

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Ordinary Maintenance and Minor Work

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

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

Authority: N.J.S.A. 52:27D-124.

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

Proposal Number: PRN 2020-029.

Submit written comments by June 5, 2020, to:

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The agency proposal follows:

Summary

On June 24, 2019, the Department of Community Affairs (Department) received a petition for rulemaking seeking amendments at N.J.A.C. 5:23-2.7, Ordinary maintenance, and N.J.A.C. 5:23-2.17A, Minor work. A Notice of Action on Petition for Rulemaking (Notice of Action) was published in the New Jersey Register on November 4, 2019, at 51 N.J.R. 1626(a).

Pursuant to the Notice of Action, the Department is undertaking this rulemaking to the Uniform Construction Code to implement certain proposed amendments, as follows:

1. At N.J.A.C. 5:23-2.7(c)1v, proposed amendments would state that opening protectives, such as fire doors and windows, in fire-resistance rated assemblies would not be considered ordinary maintenance. This change reflects the existing language at N.J.A.C. 5:23-2.7(b)4; adding the exception at this subparagraph ensures there is no confusion about work affecting fire safety. A corresponding change would be made to N.J.A.C. 5:23-2.7(b)1 to include the word “loadbearing” for clarity.

2. At N.J.A.C. 5:23-2.7(c)1vi, proposed amendments would clarify that only non-loadbearing partitions and railings may be repaired or replaced under ordinary maintenance. Proposed amendments would also require that materials and components used be identical or similar to the existing component and in the same location as those replaced.

3. At N.J.A.C. 5:23-2.7(c)1vii, proposed amendments would add to the list of non-structural elements that can be repaired, replaced, or installed under ordinary maintenance for clarity. The additions include such items as bookcases, benches or seats, and bathroom accessories.

4. At N.J.A.C. 5:23-2.7(c)1xiii, proposed amendments would incorporate a reference to the language at N.J.A.C. 5:23-2.7(b)2 and 4, to clarify that the repair or replacement of any part

of a deck, porch, or stoop cannot affect structural or fire safety. Additionally, language has been added to state that the materials used must be closely similar, or identical, to the existing materials.

5. At N.J.A.C. 5:23-2.7(c)3v, (c)5vi, and (c)5ix, proposed amendments would restore permit requirements for the replacement of kitchen range hoods and bathroom exhaust fans that vent to internal, shared building shafts. This ensures that fans venting into shared shafts are not replaced without a permit.

6. At N.J.A.C. 5:23-2.17A(b)1, proposed amendments would include a requirement that the notice of minor work include a summary of the work to be performed and the location of work. In addition, language would be added to state that such notice shall be deemed consent for the enforcing agency to enter and inspect in the same manner a permit is consent for inspection once issued.

7. At N.J.A.C. 5:23-2.17A(c)3, proposed amendments would reinstate high-pressure boilers as work that will require a full permit. It was determined that the replacement of a high-pressure boiler should require the submittal of construction documents; thus, it should not be considered minor work. Low-pressure boilers would remain minor work. Boilers are defined in the mechanical subcode, N.J.A.C. 5:23-3.20, of the Uniform Construction Code.

8. At N.J.A.C. 5:23-2.17A(c)5ii, proposed amendments would specify that the installation of radon mitigation systems shall be considered minor work except for instances when a fire-resistance rated assembly is to be penetrated, in which case, a full permit shall be required for such installation.

There was one item in the Notice of Action requesting the Department amend N.J.A.C. 5:23-2.7(c)3i to limit the replacement of fixtures exempt from permits to those of less than 240

volts to ground. At the time of publication, the Department agreed with the petitioner. However, in review, the Department and the Uniform Construction Code Advisory Board determined that there was no added value in requiring permits for fixtures greater than 240 volts to ground, and to do so would create unnecessary permitting costs with no increased safety. Generally, one- and two-family homes do not have fixtures with voltages higher than 240; structures with fixtures of higher voltages would more than likely have qualified personnel performing replacement work.

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 improve the administration of the State Uniform Construction Code by clarifying throughout N.J.A.C. 5:23-2.7 and 2.17A that work affecting structural or fire safety is not to be considered ordinary maintenance and minor work. Other clarifications will ensure uniform enforcement of the code. Reinstating certain permit requirements is anticipated to have a positive social impact. Requiring a permit for the replacement of kitchen range hoods or bathroom exhaust fans when venting into shared shafts or vents ensures that ventilation serving multiple persons/units are not adversely impacted. Replacement of high-pressure boilers requires construction document submittals to ensure all necessary requirements are met.

Economic Impact

These proposed amendments are not expected to have any major economic impact. The majority of these proposed amendments are made for clarity or consistency. Changes that reinstate permit requirements would entail the cost of a permit application fee; permit fees are established by the local enforcing agency and are minor.

Federal Standards Statement

No Federal standards analysis is 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, standard, or requirement.

Jobs Impact

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

Agriculture Industry Impact

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

Regulatory Flexibility Statement

The proposed amendments are not expected to impose any reporting, recordkeeping, or compliance requirements on small businesses or to require them to engage any professional services they would not otherwise need to engage. The proposed amendments address ordinary maintenance and minor work. In some instances, the work may be performed by a contractor, many of which are “small businesses” as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The majority of the proposed amendments clarify current requirements. Proposed amendments that reinstate permit requirements are not considered to be burdensome to small businesses.

Housing Affordability Impact Analysis

It is not expected that the proposed amendments, which address ordinary maintenance and minor work in existing buildings, will have any impact on the affordability of, or average costs associated with housing.

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 the proposed amendments concern ordinary maintenance and minor work in existing buildings.

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. Accordingly, no further analysis is required.

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

SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT; PROCESS

5:23-2.7 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. [The] **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.)