

(a)

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

Proposed Amendments: N.J.A.C. 5:23-2.15, 2.20, 3.2, 3.4, 3.14, 4.4, 4.5, 4.12, 4.13, 4.14, 4.18, 4D.3, 4D.4, and 6.2

Proposed New Rule: N.J.A.C. 5:23-7.1

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs and Douglas H. Fisher, Secretary, Department of Agriculture.

Authority: N.J.S.A. 52:27D-123.2 and 124.

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

Proposal Number: PRN 2017-166.

Submit written comments by October 6, 2017, to:

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The agency proposal follows:

Summary

The Department proposes amendments to the Uniform Construction Code (UCC) at 11 places, as follows: (1) Construction permits at N.J.A.C. 5:23-2.15(f); (2) Chimney maintenance at N.J.A.C. 5:23-2.20; (3) Healthcare facilities at N.J.A.C. 5:23-3.2 and 6.2; (4) Commercial farm buildings at N.J.A.C. 5:23-3.2; (5) Mechanical inspections at N.J.A.C. 5:23-3.4, 4.4, and 4.18; (6) Barrier free access at N.J.A.C. 5:23-3.14; (7) Standard forms at N.J.A.C. 5:23-4.5; (8) Third-party inspection agencies at N.J.A.C. 5:23-4.12, 4.13, and 4.14; (9) Inspection responsibilities at N.J.A.C. 5:23-3.4; (10) Recreational park trailers at N.J.A.C. 5:23-4D; and (11) Barrier Free Subcode at N.J.A.C. 5:23-7.1.

(1) Construction permits

At N.J.A.C. 5:23-2.15(f), the amendment replaces an outdated reference to the requirements for accessibility.

(2) Chimney maintenance

At N.J.A.C. 5:23-2.20(d), the amendment clarifies the intention of the code with respect to the ability of a contractor to submit a Chimney Verification form in lieu of requiring the removal and reinstallation of the chimney vent connector for an inspection. By replacing "may" with "shall," the code will be unambiguous.

(3) Healthcare facilities

At N.J.A.C. 5:23-3.2(b) and 6.2(g), the amendments include a direct reference to National Fire Protection Association (NFPA) 101, the Life Safety Code for healthcare facilities. In the past, the Facilities Guidelines Institute "Guidelines for the Design and Construction of Healthcare Facilities" contained a reference to NFPA 101. The current wording of the reference in the Guidelines is less straightforward and has given rise to questions. Since the requirement for compliance with NFPA 101 is in the applicable Federal regulations, there can be no doubt as to whether the requirements of NFPA 101 apply. The proposed amendments seek to make this clear by repeating the Federal requirement in the UCC.

(4) Commercial farm buildings

At N.J.A.C. 5:23-3.2(d)12vi, the proposed amendment removes the requirement for commercial farm buildings to have lightning protection. At this time, these are the only buildings required to have lightning protection. Deleting the requirement will leave the decision as to whether to have this additional protection to the building owner.

At N.J.A.C. 5:23-3.2(d)14, the amendment gives two exceptions to commercial farm buildings with regard to the requirement to have plumbing fixtures. The first exception allows commercial farm buildings

within close proximity to a building with a restroom available for use to forego the requirement for additional toilets. The second allows buildings operated on a seasonal basis to be served by portable toilets.

(5) Mechanical inspections

At N.J.A.C. 5:23-3.4(d), 4.4(a), and 4.18(c), the amendments remove misplaced designations relating to mechanical inspections of R-4 structures. The rules for mechanical inspections apply to one- and two-family dwellings, Groups R-3 and R-5. As defined in Chapter 3 of the IBC/2015, Group R-4 applies to therapeutic residences and is not the same as a one- or two-family dwelling. The amendments, therefore, revise the sections above by deleting Group R-4 and making all sections consistent.

(6) Barrier free access

At N.J.A.C. 5:23-3.14(b)10ii, Section 1003.9, Operable parts, of ICC/ANSI A117.1-2009 would be amended to eliminate the requirement that the outlets above kitchen counters must meet the reach ranges in order to reach over an obstruction. The previously-adopted Barrier Free Subcode had this same exception. It is an important exception because the reach-range over an obstruction requires that custom counters be built.

At N.J.A.C. 5:23-3.14(b)10vi, the current reference to Section 1104.1 would be corrected and replaced with Section 1104.4. At Subsection 1104.4.1.1, a new provision would be added to allow the use of a limited use/limited application (LU/LA) elevator in a small building (less than 10,000 square feet total gross enclosed floor area) as long as the floor served is not larger than 3,000 square feet and travel distance does not exceed 25 vertical feet. This same change was made to the section on large buildings (10,000 square feet or more total gross enclosed floor area) and was published in the New Jersey Register at 49 N.J.R. 306(a). This companion change would ensure that a LU/LA could be used to provide a vertical accessible route in a small building, as well as in a large one.

At N.J.A.C. 5:23-3.14(b)10xxxvi, the scoping for accessibility requirements for multistory dwelling units would be corrected to ensure that where there are four or more dwelling units in a single structure, multistory dwelling units would be required to have an accessible entry level. The codification of this requirement has created confusion. It is being corrected for clarity. The amendment is taken directly from the previously-existing Barrier Free Subcode, N.J.A.C. 5:23-7.5.

