

3. The economic viability and local credit needs of the community within the proposed district;

4. The existing commercial development within the proposed district; and

5. The impact additional banking services would have on potential economic development in the proposed district.

3:36-3.2 Time of decision

The Commissioner shall issue a written determination on an application for designation as a district within 60 days of receipt of a complete application. All approved districts shall be posted on the Department's web site.

SUBCHAPTER 4. REPORTING

3:36-4.1 Reports to the Department

(a) A municipality that receives approval for a district based upon an application submitted in accordance with N.J.A.C. 3:36-2.2 shall notify the Department in writing within 20 days of a bank establishing a branch in a district in the municipality and shall specify the name of the bank and the address of such a branch.

(b) The notifications set forth in (a) above shall be submitted to: New Jersey Department of Banking and Insurance, Division of Banking, Office of Depositories, P.O. Box 040, Trenton, New Jersey 08625-0040.

(c) A municipality that is required to file any certifications with the New Jersey Department of Community Affairs, Division of Local Government Services regarding a banking development district shall simultaneously provide a copy of same to the Department.

COMMUNITY AFFAIRS

(a)

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Adopted Amendments: N.J.A.C. 5:23-2.7, 2.16, and 2.17A

Proposed: June 18, 2012 at 44 N.J.R. 1757(a).

Adopted: September 21, 2012 by Richard E. Constable, III, Commissioner, Department of Community Affairs.

Filed: September 27, 2012 as R.2012 d.181, **with a technical change** 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: November 5, 2012.

Expiration Date: June 13, 2015.

Summary of Public Comments and Agency Responses:

Comments were received from Michael G. McGuinness, CEO of the New Jersey chapter of NAIOP, Michael Allen Seeve, President of Mountain Development Corp., and Richard A. Soltis, Jr., President of the Mercer County Fire Prevention Association and Fire Subcode Official of Lawrence Township.

COMMENT: NAIOP-NJ commends the Department for this proposal, which is of great importance to New Jersey's commercial and industrial building owners as they work to retain and attract employers and jobs. All commercial real estate transactions will benefit from this simple revision to the building code, which will save time and money and result in a smoother and quicker transition for tenants seeking to occupy space. It will permit interior alterations to be completed more quickly, allow building owners to inform tenants with certainty as to when they will be able to occupy space, bring predictability to construction schedules and tenant moves, speed job creation, make corporate tenants less likely to look at other states instead of New Jersey, and put New Jersey on an equal footing with other major commercial markets, including New York City, which already have similar systems. The proposal is in keeping with Governor Christie's Executive Order No. 2 (2010), in which he called for a "common sense" approach to administrative rules, as well as with

Executive Order No. 3 (2010), in which he called for a thorough review of existing rules and the withdrawal or amendment of any rules that unduly burden businesses or local governments. NAIOP-NJ urges the Department to follow up its adoption of the proposal with careful monitoring of its implementation and to provide an immediate remedy in any cases in which local enforcing agencies fail to meet the 20-day timeline. It would be meaningless to promulgate such a valuable rule and then have it nullified in practice due to lack of effective enforcement.

RESPONSE: The Department thanks NAIOP-NJ for its enthusiastic support of the proposed changes. Any permit applicant who is aggrieved by the failure of a local enforcing agency to comply with the amended rule should bring the matter to the attention of the Department's Office of Regulatory Affairs, which will take such action as may be appropriate in order to bring about compliance in accordance with existing enforcement rules and procedures.

COMMENT: Mountain Development Corp., a commercial developer that is active both in Northern New Jersey and in neighboring states, supports the proposed rule and believes that it will be very helpful in speeding up both the pace and predictability, timing-wise, for companies moving into new spaces, resulting, in turn, in the more rapid creation of new jobs; that it removes from the process a lot of delays that do not exist in other states, and which corporate tenants who do business in other states often cite as reason not to do business in New Jersey; and that it will create a level playing field among New Jersey municipalities, since all will be held to the same standards of responsiveness. The amended rule will be well-received by companies and will encourage them to stay and expand in New Jersey, which will translate into more jobs and higher rates, two much-needed priorities.

