

November 7, 2011

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**COMMUNITY AFFAIRS**

**DIVISION OF FIRE SAFETY**

**Uniform Fire Code**

**Bed and Breakfasts**

**Proposed Amendments: N.J.A.C. 5:70-1.5, 3.2, 4.4, 4.11, and 4.13**

Authorized By: Lori Grifa, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-198.

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

Proposal Number: PRN 2011-242.

Submit written comments by January 6, 2012 to:

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The agency proposal follows:

### **Summary**

These proposed amendments to the Uniform Fire Code represent an effort to balance the desire to preserve the State's historic bed and breakfast inns with the need to provide adequate fire protection for the guests in those inns. In 2009, the New Jersey Historic Trust and the Division of Fire Safety commissioned a study of the requirements of Subchapter 4 of the Uniform Fire Code as applied to historic bed and breakfast inns. The architect hired to conduct this study made a series of recommendations for amendments to the Uniform Fire Code. Those recommendations were discussed by the Fire Codes Advisory Council, the Fire Safety Commission and representatives of the owners of bed and breakfast inns from Cape May, home to the State's largest concentration of historic bed and breakfast establishments. The proposed amendments reflect the language suggested through these discussions to incorporate the recommendations contained in the report into the Uniform Fire Code.

**1. N.J.A.C. 5:70-1.5 - Definition of Bed and Breakfast** - Currently, the Uniform Fire Code (UFC) requires that bed and breakfasts be owner-occupied. This provision was put into the UFC as part of the definition of bed and breakfast in an attempt to distinguish these occupancies from other, similar occupancies, including inns, hotels or motels. The consultant discovered that, in most instances, this requirement is not met and is not enforced. The report included a recommendation that the Department consider amending this requirement. There is value in having a resident innkeeper to police the ban on smoking and other policies associated with guest behavior that go to fire safety. The proposed rule amends the definition (at paragraph 3) to allow an owner or the owner's

agent within 15 minutes travel distance. The new language proposed at subparagraph 3i would require a sign with a 24-hour emergency telephone number.

The UFC also contains a requirement for bed and breakfasts to have not less than 300 square feet of common area for the use of guests. Similar to the requirement for owner occupancy, this requirement was made part of the definition of bed and breakfast in an attempt to distinguish these occupancies from other, similar occupancies. The consultant observed that, like the owner occupancy requirement, this requirement is not enforced. The report contains a recommendation that the requirement be retained and enforced. The proposed amendment to the definition of "bed and breakfast" (at paragraph 4) would expand what is to be considered common area to include porches or verandas and would establish a lower requirement for common area for establishments with 10 or fewer guests.

Finally, in paragraph 8 of the definition, redundant language is proposed for deletion.

**2. N.J.A.C. 5:70-3.2 – Emergency Planning and Preparedness** – A companion change to the change to the definition described above, this proposed amendment reflects the fact that the owner or his agent, responsible for carrying out the emergency planning and preparedness duties described in the State Fire Prevention Code, may be on site or within 15 minutes travel distance provided that a sign is posted with a 24-hour emergency telephone number.

**3. N.J.A.C. 5:70-4.4 - General Provisions** – The proposed amendments incorporate provisions from the rehabilitation subcode of the Uniform Construction Code, N.J.A.C. 5:23-6.33, regarding the applicability of these requirements to buildings identified as historic buildings. This language from the rehabilitation subcode, which was adopted in January, 1998 in consultation with the State Historic Preservation Office, better defines what constitutes a historic building and provides more specific regulatory bases for granting variances for historic buildings. The proposed new language replaces a reference to the 1984 edition of the Building Officials and Code Administrators Basic/National Building Code.

**4. N.J.A.C. 5:70-4.11 – Means of Egress** - The consultant recommended that the rules be amended to specify dimensions for openings that provide access to the fire escape (or other secondary means of egress) and are something less than a full-sized door. These smaller openings would be approved for access to the fire escape provided that the number of occupants using this small door or large window is limited. The proposed amendments at paragraph (a)2 would allow window access for up to 10 occupants provided that the window meets the minimum size specified. The proposed amendment also establishes minimum requirements for doors providing access to a secondary means of egress for more than 10 occupants. Parallel amendments are proposed in paragraph (a)3 for access to new fire escapes and the reference in the introductory paragraph to Formal Technical Opinion (FTO) 3 of the Uniform Construction Code is repeated in subparagraph (a)3i to make it clear that the provisions of the FTO apply both to the fire escape itself and to the door providing access to the fire escape.

