

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

EMERGENCY SHELTERS FOR THE HOMELESS

**Adopted Emergency Amendments and Concurrent Proposed Amendments: N.J.A.C. 5:15-
1.5, 3.8, and 4.2**

Authorized by: Lieutenant Governor Sheila Y. Oliver, Commissioner, Department of
Community Affairs.

Authority: N.J.S.A. 55:13C-2.3.

Proposal Number: PRN 2022-

Calendar: See the Notice introduction below for explanation of exception to calendar
requirement.

Submit written comments by: _____, 2022 to:

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This emergency adoption and concurrent proposal may be viewed on the Department's website at https://www.nj.gov/dca/divisions/codes/codreg/rule_proposals_adoptions.html.

This is an emergency adoption and concurrent proposal of amendments to the regulations governing Emergency Shelters for the Homeless, N.J.A.C. 5:15, to allow for structures which are designated as an Institutional Group I-1 use pursuant to the building subcode of the Uniform Construction Code, N.J.A.C. 5:23-1 to -12A.6, to operate as Class III emergency structures without undergoing a change of use. It also allows for shelters to accept children under the age of 18 when they are placed in facilities in accordance with programs of the Office of Refugee Resettlement in the United States Department of Health and Human Services.

These amendments have been adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c), N.J.A.C. 1:30-6.6(b)). Concurrently, the provisions of this emergency adoption are proposed for readoption pursuant to the rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted amendments will be effective upon acceptance for filing by the Office of Administrative Law (N.J.A.C. 1:30-6.5(d)) if filed on or prior to the expiration date of the emergency rules.

As this is an emergency rule involving imminent peril and published in accordance with N.J.S.A. 52:14B-4(c), this rulemaking is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a).

The agency emergency adoption and concurrent proposal follows:

Summary

This emergency adoption and concurrent proposal amends the regulations governing Emergency Shelters for the Homeless, N.J.A.C. 5:15, to allow for structures which are

designated as an Institutional Group I-1 use pursuant to the building subcode of the Uniform Construction Code, N.J.A.C. 5:23-1 to -12A.6, to operate as Class III emergency shelters without undergoing a change of use. An “emergency shelter for the homeless” is defined as “a building or structure in which a public entity or a private, nonprofit organization provides shelter, or food and shelter, to individuals and families having neither a home nor the means to obtain a home or other temporary lodging.” N.J.S.A. 55:13C-2. A Class III emergency shelter is a shelter for people experiencing homelessness “with children.” N.J.A.C. 5:15-1.6. Though emergency shelters were previously required to be designated as either Residential Group R-1 or R-2 structures, depending on the length of occupancy, N.J.A.C. 5:15-4.2, Group I-1 structures are similar in terms of construction type, fire protection, and egress. Compare Section 903.3, Installation requirements, of the building subcode of the Uniform Construction Code (UCC) which contains the requirements for installation of automatic sprinkler systems in Group R structures, and Section 903.2.6, Group I, which contains the requirements the installation of automatic sprinkler systems in Group I structures. Also within the building subcode, Chapter 10, Means of Egress, contains similar provisions for exit access in these three uses, specifically in Table 1006.2.1, Spaces with one exit or exit access doorway, N.J.A.C. 5:23-3.14.

The intention of this emergency adoption is to allow for greater use of structures as shelters in order to meet the needs of programs which are responsible for ensuring minors do not go unhoused. This ensures that New Jersey provides a safe and habitable shelter for these minors by allowing for the use of additional structures without compromising on the level of safety provided for within the shelter. It also allows for shelters to accept children under the age of 18 when they are placed in facilities under certain Federal programs. This is in recognition of

the programs which house unaccompanied minors wherein the government is considered to be the custodian of these minors.

Given the above, and with the understanding that there are presently minors in need of immediate shelter, the Department is concurrently proposing the emergency adopted amendments in order to establish the allowance for the use of Group I-1 structures. This rulemaking is made in recognition of the need to provide unaccompanied minors residing in the State with safe shelter.

N.J.A.C. 5:15 is titled "Rules Governing Emergency Shelters for the Homeless", and addresses several aspects of the siting, administration, and facility requirements at shelters for those experiencing homelessness. Through this emergency rulemaking, the Department amends N.J.A.C. 5:15-1.5, "Construction and alteration; change of use", at subsection (c) to provide that the use of a group I-1 structure as a Class III shelter (i.e., a facility with children) does not require a new or amended certificate of occupancy.

The Department also amends N.J.A.C. 5:15-3.8, "Admission Standards", at subsection (b) to provide that a licensee of a facility may admit a person under 18 years of age, provided that the person is housed in the facility in accordance with programs of the Office of Refugee Resettlement in the United States Department of Health and Human Services, which are responsible for custodianship of the minor.