At N.J.A.C. 5:23-3.14(b)10xlvi, Section 1110.4.13, Swimming pools, wading pools, hot tubs, and spas, Exception 3, exempts swimming pools and similar facilities at multifamily dwelling units from providing access into the swimming pool. This rule amendment would delete that exception.

(7) Standard forms

At N.J.A.C. 5:23-4.5(b), the amendment lists a new standard application form for annual permits. The Department has determined that a standard form for this purpose would be in the best interest of applicants and enforcing agencies. (The current application form for annual permits is a non-standard version used by the Bureau of Construction Project Review.)

(8) Third-party inspection agencies

At N.J.A.C. 5:23-4.12(a), 4.13(a) and (b), and 4.14(b), the amendments add "inspector(s)." The code currently limits private agencies to serving as subcode officials exclusively, which means that they must perform both plan review and inspection responsibilities. The amendment allows third-party agencies to perform only inspections.

At N.J.A.C. 5:23-4.12(g), the amendment removes an outdated requirement regarding existing private electrical inspection authorities.

At N.J.A.C. 5:23-4.13(c), the amendments limit this contractual requirement to agencies supplying subcode officials. Where the agency supplies inspectors only, this requirement would not apply.

At N.J.A.C. 5:23-4.13(d), the amendment clarifies that private agencies that perform inspection duties must report to the appropriate subcode official. The current rule establishes a requirement for private agencies, which heretofore could not exclusively perform inspection responsibilities, to report to the municipal construction official.

At N.J.A.C. 5:23-4.14(e), the amendment adds “or municipal inspector” as another party that private on-site agencies may act on behalf of. The code currently limits private agencies to act on behalf of subcode officials exclusively, which perform both plan review and inspection responsibilities. The amendment accounts for agencies that only perform inspections. The amendment also clarifies that private agencies that perform inspection duties must report to the appropriate subcode official. The current rule establishes a requirement for private agencies, which heretofore could not exclusively perform inspection responsibilities, to report to the municipal construction official.

At N.J.A.C. 5:23-4.14(f), the amendment adds “any municipality in which he or she is so employed” in order to relax the conflict of interest requirements applicable to employees of third-party agencies. Currently, they are subject to the same restrictions as State employees working in code enforcement, being prohibited from working in the construction trades Statewide. The proposed amendments would change this limitation to any municipality in which a third-party agency employee is employed, thus, using the same restriction that applies to those employed in municipal code enforcement.

At N.J.A.C. 5:23-4.14(j), the amendment requires that the bid documents and contract specify whether the private agency would be paid for work performed in the event the municipality receives no inspection fee for such work. The amendment takes into account the proposed change of work scope relating to private agencies that may exclusively perform inspections.

(9) Inspection responsibilities

At N.J.A.C. 5:23-3.4, the amendment establishes plan review and inspection responsibilities for the referenced standards of the International Building Code (IBC), International Residential Code (IRC), and International Swimming Pool and Spa Code (ISPSC). The proposed amendments make specific assignments of enforcement responsibility requirements of substantial importance.

(10) Recreational park trailers

At N.J.A.C. 5:23-4D, the amendments would replace the reference to the outdated Recreational Park Trailer Industry Association (RPTIA) with the newly published Recreational Vehicle Industry Association (RVIA). Although the title of this standard has changed, its technical provisions remain intact. Some of the updated terminology includes the name of the organization that issues labels for park models.

(11) Barrier Free Subcode

Proposed new N.J.A.C. 5:23-7.1 adds a cross reference to the Building Subcode to direct code users to the accessibility regulations.

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

Social Impact

It is anticipated that the proposed amendments and new rule would have a positive social impact by clarifying and correcting the requirements of the Uniform Construction Code.

Economic Impact

The proposed amendments at N.J.A.C. 5:23-2.15(f), relating to construction permits; at N.J.A.C. 5:23-2.20(d), relating to chimney maintenance; at N.J.A.C. 5:23-3.2(b) and 6.2(g), relating to healthcare facilities; at N.J.A.C. 5:23-3.4(d), 4.4(a), and 4.18(c), relating to mechanical inspections; at N.J.A.C. 5:23-3.14(b)13, relating to barrier free access; at N.J.A.C. 5:23-4.5(b), relating to standardized forms; at N.J.A.C. 5:23-3.4, relating to inspection responsibilities; and at N.J.A.C. 5:23-4D relating to recreation park trailers, improve the consistency and usability of the code, and, therefore, are not expected to have a direct economic impact.

The proposed amendments at N.J.A.C. 5:23-3.2(d), relating to commercial farm buildings, relieve parties from potentially burdensome financial requirements and, therefore, are expected to have a positive economic impact.

At N.J.A.C. 5:23-4.12(a), relating to third-party inspection agencies, the amendments expand the scope of work third-party agencies may perform and relax conflict of interest requirements relating to the work

their employees may engage in. These amendments may provide a modest economic benefit.

Proposed new N.J.A.C. 5:23-7.1 simply provides a cross-reference to the Building Subcode in order to direct code users to the accessibility regulations and should have no economic impact.

