

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Proposed Amendments: N.J.A.C. 5:23-2.15, 2.15A, 4.5, 4.12, and 4.14

Proposed New Rules: N.J.A.C. 5:23-2.15B and 4.22

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

Authority: N.J.S.A. 52:27D-124 and 52:27D-124.4.

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

Proposal Number: PRN 2023-109.

Submit written comments by January 5, 2024, to:

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The agency proposal follows:

Summary

The proposed amendments and new rules codify the requirements at P.L. 2021, c. 70 (Law), which requires that all municipalities in the State of New Jersey have the ability to accept construction permit applications electronically. In order to facilitate and standardize the submission parameters, the Law charged the Department of Community Affairs (Department) with

developing the Electronic Permit Processing Review System (NJEPPRS). The Law requires that the system allow for the electronic submission and approval of permit applications, as well as the electronic scheduling of inspections. The Law does not require that applications be made electronically, but rather requires that applicants have the option of submitting applications electronically, if they so choose. The proposed amendments and new rules are being made to implement the Law.

Pursuant to the proposed amendments and new rules, local enforcing agencies have the option of utilizing either the NJEPPRS, or another system, provided it is equivalent in function to the NJEPPRS. The proposed amendments and new rules establish the functions of the NJEPPRS and, by extension, other systems that local enforcing agencies may elect to use in lieu thereof. In addition, the proposed amendments and new rules establish fees to fund the implementation of the NJEPPRS, as permitted by the Law. The following specific changes are proposed:

1. At N.J.A.C. 5:23-2.15, the proposed amendments allow for the electronic signing and sealing of plans by the design professional where plans are submitted electronically. The proposed amendments would also require, when applicable, physical signing and sealing of paper plans that are to be available at the worksite. The proposed amendments would also reduce the number of sets of plans that need to be submitted where the submission is electronic.

2. At N.J.A.C. 5:23-2.15A, the proposed amendments clarify that plans for single-family dwellings may be made electronically and that signing and sealing of plans by the design professional may be electronic for electronic submissions.

3. Proposed new N.J.A.C. 5:23-2.15B requires that the municipality be capable of accepting permit applications electronically and sets the criteria that the NJEPPRS, or equivalent system, must follow. The proposed new rule requires that the NJEPPRS, or equivalent system, be

internet-based, be available to applicants on a continuous basis, be capable of accepting all materials necessary for issuance of the construction permit, incorporate a method to schedule and confirm inspections, and allow for the flow of information between the applicant and the enforcing agency. The section also specifies the format for the plans submitted in support of the construction permit, including electronic versions of permit applications with technical sections, verify code compliance, confirm compliance across multiple disciplines, plans, specifications, and calculations shall be supported in PDF, electronic document submission, and electronic application surcharge. The section further allows enforcing agencies to use other systems for the submission of electronic construction permits, provided that the equivalent system comports with the aforementioned and requires electronically filed plans to be provided in a physical copy at the worksite.

4. At N.J.A.C. 5:23-4.5, the proposed amendments require that the enforcing agency submit a report to the Department, quarterly, that accounts for the surcharge fees collected.

5. At N.J.A.C. 5:23-4.12, the proposed amendments require that third-party inspection and plan review agencies have the capability to review construction applications, including plans and supporting materials, electronically.

6. At N.J.A.C. 5:23-4.14, the proposed amendments require that any contract between a third-party inspection and plan review agency and an enforcing agency contain a provision specifying that the private agency can process the parts of the electronic permit application, for which it is responsible, using a system compatible with the enforcing agency pursuant to N.J.A.C. 5:23-2.15B.

7. Proposed new N.J.A.C. 5:23-4.22 establishes a surcharge fee of \$1.00 per \$1,000 value of construction, with a minimum surcharge fee of \$2.00 to be charged when the municipality uses

NJEPPRS. In addition, the section establishes situations where no fee needs to be collected. The section also establishes the remitting of collected fees and reporting requirements, as well as where the municipality has elected to use an electronic permitting system other than that used by the Department, the municipality shall not collect fees in excess of that permitted by the section.

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

It is anticipated that this rulemaking will have a positive social impact. The proposed amendments and new rules codify the requirements at P.L. 2021, c. 70, which requires that the Department develop an Electronic Permit Processing and Review System to allow construction permit applicants to make the application electronically. The availability of an electronic system for construction permit applications will make the application process quicker, more convenient, and flexible. The system will also allow for a more streamlined inspection process by allowing for the scheduling and tracking of inspections electronically.

