No change.)

(g) (No change.)

(h) Residential Materials and Methods: The following sections of the one- and two-family dwelling subcode (N.J.A.C. 5:23-3.21) shall constitute the residential materials and methods requirements for this subchapter:

1. The following sections of Chapter 3, entitled “Building Planning”:

i.-vii. (No change.)

viii. Sections R315.1.1, R315.4, R315.7.1, R315.7.4;

ix.-xi. (No change.)

xii. Section R324 shall apply to newly installed and completely replaced solar energy systems;

xiii. Section R326 shall apply to newly installed and completely replaced enclosures for swimming pools, spas, and hot tubs. This shall also apply to partial enclosure replacement if the portion being replaced exceeds 25 percent of the total perimeter of the enclosure; and

xiv. Section R327 shall apply to newly installed and completely replaced stationary storage battery systems;

2.-12. (No change.)

13. All of Chapter 17, entitled "Combustion Air," except \*M\*1701.2; i. (No change.)

14.-20. (No change.)

(i) Elevator Devices Materials and Methods: The following sections of the elevator subcode (N.J.A.C. 5:23-12) shall constitute the elevator device materials and methods requirements for this subchapter:

1. The following sections of the elevator subcode and ASME A17.1 referenced by the adopted building subcode: N.J.A.C. 5:23-12.2(c) and 12.8, ASME A17.1, Sections 8.7 Alterations, 8.8, Welding; and 8.9, Code Data Plate, and Appendices, except for E, J, N, T, W, X, and Y.

2.-5. (No change.)

(j) Conveying Devices Materials and Methods: The following sections of Chapter 30 of the building subcode (N.J.A.C. 5:23-14) shall constitute the conveying device materials and methods requirements for this subchapter:

1. Section 3004.3—"Conveyors"; Section 3004.4—"Personnel and material hoists" and the following referenced standards from Table 3001.3—"ALI ALCTV," "ANSI MH 29.1," "ASME B20.1."

(k) (No change.)

(l) Energy Conservation Materials and Methods: The following sections of the energy subcode (N.J.A.C. 5:23-3.18) shall constitute the energy conservation materials and methods requirements for this subchapter:

1. (No change.)

2. Commercial energy code provisions:

i. The following sections of Chapter 4 of the commercial energy code entitled "Commercial Energy Efficiency":

(1) (No change.)

(2) Sections 5.4.3.1 (excluding 5.4.3.1.3a), 5.4.3.2, 5.4.3.3, 5.5.4.1, 5.8.1, and 5.8.2;

(3)-(5) (No change.)

5:23-6.9 New building elements

(a) When the rehabilitation of an existing building creates or includes any building element of a type listed in this section, then the new element shall comply with the requirements for such an element established by this section.

1. (No change.)

2. When the number of stories in a building is increased without increasing the height of the building, the building shall comply with the story requirements of Table 504.4 of the building subcode.

i. Stories or habitable attics within buildings of Group R-5 shall comply with N.J.A.C. 5:23-3.21(c)3i of the one- and two-family dwelling subcode.

3.-18. (No change.)

19. Newly created dwelling unit separation and guestroom separation assemblies shall comply with the requirements of Sections 708, 711, and 1206 of the building subcode, as appropriate, based on the construction type of the existing building, or with Section R302 and Appendix K of the one- and two-family dwelling subcode, as applicable.

20.-23. (No change.)

24. Newly installed (not replacing an existing device) electrical service equipment, switchboards, panelboards, motor control centers and other electrical equipment containing overcurrent, switching or control devices likely to require examination, adjustment, servicing, or maintenance while energized shall conform with the requirements specified at N.J.A.C. 5:23-6.8, Materials and methods, and, in addition, shall conform with Sections 110.26 (Space About Electrical Equipment— 1,000 Volts, Nominal or Less), 110.32 (Work Space About Equipment—Over 1,000 Volts, Nominal), 110.33 (Entrance and Access to Work Space), 404.8 (Accessibility and Grouping) and 408.18 (Clearances), as applicable, of the electrical subcode. (Electrical)

i.-ii. (No change.)

25.-34. (No change.)

5:23-6.11A Supplemental requirements in all Groups

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

(d) Underground Structures: When the work area exceeds 50 percent of the gross enclosed floor area of an underground structure, the entire structure shall comply with Section 405 of the building subcode.

5:23-6.17 Basic requirements—Group B

(a)-(j) (No change.)