## **5. N.J.A.C. 5:70-4.13 – Protection of interior stairways and other vertical openings**

– Currently, the UFC limits corridors serving two means of egress, one of which is an unenclosed vertical opening, to eight feet in length. This is part of an exception to the requirement to enclose the vertical opening. The configuration of many of the historic bed and breakfast inns makes this requirement difficult to meet. The consultant recommends increasing the maximum length of such a corridor from eight feet to 20 feet. In his report, he argues that compliance with the existing requirement would compartmentalize the corridors in many of these bed and breakfasts. The proposed amendments at subparagraph (c)10ii would increase the maximum length of the corridor from eight feet to 20 feet, as recommended, for inns with up to 25 guests. (Twenty feet is the maximum length of a dead end corridor currently allowed in the International Building Code which is adopted as the building subcode of the State's Uniform Construction Code.) The proposed amendments also reorder the requirements in the subparagraph, and incorporate the requirement for a second means of egress for rooms more than 16 feet above grade, the height used to trigger the requirement for a second means of egress at N.J.A.C. 5:70-4.11(b)4. The 20-foot limit on length is proposed for exit access corridors serving sleeping rooms that do not have direct access to a fire escape or other approved secondary exit.

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

### **Social Impact**

The proposed amendments are intended to protect the guests of New Jersey's bed and breakfast inns from fire hazards while preserving the historic character that draws guests to these structures. To the extent that the proposed amendments accomplish these goals, it is anticipated that they will have a positive social impact.

### **Economic Impact**

The retrofit requirements of New Jersey's Uniform Fire Code applicable to these buildings (N.J.A.C. 5:70-4) were adopted in 1986 and 1987. Accordingly, the obligation to bring these inns into compliance has existed for some time. The proposed amendments facilitate compliance for structures where the defined conditions exist. For the owners of these establishments, it is anticipated that the proposed amendments will have a positive economic impact in that the cost of compliance is lessened or eliminated.

### **Federal Standards Statement**

No Federal standards analysis is required because the amendments are not being proposed 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.

### **Jobs Impact**

The Department does not anticipate that any jobs would be created or lost as a result of the proposed amendments.

### **Agriculture Industry Impact**

The Department does not anticipate that the proposed amendments would have any impact on the agricultural industry.

### **Regulatory Flexibility Analysis**

The proposed amendments address bed and breakfast inns virtually all of which are “small businesses” as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments would not impose any new recordkeeping or reporting requirements on small businesses. The compliance requirements imposed by the proposed amendments are described in the Summary above, and the anticipated cost-reduction effect of the amendments is discussed in the Economic Impact above. Since the proposed amendments are designed to facilitate compliance with the retrofit requirements of the Uniform Fire Code, it is anticipated that these proposed amendments will have a positive impact on these small businesses. The proposed amendments do not impose any new requirements for the professional services of an engineer or architect.

#### **Smart Growth Impact**

The Department does not anticipate that the proposed amendments would have any impact upon either the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

#### **Housing Affordability Impact Analysis**

Since the proposed amendments only concern fire protection requirements in existing buildings and structures, they would not have any effect upon the cost or the supply of affordable housing.

#### **Smart Growth Development Impact Analysis**

Since the proposed amendments only concern fire protection requirements in existing buildings and structures, they would not have any impact upon housing

production within Planning Areas 1 and 2 or within designated centers under the State Development and Redevelopment Plan.

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

5:70-1.5 Definitions

The following terms shall have the meaning indicated except where the context clearly requires otherwise. All definitions found in the Uniform Fire Safety Act, P.L. 1983, c. 383, N.J.S.A. 52:27D-192 et seq., shall be applicable to this chapter. Where a term is not defined in this section or in the Uniform Fire Safety Act, then the definition of that term in the Uniform Construction Code at N.J.A.C. 5:23:1.4 shall govern.

