

15, and when referred to in this subchapter may be cited as “this subchapter.”

(b) The scope of this subchapter shall be to set forth specific rules applicable to aerial adventure courses. The rules in this subchapter shall be in addition to the general provisions of the rules governing carnival and amusement rides in this chapter. Where a specific provision covering aerial adventure courses conflicts with the general provisions of this chapter, the provision set forth in this subchapter shall govern.

5:14A-15.2 Definitions

The words and terms found in Section 3 of ASTM F2959, as amended at N.J.A.C. 5:14A-15.5, when used in this subchapter, shall have the meanings stated therein, unless the context clearly indicates otherwise.

5:14A-15.3 Design and construction

(a) The intent of this section is to establish minimum criteria for the design, construction, and major modification of aerial adventure course rides and shall include, but not be limited to, all components required for use by, and protection of, the user.

(b) Design shall facilitate conformance with provisions of N.J.A.C. 5:14A-15.5.

(c) Design and construction shall be in accordance with N.J.A.C. 5:14A-7, where applicable.

(d) An aerial adventure course shall not require:

1. An “operator presence device”; or
2. An “emergency stop” and/or “category 0 stop.”

5:14A-15.4 Operation

(a) Operation of an aerial adventure course shall comply with applicable requirements of N.J.A.C. 5:14A-9.

(b) Patrons shall be supervised at all times.

(c) Only patron equipment approved by the manufacturer or acceptable to the Department shall be permitted for use.

(d) Access to an aerial adventure course shall be restricted to prevent accidents and injury to patrons.

1. Each aerial adventure course shall have a system for controlling patron access.

2. Each patron shall be given instructions for the safe use of the aerial adventure course before being permitted access to the course. At a minimum, this instruction shall include that required or recommended in the operation manual.

5:14A-15.5 Adoption as amended of ASTM F 2959-16

(a) The Standard Practice for Aerial Adventure Courses, designated by the American Society for Testing Materials (ASTM) as F 2959-16, is adopted herein by reference, as amended, and made part of this subchapter and shall be enforced as part of this subchapter.

(b) Notwithstanding any provisions stated in the standard, where specific provisions of the standard conflict with the provisions expressly set forth in this subchapter, the provisions set forth in this subchapter shall govern.

(c) The following sections of the standard are modified as follows:

1. Section 1, entitled Scope shall be amended as follows:

i. In Section 1.1, “which occur(s) after the effective date of publication of this document except as noted in 1.3” shall be deleted.

ii. Section 1.2.6 shall be deleted in its entirety.

iii. Section 1.3 shall be deleted in its entirety.

2. Section 2, entitled Referenced Documents, shall be amended as follows:

i. In Section 2.1, the following amendments shall be made:

“F 747” shall be deleted and “F 747-15” inserted in its place.

“F 770” shall be deleted and “F 770-15” shall be inserted in its place.

“F 846 Guide for Testing Performance of Amusement Rides and Devices” shall be deleted.

“F 1193” shall be deleted and “F 1193-16” shall be inserted in its place.

“F 1487 Consumer Safety Performance Specifications for Playground Equipment for Public Use” shall be deleted.

“F 1772” shall be deleted and “F 1772-99” shall be inserted in its place.

“F 1957” shall be deleted and “F 1957-99” shall be inserted in its place.

“F 2137” shall be deleted and “F 2137-15a” shall be inserted in its place.

“F 2291” shall be deleted and “F 2291-14” shall be inserted in its place.

“F 2375” shall be deleted and “F 2375-09” shall be inserted in its place.

“F 2974” shall be deleted and “F 2974-15” shall be inserted in its place.

ii. In Section 2.2, “ANSI B77” shall be deleted and “ANSI B77.1-2011” shall be inserted in its place.

iii. In Section 2.3, “EN12277” shall be deleted and “EN12277-2015” shall be inserted in its place.

iv. In Section 2.5, “UIAA 105” shall be deleted and “UIAA 105-2004” shall be inserted in its place.

