

RULE ADOPTIONS

COMMUNITY AFFAIRS

(a)

DIVISION OF CODES AND STANDARDS

Residential Site Improvement Standards Stormwater Management

Adopted Amendments: N.J.A.C. 5:21-4.14, 4.16, 5.2, 7.8, 5:21-7 Appendix B, and 8.1

Proposed: June 15, 2020, at 52 N.J.R. 1255(a).

Adopted: October 7, 2020, by Lt. Governor Sheila Y. Oliver,
Commissioner, Department of Community Affairs.

Filed: October 7, 2020, as R.2020 d.118, **without change**.

Authority: N.J.S.A. 40:55D-40.4.

Effective Date: November 2, 2020.

Expiration Date: June 24, 2021.

Summary of Public Comments and Agency Responses

Comments were received from Mitchell Malec, a former employee of the Department of Community Affairs (Department).

1. COMMENT: The commenter took issue with the proposed amendment to change the word “Stable” to “Roadside” at N.J.A.C. 5:21-7.8(d)2iii, stating that the 1975 report has the title “Design of Stable Channels with Flexible Linings.” The commenter recommended that the Residential Site Improvement Advisory Board (SIAB) reference the 2005 edition of the report that corresponds to the title change.

RESPONSE: The Department does not adopt the 1975 standard. The change to the title accurately reflects the edition of the referenced standard.

2. COMMENT: The commenter disagrees with the proposed amendment allowing use of more recent editions of some referenced standards and said this would allow designers and developers to “pick and choose” those they followed. The commenter recommended that the Department update the editions of the referenced standards for the sake of uniformity.

RESPONSE: This rulemaking applies to some, but not all, referenced standards. Technical standards published by the American National Standard Institute (ANSI), the American Water Works Association (AWWA), and other organizations in the business of publishing technical standards change frequently, with the consequence that older versions go out of print and become difficult to access. The sources of the standards and the editions or versions consulted are cited in the referenced section (Chapter 8) of the rule. When a standard is incorporated or a specific edition is explicitly cited, only that version of the standard can be used. Due to the fact that many of these technical standards change frequently, even annually, the proposed amendment accommodates this by allowing later editions.

3. COMMENT: The commenter stated his understanding that SIAB considers changes to the RSIS annually and proceeded to make a number of recommendations pertaining to the editions of referenced standards. He requested that his recommendations be understood as RSIS code change proposals.

RESPONSE: Many standards are in the RSIS, and not all of them are treated the same. Some are incorporated, while some are cited with specific editions. Others are cited, but allow designers and reviewers to use later, revised editions. Moreover, RSIS code change suggestions are outside the scope of this rulemaking.

4. COMMENT: The commenter expressed disagreement with the amendment to update Table 4.4 with footnote “d,” which specifies that assisted living facilities, as defined by the Department of Health, are within the scope. The commenter stated that this addition is redundant because parking requirements for residential land uses are based on the Institute of Transportation Engineers (ITE) standards, and “assisted living” or “assisted care units” are defined within ITE documents.

RESPONSE: Table 4.1 incorporates trip generation rates published by the ITE. The ITE publishes such rates for both commercial and residential uses, but as the RSIS only applies to residential use, the nonresidential uses are not in the RSIS. Table 4.4 deals with the number of parking spaces; it considers number, size, and type of housing. The rule change incorporates the definition of assisted living used by the New Jersey Department of Health to promote consistency and clarity among New Jersey State government rules; the utilization of this definition was recommended by SIAB. The Department is in agreement with SIAB in seeing no greater benefit to referencing the ITE definition of assisted living.

5. COMMENT: The commenter weighed in on SIAB meeting minutes that pertained to a discussion of parking requirements for mixed parking facilities.

RESPONSE: The contents of advisory board meeting minutes are outside the scope of this rulemaking. The intent of this rulemaking is to clarify the parking standard applies to the entire assisted living facility as defined by the New Jersey Department of Health, which licenses these facilities in New Jersey.

6. COMMENT: The commenter inquired into the basis of the proposed amendments at N.J.A.C. 5:21-4.16(e)3. The commenter took issue with the wording, suggesting instead, “Where multiple means of access are required, one of the means of access shall be permitted to be restricted for emergency use only, when approved by the AHJ,” and mused on the various configurations of parking lots and how they are reflected in the proposed amendment.

RESPONSE: There are few design standards in the RSIS for parking lots. There are no standards in the rules for parking decks. When there are few or no standards, designers have great discretion subject to reviewer approval. The proposed amendment is a clarification intended to reiterate that reviewers make the final determination on parking lot design and can prohibit use of any second access by visitors and residents, limiting use to only emergency vehicles.

