

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Proposed Amendments: N.J.A.C. 5:23-2.18, 3.2, 4.5, 6.6, 6.8, 6.9, 6.31, and 12.2

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

Authority: N.J.S.A. 52:27D-119.

Proposal Number: PRN 2022-034.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Submit written comments by May 20, 2022, to:

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The agency proposal follows:

Summary

The Department of Community Affairs (Department) seeks to amend Subchapter 2, Administration and Enforcement; Process, Subchapter 3, Subcodes, Subchapter 4, Enforcing Agencies; Duties; Powers; Procedures, Subchapter 6, Rehabilitation Subcode, and Subchapter 12, Elevator Safety Subcode, of the Uniform Construction Code (UCC) to encompass a number of unrelated changes. These proposed amendments revise the rehabilitation subcode and

inspection requirements, and require a maintenance control program for elevators, as well as clarifying reporting requirements and restructuring rehabilitation subcode sections. A section-by-section description of the proposed amendments follows:

1. N.J.A.C. 5:23-2.18 – The proposed amendments would include fire “detection/alarm” systems as a mandatory inspection during the progress of work for structures other than one- and two-family dwellings. Fire suppression systems have always been a required inspection, and expanding this section to include fire detection and alarm systems would ensure that these systems are installed in accordance with the UCC. This is not anticipated to cause undue delays in the process of construction, as other inspections are undertaken concurrently.

2. N.J.A.C. 5:23-4.5 – The proposed amendments would amend the conflict of interest provisions of the UCC, related to the reporting procedures. These proposed amendments are intended to alleviate any potential confusion where there is a conflict of interest on a project. In these instances, the plan review, approval, and inspection procedures must be undertaken by another municipality. However, the prior approvals and fees must be those of the municipality where the work is located. Similarly, the municipality where the work is located is also responsible for reporting the work to the Department. These proposed amendments align with the Department’s interpretation of these regulations; thus, these proposed amendments are intended to ensure the text of the UCC is clear to all code users.

3. N.J.A.C. 5:23-6.6 – The proposed amendment would correct a cross-reference within the alterations section of the rehabilitation subcode. This is done to account for changes to the new building elements section of the rehabilitation subcode, described at Item 5, below.

4. N.J.A.C. 5:23-6.8 – The proposed amendments would modify the rehabilitation subcode relative to electrical installations. Specifically, the proposed amendments apply where a

building has existing three-wire cables and an installation would cause the current panel to become a subpanel. Currently, such an installation would be a violation of Section 250.140 of the electrical subcode. As such, in the materials and methods of the rehabilitation subcode, anyone undertaking such an installation would be required to replace the branch circuit wiring to all other appliances. This poses an issue because, since the aftermath of Superstorm Sandy, many homeowners are opting to install a whole-house generator. Such an installation does not pose any hazard to the homeowners, and this issue can be circumvented by allowing the replacement of the current wire or insulating the neutral wire. To allow for this, the proposed amendment would clarify that the related text of Section 250.140 of the electrical subcode shall not apply to the electrical materials and methods of the rehabilitation subcode.

5. N.J.A.C. 5:23-6.9 – The proposed amendments would reorganize the new building elements section of the rehabilitation subcode. The reorganization would delineate the requirements by discipline: Building and one- and two-family dwelling subcode; electrical subcode; elevator subcode; and energy subcode. This would align with the organization of the materials and methods section of the rehabilitation subcode.

6. N.J.A.C. 5:23-6.31 – The proposed amendments would correct references to height and area requirements. In the 2009 International Building Code (IBC), the height, feet, and stories above grade, and area limitations were contained within Table 503. With the adoption of the 2015 IBC, and to date, this table was separated into three separate tables, Table 504.3 for height in feet, Table 504.4 for height in stories, and Table 506.2 for area. Proposed amendments would correct the locations where Table 503 is referenced and must be updated; in addition to changes to N.J.A.C. 5:23-6.31, a proposed amendment at N.J.A.C. 5:23-3.2 would be proposed to include a reference to Table 504.4.