3. Section 5, entitled “Ownership, Operation, Maintenance, Inspection, and Training Requirements,” shall be amended as follows:

i. Section 5.9, entitled “Patron Responsibility” shall be deleted in its entirety.

ii. Section 5.10 entitled “Classification of Injuries and Illnesses,” shall be deleted in its entirety.

iii. Section 5.11 entitled “Transfer of Ownership,” shall be deleted in its entirety.

4. Section 6, entitled “Testing and Performance,” shall be deleted in its entirety.

5. Section 7, entitled “Auditing,” shall be deleted in its entirety.

6. Section 11, entitled “Design Requirements,” shall be amended as follows:

i. In Section 11.1.9.1, in the second line, “designer/engineer’s” shall be deleted and “licensed professional engineer” shall be inserted.

ii. In Section 11.1.11.1(2), in the second line, “qualified person” shall be deleted and “licensed professional engineer” shall be inserted.

iii. Add new Section 11.1.12.6 as follows: “Practice F 2291, add new Subsection 13.8 as follows ‘13.8 *Patron Safety Restraint*. 13.8.1 Once connected to the patron safety restraint system, all patrons of the Aerial Adventure Course shall remain in constant connection with the safety restraint system until arrival at the loading/unloading area.’ ”

(d) The ASTM standard F 2959-16 may be obtained from:

American Society for Testing Materials  
100 Barr Harbor Drive  
West Conshohocken, PA 19428-2959

(a)

**DIVISION OF CODES AND STANDARDS**

**Uniform Construction Code**

**Ordinary Maintenance and Minor Work**

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

Proposed: April 6, 2020, at 52 N.J.R. 559(a).

Adopted: October 15, 2020, by Lt. Governor Sheila Y. Oliver,

Commissioner, Department of Community Affairs.

Filed: January 11, 2021, as R.2021.d.013, **without change**.

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

Effective Date: February 16, 2021.

Expiration Date: March 25, 2022.

**Summary of Public Comments and Agency Responses:**

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

1. COMMENT: “The Department’s proposed amendments need improvement. I recall, maybe incorrectly or maybe not, when a portion of these UCC provisions (NJAC 5:23-2.7(c)1.vi.) were within Interpretation #8 and the section read: ‘The repair of any non-structural member such as a railing’ which became part of the UCC as written. Then a later amendment changed the section to read: ‘The repair of any non-structural member such as a partition railing or kitchen cabinets’ which was later amended separating ‘partition railing’ and ‘kitchen cabinets’ into separate provisions. Note that ‘partition railing’ was added and NOT ‘partition walls’ or just ‘partitions’. Further amendments were made, by adding ‘one and two family dwellings’ to the text, that the Department in that NJ Register Summary stated was to limit these provisions to one and two family dwellings. (Note that this does not state detached one and two family dwellings. And does not read: The repair of any non-structural component in one and two family dwellings, such as partition railings. Or

have a comma after the word “railing” in current text.) However, the text ‘such as’ [similar to ‘including, but not limited to’ in other UCC provisions] that the Department used did and does not limit this provision to one and two family dwellings as written. Now the Department proposes to amend this section to allow, in any Group, the repair or replacement of any non-structural component and modifies the ‘such as’ to include all non-load bearing partitions and all railings. It appears that the previous NJ Register comments to the Department relating to these matters went by the wayside. It is recommended, as a start, the Department review the comments and Department responses contained in the March 5, 2018 NJ Register (50 NJR 955(a)), for which a public hearing was also held, relating to these provisions.”

RESPONSE: The Department thanks the commenter for noting a grammatical error and, upon adoption, has added the needed comma at N.J.A.C. 5:23-2.7(c)1vi. While the Department acknowledges prior comments included in the March 5, 2018 adoption of amendments to ordinary maintenance and minor work, the changes made in this rulemaking are a result of the petition received June 24, 2019; the content of such petition, rather than the comments in the prior rulemaking, were the baseline for this rulemaking.