Additionally, the Department amends 5:15-4.2, "Building standard requirements", to provide certain exceptions based upon the change of use provision created by this rulemaking in N.J.A.C. 5:15-1.5. The amendment at subsection (a) states that a facility operated under the change in use exception at N.J.A.C. 5:15-1.5 need not comply with the Uniform Construction Code for group R-1 or R-2 residency, provided it still complies with I-1 requirements. The

amendment at subsection (b) provides that a shelter which meets the change of use exceptions at N.J.A.C. 5:15-1.5(c) shall conform to the Uniform Fire Code based on the group designation of that shelter.

Social Impact

It is expected that the emergency adoption and concurrent proposal will have a positive social impact. By allowing for Group I-1 structures to be utilized as Class III emergency shelters for children, this rulemaking ensures that children residing in New Jersey have access to safe shelters and are not left unhoused.

Economic Impact

This emergency adoption and concurrent proposal to allow for greater use of structures as Class III emergency shelters is not expected to have a direct economic impact. By allowing for the use of Group I-1 structures, potential owners could utilize their existing structures as Class III emergency shelters without undergoing a change of use, which often entails an expense.

Federal Standards Statement

No Federal standards analysis is required because emergency adoption and concurrent proposal is not being proposed 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 any Federal law, standard or requirements. This rulemaking does allow for Class III shelters to accept unaccompanied minors where the Federal government is acting as a custodian pursuant to United States Department of Health and Human Services, Office of Refugee Resettlement programs. The Office of Refugee Resettlement is an office in the United States Department of Health and Human Services. Among its portfolio of responsibilities, the Office of

Refugee Resettlement places unaccompanied children in the least restrictive setting that is in the best interests of the child.

Jobs Impact

The emergency adoption and concurrent proposal is not expected to have an impact on the generation or loss of jobs.

Agriculture Industry Impact

The Department does not anticipate that this emergency adoption and concurrent proposal would impact the agriculture industry.

Regulatory Flexibility Analysis

There are no for-profit businesses which sponsor emergency shelters in the State. Most, if not all, of the nonprofit entities that sponsor such shelters would qualify as "small businesses" under the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, the emergency adoption and concurrent proposal does not cause small businesses to obtain any professional services not already required in order to comply with the regulations and does not establish any recordkeeping requirements. As such, no regulatory flexibility analysis is required.

Smart Growth Development Impact

It is not expected that the emergency adoption and concurrent proposal will have any impact upon housing production within planning areas one and two or within designated centers under the State Development and Redevelopment Plan.

Housing Affordability Impact

It is not expected that the emergency adoption and concurrent proposal will have any impact on the production of affordable housing.

Racial and Ethnic Community Criminal Justice and Public Safety Impact Statement

The Department has evaluated this emergency adoption and concurrent proposal and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State.

Full text of the emergency adoption and concurrent proposal follows (additions indicated in boldface, **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

5:15-1.5 Construction and alteration; change of use

(a) – (b) (No change.)

(c) A new or amended certificate of occupancy shall be required in the event of any change of use other than the following:

1. – 4. (No change.)

5. The use of a Group I-1 structure as a Class III shelter as defined in N.J.A.C.

5:15-1.6(b)3.

(d) (No change.)

SUBCHAPTER 3. RIGHTS OF RESIDENTS

5:15-3.8 Admission Standards

(a) (No change.)

(b) The licensee shall not accept, except on an emergency basis, nor permit to remain in the facility any person who:

1. – 3. (No change.)

4. Is under 18 years of age (unless part of a family), or unless the person is an emancipated minor **or is housed in the facility in accordance with programs of the Office of Refugee Resettlement in the United States Department of Health and Human Services, which is responsible for custodianship of the minor.**

(c) – (i) (No change.)

SUBCHAPTER 4. FACILITY REQUIREMENTS

5:15-4.2 Building standard requirements

(a) A building newly constructed after May 1, 1989, or an existing structure modified for use as a shelter after May 1, 1989, shall be in compliance with the Uniform Construction Code for Group R-1 occupancy, if residency is for less than 30 days, R-2 if the residency is for 30 days or more, **except as provided within the change of use exceptions at N.J.A.C. 5:15-1.5(c)(5). A structure fitting the change of use exception at N.J.A.C. 5:15-1.5(c)(5) shall conform to the Uniform Construction Code for Group I-1 residency.**

(b) A shelter existing on May 1, 1989, shall conform to the Uniform Fire Code (N.J.A.C. 5:70-4) for R-1 use group structures, if residency is for less than 30 days, or for R-2 structures if occupancy is for 30 days or more. **A shelter which meets the change of use exceptions at N.J.A.C. 5:15-1.5(c) shall be required to conform to the Uniform Fire Code based on the group designation of the shelter.**

(c) (No change.)