7. N.J.A.C. 5:23-12.2 – The proposed amendments would modify the applicability of the elevator subcode relative to maintenance control programs for elevator devices utilizing the referenced standard within the elevator safety subcode, ASME A17.1-2016. These proposed amendments would alter sections currently excepted from the requirements, as follows:

- ASME A17.1-2016 Section 8.6.12, and its subsections, would be deleted from the exceptions. This section no longer exists in the 2016 edition of ASME A17.1.
- ASME A17.1-2016 Section 8.6.1.2.1 would be deleted from the exceptions; this section requires that a maintenance control program be in place. New Jersey is one of the few states that does not require a maintenance control program and most companies maintain these programs to ensure that there is a record of maintenance. Because this is seen as an ordinary course of business, it is not expected to be burdensome for owners.
- ASME A17.1-2016 Sections 8.6.1.3 and 8.6.1.4 would be deleted from the exceptions; these sections relate to licensure to perform testing. Because the State of New Jersey now licenses Elevator, Escalator, and Moving Walkway Mechanics to perform inspections, there is no need to list the need for such license as an exemption.
- ASME A17.1-2016 Section 8.6.1.3(a) would be deleted from the exceptions. This section relates to the cleaning of elevators. In the ordinary course of business, any person undertaking maintenance on an elevator also cleans the elevator, hoistway, and all components. Additionally, seeing dust or other signs of uncleanliness during an inspection is usually telling of a further lack of maintenance. As such, this is an important item for enforcement, and is not expected to be burdensome,

since those charged with maintenance already keep elevators clean as a matter of policy.

- ASME A17.1-2016 Section 8.6.1.6.5 would be deleted from the list of exceptions. This section requires fire extinguishers to be located near an access door. In discussing this matter with the Uniform Construction Code Advisory Board and its Elevator Subcode Committee, the Elevator Safety Unit of the Department has found that buildings always have a fire extinguisher by the access door for safety. Thus, this exception is not currently being used throughout the State and should be deleted to match current policy.
- ASME A17.1-2016 Sections 8.6.7.11, Wind Turbine Tower Elevator, and 8.6.7.12, Outside Emergency Elevators would be added to the list of exceptions. Each of these sections are items for which the State has no adopted code for enforcement. This aligns with other sections, such as 8.6.7.8, Shipboard Elevators, and 8.6.7.9, Mine Elevators, which are already included as exceptions from the maintenance requirements because they do not apply to any items covered by the UCC.
- ASME A17.1-2016 Section 8.6.11.3 would be deleted from the list of exceptions. This section requires that keys only be made available to assigned personnel with a certain security level; this section aligns with text adopted throughout the rest of Subchapter 12 and, thus, is already applicable. As such, it would be deleted to align with the requirements of this subchapter.
- ASME A17.1-2016 Section 8.6.11.4 would be deleted from the list of exceptions; this section relates to cleaning. Though it was previously determined that

inspectors do not need to be involved in the cleaning process, not enforcing this section can pose potential dangers. For example, anyone undertaking any kind of work in a machine room must be certified. House maintenance personnel are not allowed to enter machine rooms, and unqualified personnel cleaning glass cars within the hoistway can pose safety hazards. For those reasons, and for the reasons mentioned in the deletion of Section 8.6.1.3(a), this section would be deleted from the list of exceptions. It is not anticipated that this section will impose a significant burden on regulated entities.

- ASME A17.1-2016 Section 8.6.11.7 would be deleted from the list of exceptions. This section requires that a log of operation be maintained. Deleting this from the excepted sections would ensure that when there are special procedures for readying an elevator car in the proper position to inspect the machine and other equipment, that information is readily available to the inspector.
- ASME A17.1-2016 Section 8.6.11.8 would be deleted from the list of exceptions. This section addresses egress and reentry from working areas. This section applies only to elevators and is directly related to signage requirements in Section 2.7.5.2.3. Because this is already required pursuant to that section, there is no reason it should not be required to be maintained.
- ASME A17.1-2016 Section 8.6.11.10 would be added to the list of exceptions. This section relates to alternate testing, which is not accepted in the State.
- New N.J.A.C. 5:23-12.2(c)1i would be added to state that Section 8.6.1.2.2 would apply for newly installed elevators and elevators undergoing an alteration

pursuant to Section 8.7. This would require onsite documentation for these devices and aligns with the proposed amendments addressed above.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