2. COMMENT: “In addition, NJAC 5:23-2.17A(c) seems to still conflict with NJAC 5:23-2.7, making several ordinary maintenance items become minor work items. (especially review NJAC 5:23-2.17A(c)1).”

RESPONSE: The Department notes that N.J.A.C. 5:23-2.7(c)1xiii allows for the repair or replacement of any part of a deck, porch, or stoop that does not provide structural support for any roof or portion of a building as ordinary maintenance. N.J.A.C. 5:23-2.17A(c)1i establishes the construction or total replacement of any porch or stoop that does not provide structural support for any roof or portion of a building as minor work. Because the ordinary maintenance provision addresses replacement of any part, and minor work addresses total replacement, these sections are not in conflict; consequently, the Department respectfully disagrees with the commenter.

3. COMMENT: “It should be obvious to the Department that the provisions of NJAC 5:23-2.7(c)1.vi. (and other sections within 2.7 and 2.17) still need clarification. Consider the statement ‘The repair or replacement of any non-structural component’ is ordinary maintenance. What does this include? It is my understanding (probably based on seismic provisions) that non-structural components can be broken down into two subcategories; architectural components and mechanical, electrical, and plumbing components (MEPs). (Some individuals even add a third subcategory of furniture, fixtures and equipment and contents.) As examples of non-structural architectural components - interior non-structural walls and partitions, exterior wall panels and glazing elements, a raised computer floor, veneer, dropped ceilings, and signs to name a few. As examples of non-structural MEPs - HVAC, fans, boilers, furnaces, water heaters, elevators, escalators, generators, lighting fixtures, piping, and conduit systems to name a few. Is the intent of the Department to recognize all repairs and replacement of these non-structural architectural items to be recognized as ordinary maintenance not requiring a UCC permit? If it isn’t, then the Department should recognize the need for clarification. The same seems applicable to NJAC 5:23-2.7(c)1.vii. that states that the repair, replacement, or installation of any non-structural elements is ordinary maintenance. It is recommended and requested that the Department provide definitions and/or explanations for ‘non-structural components’ and ‘non-structural elements’ or limit ordinary maintenance to specific (non-structural) items within specific Groups.”

RESPONSE: The Department disagrees with the commenter; the rule text has included the term “non-structural member” prior to the March 5, 2018, notice of adoption, and it has been understood from an enforcement standpoint throughout the State. At the time of the March 5, 2018, notice of adoption, the Department recognized the value in differentiating between specific items and added “non-structural elements” as a separate section. This rulemaking provides examples in both sections. It is also important to note that the charging text at N.J.A.C. 5:23-2.7(c) notes that this is not an all-inclusive list, and the examples set forth within the references to non-structural member and non-structural element provide clarity for the kinds of items considered appropriate for repair, replacement, or installation as ordinary maintenance.

4. COMMENT: “The proposed amendments to NJAC 5:23-2.7(c)1.vii and 2.7(c)1.xiii adding ‘Materials and components used shall be identical to, or closely similar to, the existing materials and in the same location as those replaced.’ and ‘Materials used shall be identical to, or closely similar to, the existing materials and in the same location as those replaced.’ is unnecessary, is incorrect and should be eliminated. Materials and installation methods, with some exceptions, are covered by NJAC 5:23-6.8. (Even NJAC 5:23-2.4(a) states that existing structures, when repaired, renovated, altered or reconstructed, shall conform to the requirements of NJAC 5:23-6, Rehabilitation Subcode). Also review NJAC 5:23-6.4(e)5, 6.5(h), 6.6(i) and 6.7(g) for conflicts with the proposed. If anything, all that should be added is a reference to the Rehabilitation Subcode. (Consider a wooden railing in a dwelling which is non-code compliant in baluster spacing and rail height that is completely replaced with a code compliant metal railing. Or a section of a wooden stoop is changed to concrete. As proposed, these would not be considered ordinary maintenance). Review definition of ‘repair’ - why is ‘in the same location as those replaced’ included? Since the Department supposedly revised the language to be consistent with the terminology used in Subchapter 6 of the UCC, where is ‘in the same location as those replaced’ found? Review the definition of ‘renovation’ - removal and replacement with new materials that serve the same purpose and do not change the configuration of space. It appears to me that ordinary maintenance could be a repair, a renovation or even a combination of both. (And it appears the Department confused ‘ordinary maintenance’ with ‘repairs’ of the Rehabilitation Subcode. And it seems the Department does not remember why ‘ordinary repairs’ was changed to ‘ordinary maintenance’ in 2003.)”