...

“Bed and breakfast” means a facility providing sleeping or dwelling accommodations to transient guests which:

1. - 2. (No change.)

3. Has at least one dwelling unit occupied by the owner of the facility **or his agent** as his place of residence during any time that the facility is being used for the lodging of guests **or has an owner or agent of the owner within 15 minutes travel distance of the facility while guests are lodging there;**

**i. If the owner or agent is not on site, there shall be a clearly legible sign, conspicuously displayed in the area where guests register, containing the owner's or agent's name, address (including unit number or apartment number) and a 24-hour emergency telephone number;**



4. Has not less than 300 square feet of common area for the exclusive use of the guests, including, but not limited to, parlors, dining rooms, libraries, **porches, verandas,** and solariums **for occupancies with more than 10 guests or not less than 150 square feet of common area for occupancies with 10 or fewer guests;**

5. - 7. (No change.)

8. Does not allow:

i. More than 15 percent of the guests to remain more than 30 successive days or more than 30 days of any period of 60 successive days [or more than 30 days of any period of 60 successive days]; or

ii. (No change.)

...

### SUBCHAPTER 3. STATE FIRE PREVENTION CODE

#### 5:70-3.2 Modifications

(a) The following articles or sections of the State Fire Prevention Code are modified as follows:

1. – 3. (No change.)

4. Chapter 4, Emergency Planning and Preparedness, shall be amended as follows:

i. – xv. (No change.)

**xvi. In Section 408.8, Group R-1 occupancies, a new section 408.8.2.1 shall be added as follows: "408.8.2.1 Bed and breakfasts. Each bed and breakfast shall have at least one dwelling unit occupied by the owner of the facility or his agent as his place of residence during any time that the**

**facility is being used for the lodging of guests or the owner or agent of the owner shall be within 15 minutes travel distance of the facility while guests are lodging there. The owner or agent shall carry out the applicable duties described in this chapter. If the owner or agent is not on site, there shall be a clearly legible sign, conspicuously displayed in the area where guests register, containing the owner's or agent's name, address (including unit number or apartment number) and a 24-hour emergency telephone number.”**

Recodify existing xvi. – xxiv. as **xvii. – xxv.** (No change in text.)

5. – 46. (No change.)

#### SUBCHAPTER 4. FIRE SAFETY CODE

##### 5:70-4.4 General provisions

(a) The applicability of provisions of this subchapter to existing buildings or structures, identified or classified by the Federal, State or local government authority as historic buildings, shall be determined by the local construction code enforcing agency in consultation with the fire official[, as outlined in Section 513.0 of the Building Officials and Code Administrators, Inc. (BOCA) Basic/National Building Code, 1984 edition].

**1. For purposes of applying this section, historic buildings shall include any building that meets one or more of the following criteria:**

**i. Buildings listed on the New Jersey or National Registers of Historic Places either individually or as a contributing building to a historic district;**

**ii. Buildings that have been issued a Determination of Eligibility by the Keeper of the National Register of Historic Places;**

**iii. Buildings identified as contributing buildings to Local Historic Districts which have been certified by the Keeper of the National Register as substantially meeting the National Register Criteria; or**

**iv. Buildings with a State Historic Preservation Officer Opinion or Certification that the property is eligible to be listed on the National Register of Historic Places either individually or as a contributing building to a historic district.**

**2. Variances: Building owners wishing to use an alternative to compliance with specific provisions of this subchapter shall submit request(s) for variances in writing in accordance with N.J.A.C. 5:70-2.14. Requests for variances shall identify all nonconformities with the requirements of this subchapter and shall include: a statement of the requirements of this subchapter from which a variance is sought, a statement of the manner by which strict compliance with the provisions of this subchapter would result in practical difficulties or would detract from the historic character of the building, and a statement of feasible alternatives to the requirements of this subchapter that would adequately protect the health, safety and welfare of the intended occupants and of the public generally.**

**i. The provisions of N.J.A.C. 5:70-2.14, Variances, notwithstanding, a variance may be granted where no feasible alternative to the strict requirements of the subchapter exists, provided that the owner submits a finding by a qualified architect that the feature of the building which cannot be brought into strict compliance with the requirements of this subchapter is essential to maintaining the historical value and character of the building. Any such finding submitted in**

**support of a variance application shall be in writing and shall state the basis and reasons for the finding.**

(b) – (d) (No change.)