It is expected that the proposed rulemaking will have a positive social impact. This rulemaking would modify and clarify the UCC to ensure code users have the most accurate and up-to-date information possible. The modifications to the elevator safety subcode further ensure the safety of anyone using an elevator by ensuring that they are maintained properly.

Economic Impact

These proposed amendments are not expected to have a direct economic impact. None of the proposed amendments made require any new work to be undertaken. Additionally, the proposed amendments to the electrical materials and methods of the rehabilitation subcode are expected to save homeowners money by allowing for the installation of whole-house generators without cost-prohibitive changes to existing electrical panels.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are 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, standards, or requirements.

Jobs Impact

The proposed amendments are not expected to have an impact on the generation or loss of jobs.

Agriculture Industry Impact

The Department does not anticipate that the proposed amendments would impact the agriculture industry.

Regulatory Flexibility Analysis

The proposed amendments, which clarify and update the UCC, largely do not impose new compliance requirements on small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The sole exception is for the rules related to the elevator safety subcode. Maintenance companies and owners of buildings with elevators could classify as small businesses. The proposed amendments to the elevator safety subcode do not impose reporting requirements, but do require new recordkeeping and compliance procedures; however, the Department has found that the recordkeeping procedures are already undertaken by related parties as a matter of policy to ensure that maintenance records are clear in the event that a new company acquires existing elevators. As such, these compliance requirements are not expected to pose an undue burden on small businesses; thus, no regulatory flexibility analysis is required.

Housing Affordability Impact Analysis

It is not expected that the proposed amendments will have any impact on the affordability of housing or the average costs associated with housing because these proposed amendments revise the rehabilitation subcode and inspection requirements, and requires a maintenance control program for elevators, as well as clarifying reporting requirements and restructuring rehabilitation subcode sections.

Smart Growth Development Impact Analysis

It is not expected that the proposed amendments will have any impact upon housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan because these proposed amendments revise the rehabilitation subcode and inspection requirements, and require a maintenance control program for elevators, as well as clarifying reporting requirements and restructuring rehabilitation subcode sections.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking 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 proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [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. (No change.)

2. Inspections for all subcodes of construction, other than one- and two-family dwellings, shall be limited to those required for one- and two-family dwellings and the following: fire

suppression **and detection/alarm** systems; heat producing devices; **and** any special inspections required by any subcode of the regulations;

i.–ii. (No change.)

3.–4 (No change.)

(c)-(i) (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, **504.4**, and 506.2 for the type of construction used, except as follows:

i.–iii. (No change.)

12.–14. (No change.)

SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

5:23-4.5 Municipal enforcing agencies--administration and enforcement

(a)-(i) (No change.)

(j) Conflict of interest:

1. No person employed by an enforcing agency as a construction or subcode official or as an inspector shall knowingly carry out any inspection or enforcement procedure with respect to any property or business in which he or she, or any close relative or household member, or his or her superior within the enforcing agency, or any close relative or household member of such superior, or any other public official or employee having any direct or indirect control over the funding or operations of the enforcing agency, or any household member of any such public official or employee, has an economic interest. For purposes of this paragraph, "close relative" shall mean and include a spouse, sibling, ancestor or descendant, or the spouse of any of them.

i.–ii. (No change.)

iii. Where an inspection or enforcement procedure is performed by another enforcing agency due to a conflict of interest, the fee schedule of the enforcing agency in which the project is located shall be utilized in calculating the fees for the project. The State training fee for the project and the reporting of the project pursuant to Department requirements shall be submitted by the enforcing agency where the project is located. After inspection or enforcement procedures have been performed, the agency that performed such procedures shall provide the information required to be reported to the municipality where the project is located. Permit documentation shall be shared between the local enforcing agencies for timely and accurate reporting. The prior approvals required in the municipality where the project is located shall apply.