RESPONSE: The Department disagrees with the commenter. The requirement to comply with the installation methods of the UCC, such as a Rehabilitation Subcode project, N.J.A.C. 5:23-6, is separate and distinct as to when a permit should be required for such work to be reviewed and inspected pursuant to N.J.A.C. 5:23-2. As an example, one could undertake a repair or a renovation project pursuant to N.J.A.C. 5:23-6 and would have to follow the requirements stated therein, but he or she may not need to file for a permit as listed at N.J.A.C. 5:23-2.

5. COMMENT: “The Department’s proposed amendments to NJAC 5:23-2.7(c)3.v. and 2.7(c)5.vi. appears to be the Department’s attempt to address and quick fix the petition request by adding ‘, and provided that the hood recirculates or vents independently to the outdoors’. What is the exhaust rate of a recirculating (or ductless) kitchen range hood? Is the answer zero? It is recommended that the Department separate this section to address ducted range hoods and ductless range hoods. The problem the Department may have in accomplishing this is that it may need to be several sentences instead of one. What are the requirements and stipulations when a ducted hood is replaced by a ducted hood in order to be considered ordinary maintenance? What are the requirements and stipulations when a ducted hood is replaced by a ductless hood in order to be considered ordinary maintenance? What are the requirements and stipulations, if any, when a ductless hood is replaced with a ductless hood in order to be considered ordinary maintenance? So if a ducted hood is replaced with a ductless hood, does it matter if the air flow capacity exceeds 400 CFM?”

RESPONSE: The Department appreciates the comment but disagrees that further changes are needed. Prior to the March 5, 2018, notice of adoption, the replacement of a kitchen hood was permitted, ductless (recirculation) or ducted, for a single-family dwelling. It was expanded to all dwellings upon the March 5, 2018, notice of adoption; the CFM limit was added to be consistent with the provisions within the code when make-up air would be required if the upgraded hood removed too much air from the unit. There should be no issue when a ducted hood is converted to a ductless hood. If a ductless is converted to a ducted, the new ductwork to be installed would require a permit. The amendments adopted in this rulemaking ensure that the replacement hood, whether ducted or ductless, would only affect the dwelling in which the work is undertaken.

6. COMMENT: “In addition to the above paragraph comments, the petitioner requested that the Department restore permit requirements for the replacement of kitchen range hoods and bathroom exhaust fans that vent to internal building shafts. In lieu of stating that the replacement of kitchen range hoods and bathroom exhaust fans that vent to internal

building shafts are not considered ordinary maintenance, the Department proposes adding another stipulation (vents independently to the outdoors) to all replacements. By doing this, the Department has established a retrofit requirement. As an example: Although the Department may believe that direct venting to the outdoors (for other than central exhaust ventilation systems) was always required for bathroom exhaust fans, installations were approved allowing ventilation into attic space and soffit, gable and ridge vents. In cases where this exists, these proposed amendments would require (I assume) the installation be corrected to code compliance and not be recognized as ordinary maintenance even if there were no issues (such as moisture problems or diminution of ventilation) with the current installation. (Note that compliance with the requirements of the other subcodes of the UCC is not required for work in existing buildings - only requirements specifically set forth in Subchapter 6.) If the Department feels this is a great concern, it is suggested this requirement be included along side smoke detection and carbon monoxide detection provisions and triggered when any repair is done."