Federal Standards Statement

The proposed amendments at N.J.A.C. 5:23-2.15(f), relating to construction permits; at N.J.A.C. 5:23-2.20(d), relating to chimney maintenance; at N.J.A.C. 5:23-3.2(d), relating to commercial farm buildings; at N.J.A.C. 5:23-3.4(d), 4.4(a), and 4.18(c), relating to mechanical inspections; at N.J.A.C. 5:23-3.14(b)13, relating to barrier free access; at N.J.A.C. 5:23-4.5(b), relating to standardized forms; at N.J.A.C. 5:23-4.12(a), relating to third-party inspection agencies; at N.J.A.C. 5:23-3.4, relating to inspection responsibilities; at N.J.A.C. 5:23-4D relating to recreation park trailers; and at N.J.A.C. 5:23-7.1 relating to cross-referencing to the Building Code do not require a Federal standards analysis because they 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, standards, or requirements.

The proposed amendment at N.J.A.C. 5:23-3.2(b) and 6.2(g), relating to healthcare facilities, further clarifies Federal requirements promulgated by the U.S. Centers for Medicare and Medicaid Services with respect to the NFPA 101 requirements. The reference is included in order to make the requirements applicable to healthcare facilities clear.

Jobs Impact

The proposed amendments at N.J.A.C. 5:23-2.15(f), relating to construction permits; at N.J.A.C. 5:23-2.20(d), relating to chimney maintenance; at N.J.A.C. 5:23-3.2(b) and 6.2(g), relating to healthcare facilities; at N.J.A.C. 5:23-3.2(d), relating to commercial farm buildings; at N.J.A.C. 5:23-3.4(d), 4.4(a), and 4.18(c), relating to mechanical inspections; at N.J.A.C. 5:23-3.14(b)13, relating to barrier free access; at N.J.A.C. 5:23-4.5(b), relating to standardized forms; at N.J.A.C. 5:23-3.4, relating to inspection responsibilities; at N.J.A.C. 5:23-4D relating to recreation park trailers; and at N.J.A.C. 5:23-7.1 relating to cross-referencing to the Building Code are not expected to result in the creation or loss of jobs.

The proposed amendments at N.J.A.C. 5:23-4.12(a), relating to third-party inspection agencies, will relax conflict of interest requirements related to code enforcement jobs by permitting employees of private inspection agencies to also work in trades across the State, with the exception of the municipality in which they are employed, thereby giving them greater employment opportunities.

Agriculture Industry Impact

The proposed amendments at N.J.A.C. 5:23-2.15(f), relating to construction permits; at N.J.A.C. 5:23-2.20(d), relating to chimney maintenance; at N.J.A.C. 5:23-3.2(b) and 6.2(g), relating to healthcare facilities; at N.J.A.C. 5:23-3.4(d), 4.4(a), and 4.18(c), relating to mechanical inspections; at N.J.A.C. 5:23-3.14(b)13, relating to barrier free access; at N.J.A.C. 5:23-4.5(b), relating to standardized forms; at N.J.A.C. 5:23-4.12(a), relating to third-party inspection agencies; at N.J.A.C. 5:23-3.4 relating to inspection responsibilities; at N.J.A.C. 5:23-4D relating to recreation park trailers; and at N.J.A.C. 5:23-7.1 relating to cross-referencing to the Building Code are not expected to have a direct influence on the agriculture industry.

At N.J.A.C. 5:23-3.2(d), the proposed amendments would have a positive impact on the agriculture industry by removing the burden on owners of commercial farm buildings to construct a toilet in the building when there is a restroom accessible within close proximity or where the facility is seasonal and portable toilets may be used. The proposed amendments also remove the requirement for owners of commercial farm buildings to maintain lightning protection, thereby relieving them of this expense.

Regulatory Flexibility Analysis

The proposed amendments at N.J.A.C. 5:23-2.15(f), relating to construction permits; at N.J.A.C. 5:23-2.20(d), relating to chimney maintenance; at N.J.A.C. 5:23-3.4(d), 4.4(a), and 4.18(c), relating to mechanical inspections; at N.J.A.C. 5:23-3.14(b)13, relating to barrier

free access; at N.J.A.C. 5:23-3.4, relating to inspection responsibilities; at N.J.A.C. 5:23-4D relating to recreation park trailers; and at N.J.A.C. 5:23-7.1 relating to cross-referencing to the Building Code are not expected to impose any new regulations on “small businesses” as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. No additional recordkeeping or reporting requirements are created by these proposed amendments, nor do the proposed amendments create a need for other professional services.

At N.J.A.C. 5:23-4.12(a), relating to third-party inspection agencies, which may be recognized as small businesses, the amendments expand the scope of services third-party agencies may perform and relax conflict of interest requirements relating to the work their employees may engage in. These amendments ease regulations in small businesses.

At N.J.A.C. 5:23-3.2(d), the amendments relieve commercial farm buildings from potentially burdensome requirements, and, therefore, are expected to have a positive impact on the commercial farms, many of which are small businesses.

At N.J.A.C. 5:23-3.2(b) and 6.2(g), relating to healthcare facilities, the amendment repeats Federal requirements promulgated by the U.S. Centers for Medicare and Medicaid Services with respect to the applicability of NFPA 101.