(k) Plumbing Fixtures: Plumbing fixtures shall be provided as follows: Where the plumbing subcode allows for the substitution or omission of fixtures, such substitutions or omissions shall also be permitted under this section. (Plumbing)

	Total Occupancy <sup>1, 2, 3, 4</sup>	Water Closets	Lavatories	Drinking Water Facilities	Service Sinks
Employees	1-15	1 Unisex	1	1	1
	16 and over	Fixtures to be provided as per Table 7.21.1 of the plumbing subcode.			
Customers	1-25	1 Unisex	1	1	1
	26 and over	Fixtures to be provided as per Table 7.21.1 of the plumbing subcode.			
Note 1.-Note 3. (No change.)					
Note 4. Regardless of total occupancy, exam rooms shall comply with Section 7.21.6e of the plumbing subcode.					

(l)-(n) (No change.)

5:23-6.27 Basic requirements—Groups R-3 and R-5

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

(c) When the work being performed creates living space over a private garage, the private garage shall comply with Section 406.3.2 of the building subcode for fire resistance rating or Section R302.6 of the one- and two-family dwelling subcode, as applicable.

(d)-(h) (No change.)

5:23-6.28A Supplemental requirements—Group S

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

(f) Public Garages: When the work area exceeds 50 percent of the gross floor area of a public garage, the entire building is required to comply with Sections 406.2.5, 406.2.8, 406.2.9, 406.4.1, 406.4.2, 406.5.3, 406.5.7, 406.5.8, 406.5.9, 406.5.10, 406.5.11, 406.6.2, and 406.6.3 of the building subcode.

5:23-6.31 Change of use

(a) General: The following are of general applicability to changes of use:

1.-4. (No change.)

5. Where the character of use of an existing building or portion thereof is changed to one of the following special use or occupancy categories as defined in the building subcode, the building or portion shall comply with the referenced section of the building subcode specific to the special use or occupancy regardless of whether a change of use group is involved.

i.-xv. (No change.)

xvi. Hyperbaric Facilities - Section 425;

xvii. Combustible Dusts, Grain Processing and Storage - Section 426;

xviii. Medical Gas Systems—Section 427; and

xix. Higher Education Laboratories—Section 428.

6.-8. (No change.)

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

(e) Height and Area Limitations: The following height and area limitations apply in a change of use.

TABLE E  
Hazard Categories and Classifications  
Height and Area  
(No change.)

- 1.-2. (No change.)
- 3. Where a change of use is made in a mixed use building or a single use building is changed to a mixed use building, and any of the proposed uses is a higher category as per Table E, the building shall comply with one or any combination of the following:
  - i. Nonseparated groups: The maximum allowable height and area shall be determined by applying the more restrictive of the height and area limitations of each group, as per Table 504.3 and Table 506.2 of the building subcode, to the entire building.
    - (1)-(3) (No change.)
    - ii. Separated groups: Each portion of the building containing a group shall be completely separated from adjacent groups by a fire barrier or horizontal assembly, or both, having a fire resistance rating in accordance with Table 707.3.10 of the building subcode; mixed occupancies shall use the highest applicable rating from Table 707.3.10. For buildings equipped throughout with an automatic sprinkler system, the required fire resistance rating for groups other than H is permitted to be reduced by one hour but shall not be reduced to less than one hour. Each portion of the building shall comply with the height limitation of Table 504.4 of the building subcode for that group. In each story, the area shall be such that the sum of the ratios of the floor area of each group divided by the allowable area of Table 506.2 of the building subcode for each group shall not exceed 1.0.
      - (1) (No change.)
      - iii. Separate buildings: If each group is separated from other groups by fire walls that meet the requirements of Table 601 of the building subcode, then each group shall be considered a separate building. Each building shall comply with the height and area limitation of Table 504.3 and Table 506.2 of the building subcode.
        - (1) (No change.)
        - 4. (No change.)
    - (f) Exterior Wall Fire Resistance Ratings and Maximum Area of Exterior Wall Openings: The following exterior wall fire resistance ratings and maximum area of exterior wall openings apply in changes of use:

TABLE F  
Hazard Categories and Classifications  
Exposure of Exterior Walls  
(No change.)

- 1. Exterior Wall Protection: If the group of a building is changed to a higher hazard classification in accordance with Table F, the requirements for exterior wall fire resistance rating in the table below shall be met.
 

Requirements for Exterior Wall Fire Resistance Rating Building Use Group
(No change.)