RESPONSE: The Department appreciates this expression of support.

COMMENT: The Department, the Division of Codes and Standards, and the Code Advisory Board, as well as the "small working group" that worked on this notice of proposal, are to be commended for taking the time to listen to comments and concerns from the code-enforcement community and the public on this issue. The Department should follow up on the adoption of this notice of proposal by issuing a form that can be used for "plan release with conditions."

RESPONSE: The Department appreciates the commentator's expression of support for the process that was followed in the development of this notice of proposal. The commentator's request that an appropriate form be issued to be used by code officials in implementing the amended rule is outside the scope of the proposed rules and cannot be acted upon in this adoption; however, the recommendation will be considered by the Department as a possible next step.

Summary of Agency-Initiated Change:

Some work categorized as "repair" under the rehabilitation subcode is "ordinary maintenance" under the provisions of N.J.A.C. 5:23-2.7, and therefore, would not require a permit. It was brought to the attention of the Department in a conversation between a Departmental staff member and a licensed code enforcement official that the language at N.J.A.C. 5:23-2.17A(c)8, as proposed, may be misconstrued as establishing a requirement that this work would be considered "minor work," and as such, would require a permit. A reference to N.J.A.C. 5:23-2.7 has been added at N.J.A.C. 5:23-2.17A(c)8 to avoid such a possible misapplication of the new provision.

Federal Standards Statement

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

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

5:23-2.7 Ordinary maintenance

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

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

1. Ordinary building maintenance shall include:
- i.-vii. (No change.)
 - viii. The replacement or installation of any flooring material with a new material;
 - ix.-xiv. (No change.)
 - 2.-6. (No change.)

5:23-2.16 Construction permits—procedure

(a) Action on application: The construction official or the appropriate subcode official in the case of construction involving only one trade or subcode, shall examine or cause to be examined all applications for permits and amendments thereto, and approve or deny in whole or in part the application, within 20 business days. If the application is denied in whole or in part, the enforcing agency shall set forth the reasons therefor in writing. If an enforcing agency fails to grant, in whole or in part, or deny an application within 20 business days, such failure shall be deemed a denial of the application for purposes of an appeal to the Construction Board of Appeals, unless such period of time has been extended with the consent of the applicant. Whenever plans have been rejected and are thereafter revised and resubmitted, the revised plans shall be released if the deficiencies that were stated as grounds for rejection have been corrected and code compliance has been demonstrated. In that case, a written notice of release shall be given to the applicant not later than seven business days after the resubmission of the revised plans. When the grounds for rejection have not been corrected or when code compliance has not been demonstrated, a written notice of rejection stating the grounds for rejection shall be given to the applicant not later than seven business days after the resubmission of the revised plans.

1.-2. (No change.)

3. Exception—Plan Release with Conditions and Permit Issuance: In buildings of Group B, F, M, or S, for alteration or reconstruction projects performed in accordance with N.J.A.C. 5:23-6, unless the code official finds that the plans are so deficient that they cannot be used as a means of determining code compliance upon inspection, the construction official shall act on the permit application by identifying and providing to the permit applicant a list of those conditions that require correction for code compliance, as follows:

i. A plan release with conditions shall mean that a list of code deficiencies identified through plan review shall be attached to the plans with the condition that the deficiencies so identified will have been corrected and will be code compliant upon inspection.

ii. The plan release with conditions shall identify any deferred submittals necessary to perform an inspection.

iii. A timeframe for the receipt by the enforcing agency of the deferred submittals and for the correction of code deficiencies shall be specified in the plan release with conditions. If revised drawings are determined to be necessary, a timeframe for submitting revised drawings shall be specified in the plan release with conditions.

iv. The plans shall be released with conditions and the permit application shall be acted upon following the written acceptance by the permit applicant of the conditions attached to the plan release. When the list of conditions attached to the plan release is provided to the permit applicant, the enforcing agency shall provide a copy of the conditions attached to the plan release to the design professional of record.