RESPONSE: The Department disagrees with the commenter. The added text clarifies which bathroom exhaust fans may be replaced as ordinary maintenance. As noted in the Response to Comment 4, the requirements for when to comply with the installation methods of the UCC, such as those provided in the Rehabilitation Subcode, N.J.A.C. 5:23-6, are separate and distinct from when a permit is required for such work, N.J.A.C. 5:23-2. Adding language to address smoke alarms and smoke detection is outside the scope of this rulemaking, and the Department does not view these changes, as necessary, to the application of this code.

7. COMMENT: "In addition to the two paragraphs above, I was unable to find any justification in the NJ Registers as to why replacement of kitchen range hoods or bathroom exhaust fans in dwelling units that vent to a central exhaust ventilation system should not be ordinary maintenance. Please provide the justification. I'm picturing a dwelling unit in a high rise condo building that has an approved central exhaust ventilation system consisting of roof top exhaust fan(s) and localized (in dwelling units) powered bathroom exhaust fans. The system provides the required ventilation and does not cause back drafting into other units and balances automatically whether the dwelling unit bathroom exhaust fans are on or off. A dwelling unit bathroom exhaust fan needs replacement. The replacement install is done in the same fashion as replacing one that directly or independently vents to the outdoors. There is no change to duct work. The condo owner replaces his 400 CFM kitchen exhaust range hood with another 400 CFM range hood. The condo owner changes his kitchen exhaust range hood to a ductless hood. What's the issues that make these cases any different, resulting in the need for a construction permit, then when an independent vent to the outdoors exists? (Also note that NJAC 5:23-2.7(c)5., relating to HVAC, states that the replacement of motors, pumps and fans of the same capacity along with repair and replacement of duct work is ordinary maintenance.)"

RESPONSE: See the Responses to Comments 5 and 6 above.

8. COMMENT: "The Department's proposed amendment to NJAC 5:23-2.17A(b)1 that the notice shall include a brief summary and the location of the work to be performed seems logical. I just wonder how many people have walked into a local code enforcing agency, shouted out they were doing minor work and walked out without providing any other information (not even name or address). Considering the above, what information, at a minimum and maximum, needs to be provided for notice of minor work? If the Department was able to include this in the regulations it would probably be very beneficial. Notice, at a minimum, shall include name of person providing notice of minor work, relationship to owner of property if not owner, street address where minor work is to be performed (no need for block and lot # at this time), the type and use of the building, general description of the proposed work and its location on the property where work is to be performed, name of first born, contact information, consent to allow inspection of the minor work, (This does not mean inspection of the entire premises - only permitted minor work area. As example: Total replacement of an exterior single family dwelling porch (no structural support or fire safety impact), does not grant interior inspection. Eliminate proposed last sentence to NJAC 5:23-2.17A(b)1.) and acknowledgement that within five days from the date of the notice the

need to file a permit application with payment in accordance with NJAC 5:23-2.17A(b)2."

RESPONSE: The Department disagrees with the commenter and finds this section sufficient as written. The intent of this section is to make the minor work requirements *similar* to that of the summary and location requirements in the UCC at N.J.A.C. 5:23-2.14 and 2.15; however, because minor work projects are smaller in nature, not as much information is needed in comparison to a "full" permit project. If the local enforcing agency finds that more information is required, the agency may ask for such information in the five days allotted. This ensures all enforcing agencies are in receipt of a necessary baseline of information while allowing for the agency to acquire further information, if needed.

9. COMMENT: "Since my time is valuable, just as others that have provided comments or petitioned for changes, it is recommended that the Department form a task force of experts to methodically review, evaluate and make recommendations to further clarify the UCC provisions relating to ordinary maintenance, minor work, and when construction permits are not required. Or as a commenter suggested, partner with the professional code enforcement associations (and others) to make determinations about the most effective amendments to make that would also continue to insure the protection of the health, safety, and welfare of NJ residents. I also believe that ordinary maintenance and minor work should be expanded in scope when NJ licensed contractors with valid business permits perform the work. It also appears that the Department's position, once established, is difficult to overturn even with appropriate justification. As an example: The Department has little concern with the installation of a high-density polypropylene small garden shed (200 square feet in area and 10 feet in height) installed near the property line or against an existing dwelling by not requiring a construction permit, but the repair or replacement of 10 square feet of high-density polypropylene siding or any amount is not considered ordinary maintenance and requires a construction permit. The Department's consideration is appreciated."