Housing Affordability Impact Analysis

Because the amendments and new rule, as described in the Summary above, improve the usability and consistency of the Uniform Construction Code within their applicable sections, and because none relate to housing affordability within the State, the amendments are not expected to have an impact on the affordability of housing or on the average costs of housing in the State.

Smart Growth Development Impact

As described in the Summary above, the amendments and new rule improve the usability and consistency of the Uniform Construction Code within their applicable sections, and because none relates to development or redevelopment within the State, the amendments are not expected to evoke a change in housing production in Planning Areas 1 or 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]):

SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT; PROCESS

5:23-2.15 Construction permits—application

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

(f) Plans, plan review, plan release:

1. Plans and specifications: The application for the permit shall be accompanied by no fewer than two copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. Plans submitted shall be required to show only such detail and include only such information as shall be necessary to demonstrate compliance with the requirements of the code and these regulations or to facilitate inspections for code conformity. When quality of materials is essential for conformity to the regulations, specific information shall be given to establish such quality; and this code shall not be cited, or the term “legal” or its equivalent be used, as a substitute for specific information.

i. Site diagram: There shall also be filed a site plan showing to scale the size and location of all the new construction and all existing structures on the site, distances from lot lines and the established street grades; accessible route(s) for buildings required by [N.J.A.C. 5:23-7.1] **Chapter 11 of the building subcode** to be accessible; and it shall be drawn in accordance with an accurate boundary line survey. In the case

of demolition, the site plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site or plot.

(1) (No change.)

ii.-xii. (No change.)

2.-4. (No change.)

5:23-2.20 Tests and special inspections

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

(d) In lieu of requiring the removal and reinstallation of the chimney vent connector for purposes of inspection of the chimney or vent as per N.J.A.C. 5:23-2:18, the construction official [may] **shall** accept a Chimney Verification for Replacement of Fuel-Fired Equipment (Form F-370), signed by the contractor who installed the replacement fuel-fired equipment. Verification from homeowners shall not be accepted in lieu of the required inspection.

1. (No change.)

(e) (No change.)

SUBCHAPTER 3. SUBCODES

5:23-3.2 Matters covered; exceptions

(a) (No change.)

(b) Rules concerning exceptions in health care facilities are as follows:

1. Construction or rehabilitation of health care facilities shall be in accordance with this code and with the “Guidelines for Design and Construction of Health Care Facilities” (Facilities Guidelines Institute), current edition. **All health care facilities shall comply with National Fire Protection Association (NFPA) 101, the Life Safety Code, as referenced in the rules promulgated by the Centers for Medicare and Medicaid Services.** In the event of any conflict, the more restrictive code provision shall govern.

2. The Department of Health [and Senior Services] may adopt licensing standards for the physical plant and environment of health care facilities that supplement this code and the “Guidelines for Design and Construction of Health Care Facilities,” although these standards may not be in conflict with these codes.

3. (No change.)

(c) (No change.)

(d) Rules concerning commercial farm buildings are as follows:

1.-11. (No change.)

12. Commercial farm buildings exempted under (d)11i above shall meet the following requirements in lieu of those requirements specified in the subsections of Chapter 10, Means of Egress, of the building subcode:

i.-v. (No change.)

vi. [Lightning protection of the type required for the structure by NFPA 780, fire] **Fire** extinguishers and “no smoking” signs shall be provided;

vii. (No change.)

13. (No change.)

14. A commercial farm building shall meet the fixture requirements of the plumbing subcode, except as follows:

i. A building within 500 feet of a structure with a restroom facility available for use shall not be required to have plumbing fixtures; or

ii. A building operated on a seasonal basis, in use for no longer than six months within a 12-month period, may be served by a portable restroom.

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 |
| ... | | | |
| Ch. 7 | Fire and Smoke Protection Systems | Building/Fire | Building (Except penetrations in existing membranes for electrical outlets or devices pursuant to Section 714.3.2 which shall be Electrical) |
| ... | | | |
| Ch. 31 | Special Construction | | |
| ... | | | |
| | 3105.1-[3109.4.3] 3108.2 | Building | Building |
| | [3109.4 Exception] 3109 | [Electrical] | [Electrical] |
| | ISPSC, Section 305 | Building | Building (Except safety covers pursuant to Section 305.1, Exception 1 which shall be Electrical) |
| | ISPSC, Section 310 (APSP/ICC 7) | Plumbing | Plumbing |
| | ISPSC, Section 311.9 | Plumbing | Plumbing |
| | [3109.5 | Plumbing | Plumbing] |
| ... | | | |

2.-5. (No change.)

6. One- and Two-Family Dwelling Subcode:

| Chapter | Section/Title | Responsibility | |
|---------|---|-----------------|---|
| | | Plan Review | Inspection |
| Ch. 3 | Building Planning | | |
| ... | | | |
| | R302 | Building/Fire | Building (Except penetrations in existing membranes for electrical outlets or devices pursuant to Section 302.4 through 302.4.2 which shall be Electrical) |
| ... | | | |
| | R326 | [As appropriate | As appropriate] |
| | ISPSC, Section 305 | Building | Building (Except safety covers pursuant to Section 305.1, Exception 1 which shall be Electrical) |
| | ISPSC, Section 310 (APSP/ICC 7) | Plumbing | Plumbing |
| | ISPSC, Section 311.9 | Plumbing | Plumbing |
| ... | | | |

7.-9. (No change.)