(1) The issuance of a plan release with conditions notwithstanding, the construction permit shall not be issued until the conditions of all prior approvals, as defined at N.J.A.C. 5:23-1.4, have been met in accordance with N.J.A.C. 5:23-2.15(a)5.

v. Plan release with conditions shall not apply to a change of use or to a change in the character of use in accordance with N.J.A.C. 5:23-6.

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

(e) Released plans: The construction official shall stamp or endorse in writing both sets of plans released, and one set of such released plans shall be retained and the other set shall be kept at the building site, open to inspection of the construction official or the construction official's authorized representative at all reasonable times.

1. For plans released pursuant to (a)3 above, the conditions shall be attached to the plans that are retained on site and the plans that are retained by the enforcing agency and shall be available for use in performing inspections.

(f)-(k) (No change.)

5:23-2.17A Minor work

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

(c) Minor work:

1.-7. (No change.)

8. Minor work shall mean and include repair and/or renovation work in a Group B, Group F, Group M, or Group S occupancy performed in accordance with N.J.A.C. 5:23-6*, **but shall not include work categorized as ordinary maintenance pursuant to N.J.A.C. 5:23-2.7*.**

(d) (No change.)

(a)

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Adopted Amendments: N.J.A.C. 5:23-2.20, 3.11, 3.14, 4.18, and 4.20

Proposed: June 4, 2012 at 44 N.J.R. 1679(a).

Adopted: September 24, 2012 by Richard E. Constable, III, Commissioner, Department of Community Affairs.

Filed: September 24, 2012 as R.2012 d.179, **with technical 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: November 5, 2012.

Expiration Date: June 13, 2015.

Summary of Public Comments and Agency Responses:

Comments were received from the following persons and organizations: Michael G. McGuinness, CEO, New Jersey Chapter of NAIOP (NAIOP-NJ); Richard J. Cureton, AIA, President, Whitesell Construction Company, Inc.; Kenneth Volk, Vice President, Heller Industrial Parks, Inc.; John DiCola, Partner, KTR Capital Partners; Robert F. Vicci, RPA, Director of Space Preparation, Federal Business Centers; Bill Toland, Federal Business Centers; Brian Townsend, Sr. Vice President, Investments, CenterPoint Properties; Joshua Adler, Bernie Adler, Seth Adler, Jeanne Adler and Matt Adler, Adler Development; Richard A. Soltis, Jr., President, Mercer County Fire Prevention Association and Lawrence Township Fire Subcode Official; Eugene A. Preston, Managing Partner, Woodmont Industrial Partners, LLC; Frank Greek, President and CEO, F. Greek Development; and Michael Allen Seeve, President, Mountain Development Corp.

COMMENT: On behalf of its nearly 600 members, NAIOP-NJ commends the Department for this proposal, which addresses two issues of great importance to New Jersey's commercial and industrial building owners, namely the need to allow a 400-foot travel distance in Group F-1 and S-1 occupancies in buildings that are one story in height, equipped with smoke and heat vents, and equipped throughout with a sprinkler system installed in accordance with NFPA-13, and the need to revise the standards for municipal fees to codify the recommendations in Bulletin 79-8 for large, open-volume buildings. These needed rule changes will strengthen New Jersey's crucial transportation, logistics, and distribution center industry, which represents a substantial portion of our State's gross domestic product and employs hundreds of thousands of people. The one change that NAIOP-NJ requests is that the list of types of large, open-volume buildings included in the proposed rule be amended to specifically include distribution centers, a term often used synonymously with warehouse facilities.

RESPONSE: The Department thanks NAIOP-NJ for its support of the proposal. For purposes of clarification, distribution centers are being added upon adoption to the list of examples of large, open volume buildings at N.J.A.C. 5:23-4.18(c)1v.

COMMENT: Restoration of the 400-foot maximum travel distance in sprinklered buildings of Groups F-1 and S-1 would correct a reduction to 250 feet that has severely limited the allowable width of large factory and warehouse buildings unless costly egress tunnels are built. Reducing the