  - i. The requirements for exterior wall fire resistance rating shall not apply to exterior walls which face buildings on the same lot where the buildings are such that, if combined into one structure, the resulting building would comply with the height and area limitations of Table 504.3 and Table 506.2 of the building subcode.
    - ii.-iv. (No change.)
  - 2. (No change.)
  - (g) (No change.)
  - (h) Fire Alarm and Detection Systems: When a change of use is made to any of the following groups, a fire alarm system and/or an automatic fire detection system shall be installed in accordance with Section 907 of the building subcode. Where a portion of a building is changed to any of the following groups, a fire alarm system and/or an automatic fire detection system shall be installed throughout the building in accordance

with Section 907 of the building subcode unless the proposed use is separated from the other use(s) in the building by a fire barrier having a fire resistance rating in accordance with Table 707.3.10 of the building subcode in which case only the portion changed shall comply; mixed occupancies shall use the highest applicable rating from Table 707.3.10. (For purposes of applying this section, horizontal separation shall not be considered.)

- 1.-9. (No change.)
- 10. Group R-4: An automatic smoke detection system shall be installed and maintained as required by Section 907.2.10A of the building subcode. (Fire)
  - (i) Single and Multiple Station Smoke Alarms: When a change of use is made to any of the following groups, single and multiple station smoke alarms shall be installed in accordance with Section 907.2.10 of the building subcode.
    - 1. Group R-1: Single or multiple station smoke alarms shall be installed and maintained as required by Section 907.2.10.1 of the building subcode.
    - 2. Groups R-2, R-3, R-4, R-5, and I-1: Smoke alarms shall be installed and maintained as required by Section 907.2.10.2 of the building subcode or Section R314 of the one- and two-family dwelling subcode, as applicable.
    - 3. (No change.)
    - (j) Carbon monoxide detection equipment: When the use of a building is changed and the building contains a fuel-burning appliance or has an attached garage, carbon monoxide detection equipment shall be installed in accordance with Section 915 of the building subcode or Section \*R\*315 of the one- and two-family dwelling subcode, as applicable. (Fire)
      - 1. (No change.)
      - (k)-(q) (No change.)

SUBCHAPTER 12. ELEVATOR SAFETY SUBCODE

5:23-12.2 Referenced standards

(a) Periodic and acceptance tests and inspections, if applicable, shall be required on all new, altered, and existing elevators, dumbwaiters, moving walks, wheelchair lifts, manlifts, and stairway chairlifts. The required cyclical inspections and tests shall be performed in accordance with the most recent edition of ASME A17.1, ASME A18.1, or ASME A90.1 referenced in the building subcode. Requirements for periodic tests and inspections shall not apply to elevator devices in structures of Group R-3, R-4, or R-5, or to any elevator device located wholly within dwelling unit in a structure of Group R-2 if the device is not accessible to the general public.

1. Periodic, routine, and acceptance tests and inspections, as applicable, shall be required on all new, altered, and existing escalators. (b)-(f) (No change.)

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 at 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.

1. For purposes of the elevator subcode, "alteration" shall mean stand-alone projects undertaken on elevator devices and, with the exception of N.J.A.C. 5:23-6.6(e)22, shall not be used to trigger any additional requirements of N.J.A.C. 5:23-6.6. If work on an elevator device or devices is part of a larger scope of work, then the appropriate category of work, as determined under the Rehabilitation Subcode, and the accompanying requirements shall apply.

(b) (No change.)

(a)

**DIVISION OF CODES AND STANDARDS**  
**Notice of Administrative Correction**  
**Uniform Construction Code**  
**Enforcing Agencies; Duties; Powers; Procedures**  
**Plan Review by the Department of Community**  
**Affairs**

**N.J.A.C. 5:23-4.24**

Effective Date: January 12, 2021.

**Take notice** that the Department of Community Affairs (Department) discovered an error in the text at N.J.A.C. 5:23-4.24. Effective April 15, 2013, the Department adopted amendments to Subchapter 4A, recodifying N.J.A.C. 5:23-4A.10 as 4A.7 (see 45 N.J.R. 6(a); 891(a)). N.J.A.C. 5:23-4.24(b)3 contains a cross-reference to N.J.A.C. 5:23-4A.10; upon the recodification of 4A.10 as 4A.7, the extant cross-reference was inadvertently made to indicate a “(Reserved)” section. Thus, the cross-reference at N.J.A.C. 5:23-4.24(b)3 should be corrected to N.J.A.C. 5:23-4A.7 from 4A.10.

The Department has requested, and the Office of Administrative Law has agreed to, such correction be made administratively. This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

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

SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS;  
 PROCEDURES

5:23-4.24 Plan review by the Department of Community Affairs

(a) (No change.)