7. COMMENT: The commenter expressed concerns about the proposed lower water demand rates at N.J.A.C. 5:21-5.2, Table 5.1, stating that the New Jersey Water Supply Advisory Council should not be considered authoritative and suggesting that, in his understanding of the literature, the data on this topic is uncertain. The commenter contested the methodology of the cited study, “Water Needs Through 2040 for New Jersey Public Community Water Supply Systems,” and stated that other surveys and studies provide more detailed analyses that take the density factor variable into account. The commenter recommended that SIAB defer to the New Jersey Department of Environmental Protection, as it pertains to water use demand numbers and/or conduct internal studies to attain the most accurate numbers, with many recommendations made as to the hypothetical contents of such a study.

RESPONSE: A model ordinance prepared by researchers at Rutgers University served as the basis for the RSIS, as required by law. The water supply standards were incorporated from that study and are 50 years old. The changes adopted by the Department update water use standards based on a recent study commissioned by the New Jersey Water Supply Advisory Council for the New Jersey Department of Environmental Protection (DEP) and conducted by researchers at Rutgers University. This study relies on more current water-use trends by New Jersey residents. The change was made with the DEP and promotes consistency among State rules. The advisory board advising the Department reviewed the changes recommended by the research team from Rutgers, agreed with a similar advisory board created by the DEP, and recommended that the Department revise and update the water supply standard.

Federal Standards Statement

No Federal standards analysis is required. The changes 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 Federal law, standards, or requirements.

Full text of the adoption follows:

SUBCHAPTER 4. STREETS AND PARKING

5:21-4.14 Parking: number of spaces
(a)-(f) (No change.)

TABLE 4.4

PARKING REQUIREMENTS FOR RESIDENTIAL LAND USES^a

<u>Housing unit type/size^b</u>	<u>Parking requirement per dwelling unit</u>
Assisted living ^d	0.50

Notes:

^{a-c} (No change.)

^d As defined by the New Jersey Department of Health at N.J.A.C. 8:36-1.3, as a facility with apartment-style housing and congregate dining, and other assisted living services available when needed. At a minimum, apartment units have one room, a private bathroom, a kitchenette, and a lockable entrance door.

Source:

(No change.)

5:21-4.16 Parking lots

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

(e) Where sole access to dwelling units is via a parking lot, the following features shall be provided:

1.-2. (No change.)

3. Parking lots having more than 100 spaces shall have a minimum of two means of ingress and egress, or be provided with a divided-type entrance. The primary function of the second or divided-type entrance is emergency access. With reviewer approval, the design may allow residents and visitors to use the second access on a full-time or part-time basis.

SUBCHAPTER 5. WATER SUPPLY

5:21-5.2 Capacity

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

Table 5.1

Water Demand by House Type and Size

<u>House type and size</u>	<u>Water Demand/ gallons per day</u>
Single-family detached	
2 bedroom	150
3 bedroom	225
4 bedroom	395
5 bedroom	475
Townhouse	
1 bedroom	120
2 bedroom	140
3 bedroom	200
4 bedroom	255
Low and mid-rise (up to nine stories)	
1 bedroom	95
2 bedroom	140
3 bedroom	215
High-rise (10 or more stories)	
studio	65
1 bedroom	80
2 bedroom	130
Mobile home	
1 bedroom	120
2 bedroom	140
3 bedroom	245

Source: "Water Needs Through 2040 for New Jersey Public Community Water Supply Systems," by Daniel Van Abs, Jiayil Ding, and Eric Pierson, Rutgers University, 2018. Study commissioned by the New Jersey Department of Environmental Protection.

SUBCHAPTER 7. STORMWATER MANAGEMENT

5:21-7.8 Detention basins and other stormwater management facilities

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

(d) The following list of general structural criteria shall be used to design stormwater detention basins.

1. (No change.)

2. Detention components: emergency spillways, as follows:

i.-ii. (No change.)

iii. Where maximum velocities exceed the allowable velocities for soil stability as determined in the Standards for Soil Erosion and Sediment Control in New Jersey, at N.J.A.C. 2:90, suitable lining should be provided. Design engineers also may check maximum velocities in emergency spillways based on the velocity of the peak flow in the spillway resulting from routing the spillway design storm hydrograph as defined in the NJ DEP Dam Safety Rules (N.J.A.C. 7:20) for all detention facilities classified as dams and the 100-year storm hydrograph for all other facilities. Where maximum velocities exceed those contained in Table 7.5 below, suitable lining shall be provided. Linings shall meet specifications required in Hydraulic Engineering Circular No. 15-Design of Roadside Channels with Flexible Linings, published by the U.S. Department of Transportation, Federal Highway Administration, or in the Standards for Soil Erosion and Sediment Control in New Jersey as cited above.