RESPONSE: The Department disagrees with the commenter; there is already a dedicated group of experts who review proposed rules prior to their publication. The Uniform Construction Code Advisory Board reviews and approves all proposed changes to the UCC. The Board includes 15 members designated by statute, two of whom are public members that are not designated to represent a specific interest group. One member represents elevator inspectors and chairs the Elevator Safety Subcode Committee. One represents technical assistants who manage the local code enforcement offices and assist construction officials in the administration of the Uniform Construction Code. The other 11 members hold designated seats as follows: licensed fire prevention inspector; public member representing people with disabilities; licensed professional engineer (mechanical); licensed electrical inspector; architect; licensed professional engineer (structural); public health official; builder; municipal building official; public member representing consumers; and licensed plumbing inspector. In addition to the Board, there are associated subcode committees based on each discipline which review each proposed rule and provide comments to the Department.

#### 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 2. ADMINISTRATION AND ENFORCEMENT; PROCESS

##### 5:23-2.7 Ordinary maintenance

(a) (No change.)

(b) Ordinary maintenance shall not include any of the following:

1. The cutting away of any loadbearing wall or partition, or portion thereof;

2.-7. (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 listing of ordinary maintenance.

- 1. Ordinary building maintenance shall include:
  - i.-iv. (No change.)
  - v. The replacement of any window or door, including garage doors, in the same opening without altering the dimensions or framing of the original opening. This shall include storm windows and storm doors. The replacement of means of egress and emergency escape windows and doors may be made in the same opening without altering the dimensions or framing of the original opening, and shall not reduce the required height, width, or net clear opening of the previous window or door assembly. Exception: Opening protectives in fire-resistance rated assemblies;
  - vi. The repair or replacement of any non-structural component, such as a non-loadbearing partition and a railing in one- and two-family dwellings. Materials or components used shall be identical to, or closely similar to, the existing materials and in the same location as those replaced;
  - vii. The repair, replacement, or installation of any non-structural elements including, but not limited to, built in or attached furnishings, bookcases, equipment, or accessories, such as cabinets, benches or seats, and bathroom accessories;
  - viii.-xii. (No change.)
  - xiii. Notwithstanding (b)2 and 4 above, the repair or replacement of any part of a deck, porch, or stoop that does not provide structural support for any roof or portion of a building. Materials used shall be identical to, or closely similar to, the existing materials and in the same location as those replaced;
  - xiv.-xvii. (No change.)
- 2. (No change.)
- 3. Ordinary electrical maintenance shall include:
  - i.-iv. (No change.)
  - v. Replacement of kitchen range hoods in dwelling units, provided that the replacement hood exhaust rate does not exceed the exhaust rate of the existing hood or the exhaust rate of the replacement hood does not exceed 400 cubic feet per minute (cfm), and provided that the hood recirculates or vents independently to the outdoors;
  - vi.-vii. (No change.)
- 4. (No change.)
- 5. Ordinary heating, ventilation, and air conditioning maintenance shall include:
  - i.-v. (No change.)
  - vi. Replacement of kitchen range hoods in dwelling units, provided that the replacement hood exhaust rate does not exceed the exhaust rate of the existing hood or the exhaust rate of the replacement hood does not exceed 400 cfm, and provided that the hood recirculates or vents independently to the outdoors;
  - vii.-viii. (No change.)
  - ix. The replacement of bathroom exhaust fans in dwelling units, provided that the fan vents independently to the outdoors; and
  - x. (No change.)
- 6. (No change.)