5:70-4.11 Means of egress

(a) Every story utilized for human occupancy having an occupant load of 500 or less shall be provided with a minimum of two exits, except as provided in (b) below. Every story having an occupant load of 501 to 1,000 shall have a minimum of three exits. Every story having an occupant load of more than 1,000 shall have a minimum of four exits.

1. (No change.)

2. When more than one exit is required, an existing fire escape shall be accepted as providing one of the required means of egress unless judged to be dangerous for use under emergency exiting conditions.

**i. Access to a fire escape shall be through a door, except that window access shall be permitted from single dwelling units or guestrooms in Use Groups R-1, R-2 and I-1 or when serving spaces having a maximum occupant load of 10 in other use groups.**

**(1) Exception: Window access shall be permitted to serve more than one guestroom for bed and breakfasts in Use Group R-1 provided that the window serves a floor with a maximum occupant load of 10 and that the window has a clear opening of at least 5.7 square feet, a minimum net clear opening of 24 inches in height, a minimum net clear opening of 20 inches in width, and a sill height of not more than 44 inches above the finished floor.**

**(2) For bed and breakfasts in Use Group R-1, where a door is required because the occupant load served exceeds 10, the door shall have a clear opening of at least 10 square feet, a minimum net clear opening of 54 inches in height and a minimum net clear opening of 24 inches in width.**

3. Any new fire escapes shall be constructed and installed in accordance with the Uniform Construction Code Formal Technical Opinion No. FTO-3 dated June 2001.

i. Access to a fire escape shall be through a door **installed in accordance with the Uniform Construction Code Formal Technical Opinion No. FTO-3 dated June 2001**, except that window access shall be permitted from single dwelling units or guestrooms in Use Groups R-1, R-2 and I-1 or when serving spaces having a maximum occupant load of 10 in other use groups.

**(1) Exception: Window access shall be permitted to serve more than one guestroom for bed and breakfasts in Use Group R-1 provided that the window serves a floor with a maximum occupant load of 10 and that the window has a clear opening of at least 5.7 square feet, a minimum net clear opening of 24 inches in height, a minimum net clear opening of 20 inches in width, and a sill height of not more than 44 inches above the finished floor.**

**(2) For bed and breakfasts in Use Group R-1, where a door is required because the occupant load served exceeds 10, the door shall have a clear opening of at least 10 square feet, a minimum net clear opening of 54 inches in height and a minimum net clear opening of 24 inches in width.**

4. – 7. (No change.)

(b) – (o) (No change.)

5:70-4.13 Protection of interior stairways and other vertical openings

(a) – (b) (No change.)

(c) Interior stairways and other vertical openings connecting no more than three levels shall be enclosed with approved assemblies and opening protectives having a fire resistance as follows:

1. – 9. (No change.)

10. In Use Group R-1, a minimum one-hour fire barrier shall be provided to protect all interior stairways and other vertical openings not exceeding three stories. Such fire barrier may be omitted:

i. (No change.)

ii. In buildings with not more than 25 guests in which the following conditions are met:

(1) (No change.)

**(2) The building is protected throughout by an automatic fire alarm system, installed in accordance with the New Jersey Uniform Construction Code and supervised in accordance with N.J.A.C. 5:70-4.9(c); and**

**[(2)] (3) Every sleeping room above the second floor or more than 16 feet above grade is provided with direct access to a fire escape or other approved secondary exit[;] or**

**[(3) Any] any exit access corridor exceeding [eight] 20 feet in length which serves two means of egress, at least one of which is an unprotected vertical**

opening, shall be separated from the vertical opening by a one-hour fire barrier[;  
and].

[(4) The building is protected throughout by an automatic fire alarm system,  
installed in accordance with the New Jersey Uniform Construction Code and  
supervised in accordance with N.J.A.C. 5:70-4.9(c).]

11. (No change.)