(b)-(c) (No change.)

(d) Any mechanical inspector employed by the Department or by a municipality, and so assigned by the construction official, shall have the responsibility for enforcement of the provisions of the code, except electrical, relating to the installation of mechanical equipment, such as refrigeration, air conditioning or ventilating apparatus, gas piping or heating systems, or stand-by power generators, in Group R-3[, R-4,] or R-5 structures.

1. When no mechanical inspector is assigned, the construction official shall assign the plumbing subcode official, who shall have the responsibility for the enforcement of provisions of the code, except electrical, for the installation and replacement of heating or cooling equipment or water heaters or other mechanical equipment in existing buildings, such as refrigeration, air conditioning or ventilating apparatus, gas piping or heating systems, or stand-by power generators, in existing buildings of Group R-3[, R-4,] or R-5. A plumbing subcode official need not be a mechanical inspector to perform these inspections.

5:23-3.14 Building subcode

(a) (No change.)

(b) The following chapters of the building subcode [are] **shall be** modified as follows:

1.-9. (No change.)

10. Chapter 11, Accessibility, shall be amended as follows:

i. (No change.)

ii. In Section 1101.2, Design, "amended as follows:" shall be added to the end of the sentence and the following list shall be inserted:

1.-12. (No change.)

13. In Section 1003.9, Operable parts, Exception 2 shall be deleted and the following shall be inserted: "Receptacle outlets provided in a kitchen above a length of countertop shall not be required to comply with Section 309."

Recodify existing 13.-20. as **14.-21.** (No change in text.)

iii.-v. (No change)

vi. Section [1104.1] **1104.4**, Multilevel buildings and facilities, shall be deleted and the following shall be inserted:

"1104.4 Multilevel nonresidential buildings and multilevel buildings of Group R-1.

1104.4.1 Small Buildings. Small buildings, defined as those with a total gross enclosed floor area of less than 10,000 square feet, shall be required to have at least one accessible entrance on the ground (or first) floor and accessible interior building features on all floors. Except as

provided in Sections 1104.4.1.1-1104.4.1.[4]5, small buildings that are not more than two stories shall not be required to have an elevator(s) to provide a vertical accessible route between floors. Small buildings that are three or more stories shall be required to have an elevator(s) to provide a vertical accessible route between floors; however, in such buildings, floors that are less than 3,000 square feet or floors with only mechanical equipment shall not be required to be served by an elevator.

1104.4.1.1 A limited use limited application elevator that complies with ANSI/ASME A17.1 adopted by reference in the building subcode may be used to provide a vertical accessible route to a floor or mezzanine of less than 3,000 square feet provided the travel distance does not exceed 25 feet.

[1104.4.1.1] **1104.4.1.2** Regardless of the square footage of the buildings or floors, buildings of two or more stories that are owned and occupied by public entities shall provide a vertical accessible route between floors.

[1104.4.1.2] **1104.4.1.3** Regardless of the square footage of the buildings or floors, buildings of two or more stories that house public transit stations or airport passenger terminals shall provide a vertical accessible route between floors.

[1104.4.1.3] **1104.4.1.4** Regardless of the square footage of the buildings or floors, buildings of two or more stories that house the professional offices of health care providers shall provide a vertical accessible route between floors.

[1104.4.1.4] **1104.4.1.5** Regardless of the square footage of the buildings or floors, buildings of two or more stories that house shopping centers or shopping malls shall provide a vertical accessible route between floors.

[1104.4.1.4.1] **1104.4.1.5.1** For the purposes of applying this requirement, a shopping center or shopping mall shall mean a building or a series of buildings on a common site, under common ownership or control, or developed as one project or as a series of related projects housing five or more sales or rental establishments.

1104.4.2 Large buildings. Large buildings, defined as those with a total gross enclosed floor area of 10,000 square feet or more, shall provide the accessible building features required of small buildings in Section 1104.4.1. In addition, large buildings shall be required to have an elevator(s) to provide a vertical accessible route between floors; however, in such buildings, floors that are less than 3,000 square feet or floors with only mechanical equipment shall not be required to be served by an elevator.

1104.4.2.1 Where facilities for employees, including rest rooms, lunch rooms, and lockers, and public facilities, including rest rooms and drinking fountains, are provided on a floor or mezzanine that is not required to be served by an elevator and where no vertical accessible route is provided, the facilities provided on the floor or mezzanine must also be provided on the accessible level.

1104.4.2.2 A limited use limited application elevator that complies with ANSI/ASME A17.1 adopted by reference in the building subcode may be used to provide a vertical accessible route to the floor or mezzanine provided that the travel distance does not exceed 25 feet.

1104.4.3 For the purposes of applying these provisions, buildings separated by firewalls with penetrations intended for human passage shall not constitute separate buildings.

1104.4.4 The following provisions shall apply to a nonresidential building required to be accessible, whether a large building or a small building.

1104.4.4.1 An accessible route available to the general public shall not pass through kitchens, storage rooms, or similar spaces.