2.–6. (No change.)

(k) (No change.)

SUBCHAPTER 6. REHABILITATION SUBCODE

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 Group R or I-1, when the work being performed creates a bedroom, the following shall be provided:

i. (No change.)

ii. A bedroom window or exterior door that meets the requirements [of] **at** N.J.A.C. 5:23-[6.9(a)17]**6.9(b)16** shall be provided when the bedroom created is below the fourth floor. (Building)

(1) (No change.)

13.-25. (No change.)

(f)-(l) No change.)

5:23-6.8 Materials and methods

(a)-(c) (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.-2. (No change.)

3. All of Chapter 2 entitled “Wiring and Protection” except Sections 210.11 Branch Circuits Required, 210.12 Arc-Fault Circuit-Interrupter Protection, 210.52 Dwelling Unit Receptacle Outlets, 210.60 Guest Rooms or Guest Suites Dormitories and Similar Occupancies,

210.62 Show Windows, 210.63 Heating, Air Conditioning, and Refrigeration Equipment Outlet, and 210.70 Lighting Outlets Required;

i. In applying item #3 of the exception of Section 250.140, the branch circuit may originate at a location other than the service equipment.

4.-10. (No change.)

(e)-(l) (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.

(b) Building Subcode and One- and Two-Family Dwelling Subcode shall be as follows:

1.-9. (No change.)

[10. Newly installed elevator devices, including those newly installed in existing hoistways/machine rooms, completely replaced elevator devices, and a change in use of an elevator device from freight to passenger, passenger to freight, or from one freight class to another freight class and other equipment within the scope of Chapter 30 newly installed or installed in existing hoistways/machine rooms, shall conform to the requirements of Chapter 30 of the building subcode and N.J.A.C. 5:23-12, as applicable.

i. Exception: Such devices shall not be required to comply with Section 8.4 and Section 8.5 of ASME A17.1 adopted by reference in the building subcode and Section 3002.4 of the building subcode.]

Recodify existing 11.-23. as **10.-22.** (No change in text.)

(c) Electrical Subcode shall be as follows:

Recodify existing 24.-26 as **1.-3.** (No change in text.)

(d) Elevator Subcode.

(e) Energy Subcode shall be as follows:

Recodify existing 27.-34. as **1.-8.** (No change in text.)

5:23-6.31 Change of use

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

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

TABLE E

(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 Tables 504.3, **504.4**, 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 Tables **504.3 and 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 Tables 504.3, **504.4**, 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

(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.

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 Tables 504.3, **504.4**, and [Table] 506.2 of the building subcode.

ii.-iii. (No change.)

2. (No change.)

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

SUBCHAPTER 12. ELEVATOR SAFETY SUBCODE

5:23-12.2 Referenced standards

(a)–(b) (No change.)

(c) Maintenance of elevator devices installed under ASME A17.1 shall conform with the following:

1. Maintenance of elevator devices installed under ASME A17.1 shall comply with Sections 8.6.1 through [8.6.12] **8.6.11** except for: [8.6.1.2.1, 8.6.1.3, 8.6.1.4, 8.6.1.6.3(a), 8.6.1.6.5,] 8.6.5.8, 8.6.7.3, 8.6.7.4, 8.6.7.8, 8.6.7.9, **8.6.7.11, 8.6.7.12**, 8.6.8.2, 8.6.8.3, [8.6.11.3, 8.6.11.4,] 8.6.11.6, [8.6.11.7, 8.6.11.8, 8.6.12.1.2, 8.6.12.2.2, 8.6.12.2.4, 8.6.12.2.5, 8.6.12.2.6, and 8.6.12.3.4] **and 8.6.11.10.**

i. Section 8.6.1.2.2 shall apply only for newly installed elevators and elevators undergoing an alteration per Section 8.7.

2.-3. (No change.)

(d)-(f) (No change.)