5:23-2.17A Minor work

- (a) (No change.)
- (b) Notice of work; application:
  - 1. Notice of minor work shall be oral or written and submitted in person or electronically to local enforcement agency and shall be given before work commences. Notice shall include a brief summary and the location of the work to be performed. Such notice shall be consent for the enforcing agency to enter and inspect in the same manner a permit application is consent.
  - 2. (No change.)
- (c) Minor work:
  - 1.-2. (No change.)
  - 3. Minor work shall also mean and shall include the replacement of existing low-pressure boilers, warm air furnaces, air conditioning units, and air conditioning condensing units with new appliances of like capacity.
  - 4. (No change.)
  - 5. Minor work shall also mean and include the following:

- i. (No change.)
- ii. The installation of a radon mitigation system provided no new electrical work is required and provided the installation does not involve the penetration of a fire-resistance rated assembly;
- iii.-v. (No change.)
- 6.-7. (No change.)
- (d) (No change.)

(a)

**DIVISION OF CODES AND STANDARDS**

**Uniform Construction Code**

**Adopted Amendments: N.J.A.C. 5:23-2.18, 2.35, 3.2, 5.3, 6.2, 6.3A, 6.5, 6.6, 6.7, 6.8, 6.9, 6.11A, 6.17, 6.27, 6.28A, 6.31, 12.2, and 12.8**

Proposed: April 6, 2020, at 52 N.J.R. 561(a).  
 Adopted: September 9, 2020, by Lt. Governor Sheila Y. Oliver, Commissioner, Department of Community Affairs.  
 Filed: January 12, 2021, as R.2021 d.015, with non-substantial 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: February 16, 2021.  
 Expiration Date: March 25, 2022.

**Summary of Public Comments and Agency Responses:**

Comments were received from Tom Lampros, a solar installer; Jim McAleer, a former public safety director; and Mitchell Malec, a former employee of the Department of Community Affairs (Department).

1. COMMENT: One commenter expressed general support for the rulemaking, on the basis that it standardizes code requirements across jurisdictions, a boon to solar installers such as himself. The commenter had several questions and recommendations regarding R324.6 and R324.7, subsections of the International Residential Code (IRC).

RESPONSE: The Department thanks the commenter for the support. R324.6 and R324.7 are subsections of the 2018 IRC that had been adopted by reference by the Department in previous rulemaking (see 51 N.J.R. 1399(a)). Thus, questions and recommendations pertaining to R324.6 and R324.7 are outside the scope of this rulemaking.

2. COMMENT: One commenter expressed that he opposes the changes proposed for installation of solar PV on residential buildings on the grounds that it compromises the safety of firefighters. The commenter stated that, in discussing the changes with several fire chiefs and first responders, they are in agreement that today's firefighting protocols discourage being on the roof of a building during an active fire. He elaborated: "The pathway up the side of the roof is dangerous to the personnel walking up the area with heavy turn-out gear and SCAT (sic) packs on, while carrying equipment. As to an area to be used for ventilation, the opposite side of the ridge could be used, however, it is best practices to use the gable end."

RESPONSE: The proposed amendment is made to align with a provision in the one- and two-family dwelling subcode adopted September 3, 2019, and relates to rooftop access when there are solar panels on the roof; this change is necessary to ensure that firefighters are able to access rooftops in the event of a fire. Additionally, the Department's statutory authority allows it to retain a requirement previously adopted or to adopt the language in the most recent edition of the applicable model code (N.J.S.A. 52:27D-123.b(1), (2), (3), and (4)). The 2018 IRC was adopted by reference on September 3, 2019 (see 51 N.J.R. 1399(a)), and the changes contained therein, which the commenter is referencing, cannot be modified at this time.

3. COMMENT: One commenter recommended that the Department correct citation errors at N.J.A.C. 5:23-6.8(h)13 and 6.31(j).

RESPONSE: The commenter is correct, and a clarifying "M" and "R" will be added to the respective section numbers.

4. COMMENT: The commenter recommended that, because the "Building Subcode and Plumbing Subcode are somewhat interrelated