1104.4.4.2 In buildings, facilities, or portions thereof that primarily serve children, accessible facilities that comply with the provisions of this subchapter for use by adults shall be provided.”

vii.-xxxv. (No change.)

xxxvi. Section 1107.7.2, Multistory units, shall be renumbered as Section 1107.7.1. **The first sentence of Section 1107.1.1 shall be deleted and replaced with the following: A multistory dwelling unit or sleeping unit that is not provided with elevator service is required to be accessible as follows: The primary entrance to the unit shall comply with the requirements for a Type A unit and, where provided within the unit, a living area, kitchen, and toilet and**

bathing facility that comply with Type A dwelling unit shall be provided on that floor. In the third line and the seventh line, “Type B unit” shall be deleted and “Type A unit” inserted in its place. Additionally, in the seventh line, following the word “toilet,” “and bathing” shall be inserted.

xxvii.-xlvii. (No change.)

xlviii. In Section 1110.4.13, Swimming pools, wading pools, hot tubs, and spas, Exception 3 shall be deleted in its entirety.

Recodify existing xlviii.-l. as xlix.-li. (No change in text.)

11.-26. (No change.)

SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

5:23-4.4 Municipal enforcing agencies—organization

(a) The municipality shall organize its enforcing agency in accordance with the ordinance adopted pursuant to N.J.A.C. 5:23-4.3 and to meet the following additional requirements:

1.-7. (No change.)

8. A municipality may, in its discretion, employ a mechanical inspector to perform plan review and mechanical inspections, with oversight by a designated subcode official, for structures of Group R-3[, R-4,] or R-5.

9. (No change.)

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

5:23-4.5 Municipal enforcing agencies-administration and enforcement

(a) (No change.)

(b) Forms:

1. (No change.)

2. The following standardized forms established by the Commissioner are required for use by the municipal enforcing agency:

Form No. Name

...

F102 Application for Annual Permit

...

3.-5. (No change.)

(c)-(k) (No change.)

5:23-4.12 Private on-site inspection and plan review agencies; establishment

(a) The Department shall authorize the establishment of private on-site inspection and plan review agencies, hereinafter called “on-site inspection agencies,” for the purpose of contracting with municipalities in order to act in the place of a subcode official **or inspector(s)** for specified subcodes.

1. (No change.)

(b)-(f) (No change.)

[(g) Existing private electrical inspection authorities, licensed by the Board of Public Utilities pursuant to N.J.A.C. 14:5-7, may continue to operate as inspection authorities for a period of one year from the effective date of this chapter. Thereafter, they shall continue in operation only if authorized in accordance with this chapter, and shall become known as “on-site inspection agencies-electrical”.

1. Electrical inspection authorities may continue to operate pursuant to N.J.A.C. 14:5-7 until such time as the municipality contracts directly with an on-site inspection agency-electrical for exclusive services in the municipality or appoints an electrical subcode official. In no case shall existing electrical inspection authorities continue after January 1, 1978, except in conformity with this section.]

[(h)] (g) (No change in text.)

5:23-4.13 Private on-site inspection and plan review agencies; organization

(a) An on-site inspection agency may be an individual, partnership, corporation, or other business entity organized for the purpose of enforcing and administering any one or more subcodes under the regulations, in place of a local subcode official **or local inspector**, in one or more municipalities within the State of New Jersey.

(b) Each on-site inspection agency authorized by the Department shall organize its operations to effectively fulfill the requirements of this chapter and to provide any municipality with which it contracts all the services that would otherwise be provided by a municipal subcode official **or municipal inspector** under this chapter. All officers, inspectors and plan reviewers of the “on-site inspection agency” shall be certified by the Department in the appropriate subcode prior to employment thereafter.

(c) [Each] **Where an on-site inspection agency serves as a subcode official, the agency** shall designate in its contractual agreement with the municipality the name of the employee who shall serve as the responsible official and representative(s) of the “on-site inspection agency” authorized to review and approve all documents related to the administration of the designated subcode.

(d) The on-site inspection agency shall report to the municipal construction official through their designated responsible official and shall be subject to the orders and directives of the municipal construction official and the Department in matters relating to the enforcement of the regulations. **Employees of an on-site inspection agency performing inspections shall report to the appropriate subcode official.**

(e)-(g) (No change.)

5:23-4.14 Private on-site inspection and plan review agencies; administration and enforcement

(a) (No change.)

(b) The on-site inspection agency shall provide the Department with the following:

1. (No change.)

2. A list of the municipalities served, and a current list of names, addresses and telephone numbers of the agency’s designated representatives actually serving as subcode officials **or inspectors** in each municipality, who may be contacted in connection with routine matters during normal working hours and, in the event of emergency, during other than normal working hours;

3.-4. (No change.)

(c)-(d) (No change.)

(e) Each on-site inspection agency shall have the following responsibilities:

1. (No change)

2. To act in place of the municipal subcode official **or municipal inspector** and to perform the duties of a subcode official **or inspector** as defined in these rules, except all notices of violation and all stop work orders will be issued through the construction official’s office.

3. To report to the municipal construction official **or subcode official** and to be subject to his **or her** rulings, directives, and orders.

4.-15. (No change.)