(b) Plan review:

1.-2. (No change.)

3. Premanufactured construction: Department plan review and release shall be required for all modular construction other than those authorized to be approved by an inplant inspection agency as provided [in] **at** N.J.A.C. 5:23-[4A.10]4A.7.

(c)-(h) (No change.)

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## ENVIRONMENTAL PROTECTION

(b)

**NATURAL AND HISTORIC RESOURCES**  
**DIVISION OF PARKS AND FORESTRY**

**Notice of Readoption**  
**State Park Service Code**

**Readoption: N.J.A.C. 7:2**

Authority: N.J.S.A. 13:1B-1 et seq., 13:1B-15.100 et seq., and 13:1L-1 et seq.

Authorized By: Shawn LaTourette, Acting Commissioner, Department of Environmental Protection.

Effective Date: January 23, 2021.

New Expiration Date: January 23, 2028.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the State Park Service Code at N.J.A.C. 7:2 is readopted and shall continue in effect for a seven-year period. The rules were scheduled to expire on March 10, 2021. The Department of Environmental Protection (Department) has reviewed these rules and has determined that the rules should be readopted because they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c(1), timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The State Park Service Code governs the administration, operation, management, and use of State parks, forests, recreation areas, historic sites, natural areas, marinas, botanical gardens, and other land, waters, and facilities under the jurisdiction of the Department and assigned to the State Park Service in the Division of Parks and Forestry.

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## CORRECTIONS

(c)

**STATE PAROLE BOARD****Parole Release Hearings****Factors Considered at Parole Hearings; Adult Inmates****Adopted Amendment: N.J.A.C. 10A:71-3.11**

Proposed: June 1, 2020, at 52 N.J.R. 1159(a).

Adopted: August 26, 2020, by the New Jersey State Parole Board, Samuel J. Plumeri, Jr., Chairman.

Filed: January 22, 2021, as R.2021 d.016, **without change**.

Authority: N.J.S.A. 30:4-123.48.d.

Effective Date: February 16, 2021.

Expiration Date: March 19, 2025.

**Summary of Public Comment and Agency Response:**

The official comment period ended on July 31, 2020. In response to the notice of proposal, the State Parole Board (Board) received comments from William J. Anderson, Warden, Essex County Correctional Facility, Tess Borden, American Civil Liberties Union, Joseph J. Russo, Assistant Public Defender, and Alison Perrone, First Assistant Deputy Public Defender, Office of the Public Defender, and Jennifer B. Condon and Lori Outzs Borgen, Seton Hall University School of Law-Center for Social Justice.

COMMENT: Warden Anderson advised that he fully supports the Board's consideration of underage offenders' maturity and growth during the course of the incarceration as a factor to be taken into consideration during the parole decision making process.

RESPONSE: The Board appreciates Warden Anderson's review of the notice of proposal and his advisement that he is in support of the rulemaking.

COMMENT: Tess Borden, American Civil Liberties Union, Joseph J. Russo, Assistant Public Defender, and Alison Perrone, First Assistant Deputy Public Defender, Office of the Public Defender, and Jennifer B. Condon and Lori Outzs Borgen, Seton Hall University School of Law-Center for Social Justice, all expressed support of the Board's consideration of the factor of "subsequent growth and increased maturity of the inmate during incarceration."

Ms. Borden requested that the Board add language that clarifies that "subsequent growth and increased maturity" will either be applicable (that is, mitigating) or inapplicable (that is, no effect). Ms. Condon and Ms. Borgen also recommended that the Board clarify that "growth and increased maturity" may be considered in mitigation in parole considerations, but not as an aggravating factor. Ms. Condon and Ms. Borgen, therefore, offered the same suggestion as Ms. Borden that the Board add language clarifying that "subsequent growth and increased maturity" will either be applicable (that is, mitigating) or inapplicable (that is, no effect) because a person still possesses the capacity for change.

RESPONSE: The Board appreciates that the parties reviewed the notice of proposal and notes the positions expressed by the respective parties. In regard to the suggested rule change, the Board is of the opinion that the subsequent growth and increased maturity of the inmate during incarceration is a legitimate factor to be taken into consideration in assessing whether an inmate is a suitable candidate for parole release and that such factor not be limited to considering the factor as only a mitigating factor. Parole decisions shall be based on the aggregate of all pertinent factors, including material supplied by the inmate and reports and material which may be submitted by any persons or agencies which have knowledge of the inmate. See N.J.A.C. 10A:71-3.11(a). The Board