TABLE 7.5

(No change.)

3.-6. (No change.)

(e) (No change.)

APPENDIX B

DEP Stormwater Management Rules Referenced in N.J.A.C. 5:21-7: N.J.A.C. 7:8-5 and 6 and other Relevant Portions of the Stormwater Rules

...

7:8-5.4 Erosion control, groundwater recharge, and runoff quantity standards

(a) This section contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.

1. (No change.)

2. The minimum design and performance standards for groundwater recharge are as follows:

i.-ii. (No change.)

iii. The following types of stormwater shall not be recharged:

(1) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than 'reportable quantities' as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with remedial action work plan or landfill closure plan; and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and

(2) (No change.)

iv. (No change.)

3. (No change.)

(b) (No change.)

...

SUBCHAPTER 8. REFERENCED STANDARDS

5:21-8.1 Referenced standards

(a) The following is a list of the standards referenced in this chapter. The standards are listed by the promulgating agency of the standard, the standard identification, the edition of the standard, the title of the standard, and the section(s) of this code that reference(s) the standard. The standards listed in this chapter are not adopted or to be used in their entirety unless the rules specifically so state. The use of the standards included in this chapter is limited to those specific areas of the standard for which this chapter directs the user to the standard. Designers and reviewers may agree to use more recent editions.

1.-19. (No change.)

(a)

**DIVISION OF CODES AND STANDARDS
Uniform Construction Code
Responsibilities**

Adopted Amendment: N.J.A.C. 5:23-3.4

Proposed: March 2, 2020, at 52 N.J.R. 371(a).
Adopted: September 29, 2020, by Lt. Governor Sheila Y. Oliver,
Commissioner, Department of Community Affairs.
Filed: October 8, 2020, as R.2020 d.119, **without change**.
Authority: N.J.S.A. 52:27D-124.
Effective Date: November 2, 2020.
Expiration Date: April 20, 2022.

Summary of Public Comment and Agency Response

A comment was received from Mitchell Malec, a former employee of the Department of Community Affairs (Department).

COMMENT: The commenter stated, "Understanding how tedious and boring it is to update section numbers and provisions of the UCC when new editions of the model codes are adopted, I commend the Department in only having 160 changes to N.J.A.C. 5:23-3.4 as noted in the Summary. I also recognize how difficult it is to alphabetize the order when multiple subcode officials are included. (Building, Electrical, Elevator, Fire, Plumbing)

Considering the above, it is recommended that the Department review the plan review responsibilities of the Building Subcode sections 421.7, 2702.1.1, and 3002.9; of the Mechanical Subcode section 1403; of the Fuel Gas Subcode section 602-603; (and ?) and correct as or if needed. In addition, it is recommended that the Department review the inspection provisions of the Building Subcode sections 1008, and 3002.9; of the One- and Two-Family Dwelling Subcode section M1801-M1804; (and ?) and correct as or if needed.

The Department's consideration is appreciated."

RESPONSE: The Department thanks the commenter and notes that, after review of the cited sections, no further changes are needed at N.J.A.C. 5:23-3.4; the responsibilities are appropriate as delineated.

Federal Standards Statement

No Federal standards analysis is required for the adopted amendments because the 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:

SUBCHAPTER 3. SUBCODES

5:23-3.4 Responsibilities

(a) The enforcement responsibilities of the adopted subcodes are as follows:

1. Building Subcode:

Chapter	Section/Title	Responsibility	
		Plan Review	Inspection
...			
	403.4.8.3-403.4.8.4	Electrical/Fire	Electrical
...			
	403.6	Building/Elevator/Fire	Elevator
	403.6.1-403.6.2	Building/Elevator/Fire	Elevator
...			
	406.1-406.2.8	Building/Fire	Building
	406.2.9	Fire	Fire
	406.3-406.3.5	Building/Fire	Building
	406.4-406.4.3	Building	Building
	406.5.1	Building/Fire	Building
...			
	406.7.2-406.8	Building/Fire	Building
	406.8.1	Building	Building
	406.8.2-406.8.3	Fire	Fire
	407.1-407.2.5	Building/Fire	Building
	407.2.6	Fire	Fire
	407.3-407.4.4.5#1 and #2	Building/Fire	Building
	407.4.4.5#3	Building/Fire	Fire
	407.4.4.5.1-407.6	Building/Fire	Building
	407.7-407.9	Fire	Fire
	407.10	Building/Fire	Building
	407.11	Electrical	Electrical
...			
	409-410.5.3.5	Building/Fire	Building
	410.6-410.7	Fire	Fire
	411.1	Building/Fire	Building
	411.2-411.5	Fire	Fire