(f) Except as otherwise provided in this subsection, no person employed by or associated with an on-site inspection agency as an employee, proprietor, officer, director, partner or manager shall, whether directly or indirectly, be engaged in ownership of, or employment by, or contracting to provide goods or services to, any business or employment furnishing labor, materials, products or services for the construction, alteration or demolition of buildings, or for the maintenance of any equipment or building component the maintenance of which is regulated pursuant to this chapter, that is engaged in any such activity within [the State] **any municipality in which he or she is so employed.** Nor shall any such proprietor, officer, director, partner, manager or employee engage in any other work that conflicts with his or her or the agency’s official duties, including, without limitation, employment to testify before any construction board of appeals, or to be involved in any court proceeding within [the State] **any municipality in which he or she is so employed,** as a paid expert witness against any construction official, subcode official, inspector or enforcing agency, or in any other compensated capacity, except on behalf of an enforcing agency, or as a court-appointed witness.

1.-2. (No change.)

3. An on-site inspection agency may employ municipal subcode officials and inspectors on a part-time basis. This employment, however, shall be subject to the following conditions:

i.-iv. (No change.)

[v. If an agency employee terminates employment with the agency and accepts employment in a municipality which was under contract with the agency, the agency shall waive the right to contract with that municipality for a period of two years.]

(g)-(i) (No change.)

(j) The **bid documents and contract shall specify whether the private agency shall be paid for work performed even if the municipality receives no inspection fee for such work.**

(k) Private enforcing agencies shall charge no fees other than the fees set forth in N.J.A.C. 5:23-4.20 multiplied by the percentage set forth in the contract between the private agency and the municipality. Private enforcing agencies shall furnish no services other than subcode enforcement **or inspection** services to municipalities and shall not receive any payments from municipalities for any other goods or services whatsoever.

5:23-4.18 Standards for municipal fees

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

(c) Basic construction fee: The basic construction fee shall be computed on the basis of the volume of the building or, in the case of alterations, the estimated construction cost, and the number and types of plumbing, electrical and fire protection fixtures and devices as herein provided.

1.-4. (No change.)

5. The municipality shall set a flat fee for a mechanical inspection performed by a mechanical inspector or a plumbing inspector in a structure of Group R-3[, R-4,] or R-5. No separate fee shall be charged for gas, fuel oil, or water piping connections, including the bonding conductor (jumper), associated with the mechanical equipment inspected.

6. (No change.)

(d)-(l) (No change.)

SUBCHAPTER 4D. RECREATIONAL PARK TRAILERS

5:23-4D.3 Standards

(a) Regulations concerning recreational park trailers are follows:

1. Pursuant to authority of P.L. 1975 c. 217, as supplemented by P.L. 1991, c. 457, the Commissioner hereby adopts the standard of the American National Standard Institute A119.5 [Recreational Park Trailers, 2005] **Standard for Park Model Recreational Vehicles, 2015** edition, known as “ANSI A119.5.” This standard is hereby adopted by reference as the recreational park trailer subcode for New Jersey subject to the modifications stated in (c) below.

i. (No change.)

ii. The ANSI A119.5, [2005] **2015** edition, may be known and cited as the “recreational park trailer subcode.”

(b) (No change.)

(c) The following chapters, sections or pages of [the] “ANSI A119.5 [Recreational Park Trailers, 2005] **Standard for Park Model Recreational Vehicles, 2015** Edition” [Standards] are amended as follows:

1. (No change.)

2. Chapter 3, Health, Fire and Life Safety Special Provisions, shall be amended as follows:

i. [Add new Section “3-6 Carbon monoxide alarms.] **Delete text of section 3-6 entitled “Carbon Monoxide” and insert the following in its place.** “Single station carbon monoxide alarms shall be installed and maintained in full operating condition in the immediate vicinity of each sleeping area in any dwelling unit if the dwelling unit contains a fuel-burning appliance or has an attached garage.

Carbon monoxide alarms shall be manufactured, listed and labeled in accordance with UL 2034 and shall be installed in accordance with the requirements of this section and NFPA 720. Carbon monoxide alarms shall be battery operated, hard-wired or of the plug-in type.”

3. Chapter 5, Construction Requirements, shall be amended as follows:

i. Delete the text of section 5-1 entitled “General Requirements” and insert the following in its place: “[Recreational park trailers] **Park model recreational vehicles** shall be constructed in accordance with the requirements of this chapter.”

- ii.-xi. (No change.)
- xii. [In Section 5-8, delete the last sentence] **Delete the text of Section 5-8.4** and insert the following: “The [recreational park trailer] **park model recreational vehicle** shall be anchored to withstand the design wind load for the location.”
- xiii. (No change.)
- 4. (No change.)

5:23-4D.4 Certification

(a) A [Recreational Park Trailer Industry Association (RPTIA)] **Recreational Vehicle Industry Association (RVIA)** label or an approved equivalent label or certification for each recreational park trailer indicating that the unit has been manufactured in compliance with the adopted recreational park trailer subcode shall be permanently attached thereto in an accessible and visible location. The location of the label shall be indicated on the approved building system documentation.

(b) An approved label for a recreational park trailer shall bear the following information:

1. The name and seal of the [Recreational Park Trailer Industry Association] **Recreational Vehicle Industry Association** or such other organization with a quality assurance program as may be approved by the Department; and
2. (No change.)

SUBCHAPTER 6. REHABILITATION SUBCODE

5:23-6.2 Applicability and compliance

- (a)-(f) (No change.)
- (g) Relationship of this subcode to other codes, rules, and ordinances, shall be as follows:
 - 1.-5. (No change.)
 6. The repair, renovation, alteration, reconstruction or change of use of health care facilities shall be in accordance with this code and with the “Guidelines for Design and Construction of Health Care Facilities,” [current edition ([Facilities Guidelines Institute]), **current edition. All health care facilities shall comply with National Fire Protection Association (NFPA) 101, the Life Safety Code, as referenced in the rules promulgated by the Centers for Medicare and Medicaid Services.** In the event of any conflict, the more restrictive code provision shall govern.
 - (h)-(j) (No change.)

SUBCHAPTER 7. BARRIER FREE SUBCODE

5:23-7.1 [(Reserved)] **Barrier Free Subcode**

The accessibility regulations, other than recreation, shall be found in Chapter 11 of the building subcode, as amended at N.J.A.C. 5:23-3.14(b).

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

Licensure of Certain Local Government Officers

Proposed New Rules: N.J.A.C. 5:32

Proposed Recodifications with Amendments:

N.J.A.C. 5:34-5.1, 5.2, 5.4, and 5.5 as 5:32-4.1, 4.2, 4.3, and 4.4, Respectively

Proposed Repeals: N.J.A.C. 5:33-2

Authorized By: Timothy J. Cunningham, Director, Division of Local Government Services.

Authority: N.J.S.A. 40A:9-28.7, 40A:9-133.11, 40A:9-140.16, 40A:9-145.3c, and 40A:11-9.i.

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

Proposal Number: PRN 2017-151.

Please submit written comments on the proposal by October 6, 2017, via e-mail to digs@dca.nj.gov or by regular mail to:

Jason R. Martucci, Esq.
 Administrative Practice Officer
 Division of Local Government Services
 Department of Community Affairs
 PO Box 803
 Trenton, NJ 08625-0803

For comments submitted via e-mail, please name the subject heading “NJAC 5:32-Licensure of Certain Local Government Officers”

The agency proposal follows:

Summary

The Director of the Division of Local Government Services (Division) is responsible for the process of licensing/certifying municipal and county chief financial officers, municipal tax collectors, municipal clerks, and qualified purchasing agents. The proposed new rules set forth coursework, examination, certification, continuing education, and certification renewal requirements for each of the aforementioned categories of licensed officials. Also addressed are requirements for reappointment of a temporary chief financial officer, temporary qualified purchasing agent, or acting municipal clerk; as well as the appointment and reappointment of a private entity to temporarily perform the duties of a chief financial officer. As used in this Summary, the terms license and certification are interchangeable.

N.J.A.C. 5:33-2 and 5:34-5 set forth the Division’s existing rules pertaining to tax collectors and qualified purchasing agents, respectively. N.J.A.C. 5:33-2 is proposed for repeal and N.J.A.C. 5:34-5 is proposed for recodification, as the subject matter will be covered by proposed new Chapter 5:32. Current Division policy regarding licensure of municipal finance officers, county finance officers, and municipal clerks would be codified under N.J.A.C. 5:32-2 and 5. The proposed rules for each of the above-referenced positions also implements sections 40 through 45 of P.L. 2015, c. 95; these provisions extend the current six-month statutory grace period for licensure renewal by an additional six months if the Director determines that either a natural disaster or medical event or condition prevented the candidate from renewing by the expiration of the initial grace period.

Proposed N.J.A.C. 5:32-1.1 sets forth general provisions concerning examination review by those individuals failing to pass the certification exam. This section was adapted in substantial part from existing N.J.A.C. 5:33-2.2 as it pertains to tax collector certification, and will now apply to all positions licensed by the Division, except for certified public works managers.

N.J.A.C. 5:32-2 pertains to chief financial officers for municipalities and counties. The duties of chief financial officers are set forth, along with requirements for examination, initial certification, continuing education, and certification renewal. When a licensed chief financial officer departs from their position, a municipality or county can appoint an unlicensed individual to serve in a temporary capacity for up to one year. A municipality can seek approval from the Director of the Division of Local Government Services to reappoint a temporary chief municipal finance officer for up to two additional one-year terms; counties are limited to one additional one-year term with Director approval. As an alternative to appointing an individual to serve as temporary chief financial officer, N.J.S.A. 40A:9-140.10.b permits a municipality to seek Director approval to contract with a private entity that would temporarily perform the duties of a chief financial officer. These private entities must have at least one licensed chief municipal finance officer that supervises all chief finance officer duties conducted on behalf of the municipality, and are limited to no more than two consecutive one-year terms. Both appointment and reappointment require prior Director approval. Proposed N.J.A.C. 5:32-2.5 and 2.6 set forth the information and documentation that shall be submitted for the Director’s consideration in approving the above-referenced temporary appointments. N.J.A.C. 5:32-2.5 sets forth requirements that must be met for a private entity to temporarily fulfill the duties of a chief municipal finance officer. The completed questionnaire and any documentation submitted in support of an application to reappoint a temporary chief financial officer or appoint/reappoint a private entity to temporarily fulfill the duties of a