Economic Impact

The proposed amendments and new rules establish the requirements for, as well as the functions of, a system that can be used for the electronic application for a construction permit. P.L. 2021, c. 70, provided for a surcharge to be applied to permits that are issued using the NJEPPRS, pursuant to N.J.S.A. 52:27D-124.4f. The aforesaid surcharge is a modest amount when compared to the overall permit fee, as permits for smaller projects will result in a surcharge of \$2.00, while larger projects will result in a surcharge of \$1.00 per \$1,000 value of construction. The cost of the surcharge is mitigated by the time saved using the electronic system. Further, pursuant to the proposed amendments, applicants are still able to submit a paper application and avoid the

surcharge. Overall, the economic impact of the rulemaking is negligible, and the surcharge established does not apply to local enforcing agencies that do not utilize NJEPPRS.

Federal Standards Statement

No Federal standards analysis is required because the proposed amendments and new rules are not being proposed pursuant to the authority of, or in order to implement, comply with, or participate in, any program established pursuant to Federal law or any State statute that incorporates or refers to any Federal law, standard, or requirements.

Jobs Impact

The proposed amendments and new rules are not expected to have an impact on the generation or loss of jobs, because the rulemaking only changes the options for people who are applying for construction permits.

Agriculture Industry Impact

The Department does not anticipate that the proposed amendments and new rules will impact the agriculture industry.

Regulatory Flexibility Analysis

The proposed amendments and new rules do not impose any new reporting, recordkeeping, or compliance requirements on “small businesses,” as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rulemaking applies to municipal enforcing agencies, which are not considered small businesses.

Housing Affordability Impact Analysis

It is not expected that the proposed amendments and new rules will have any significant impact on the average costs associated with housing or on the affordability of housing. The proposed amendments and new rules would result in a quicker and more streamlined permit

application process, which will have a positive impact on the time it takes applicants to obtain a permit. Although a modest surcharge will apply for using the electronic construction permit process, the time savings should result in an overall cost savings for permit applicants that utilize the electronic permitting system.

Smart Growth Development Impact Analysis

It is not expected that the proposed amendments and new rules will have any impact on housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan, as the rulemaking requires that enforcing agencies have the capability of accepting permit applications in electronic format, pursuant to N.J.A.C. 5:23-2.15B(a). Accordingly, no further analysis is required.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated the proposed amendments and the new rules, 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

5:23-2.15 Construction permits—application

(a) The application for a permit shall be submitted on the standard Construction Permit

Application form, **or its electronic equivalent**, prescribed by the Commissioner at N.J.A.C.

5:23-4.5(b)2 and shall be accompanied by the required fee, as provided for in this subchapter and

N.J.A.C. 5:23-4. The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure, and all portions of the site or lot not covered by the building or structure, and such additional information as may be required by the construction official, which shall include, but not be limited to, the following:

1.-8. (No change.)

(b) In addition to the requirements [of] **at** (a) above, the following information shall be required on any application for a construction permit when such information is available, but not later than the commencement of work.

1. (No change.)

2. The name and license number of the contractor(s) or subcontractor(s) for plumbing; electrical; or heating, ventilating, air conditioning, and refrigeration work, where such work is proposed.

i. (No change.)

ii. The seal and signature of the licensed plumbing; electrical; or heating, ventilating, air conditioning, and refrigeration contractor(s) shall be affixed to the corresponding subcode application form. **An electronic signature and seal are acceptable for electronic submissions for review purposes provided that physical copies of plans at the worksite shall have a physical seal and wet signature affixed pursuant to the licensing law applicable to the relevant discipline.**

3.-5. (No change.)

6. If the work involves a landscape irrigation system, any contractor performing such work shall be certified pursuant to the Landscape Irrigation Contractors Certification Act,

N.J.S.A. 45:5AA-1 et seq. The seal and signature of the certified contractor shall be affixed to the permit application, **except in the case of electronic submissions, in which case an electronic seal and signature is acceptable.**

i. - ii. (No change.)

7.-12. (No change.)

(c)-(e) (No change.)

(f) Plans, plan review, plan release:

1. Plans and specifications: The application for the permit **shall be submitted either electronically or physically. Electronic submissions shall comply with N.J.A.C. 5:23-2.15B. Physical submissions** 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.-vi. (No change.)

vii. Engineering details and specifications: The construction official and appropriate subcode official may require adequate details of structural, mechanical, plumbing, and electrical work, including computations, stress diagrams, and other essential technical data to be filed. All engineering plans and

computations shall bear the seal and signature of the licensed engineer or registered architect responsible for the design. **Plans and computations may be electronically signed and sealed where the application is electronic.** Plans for buildings shall indicate how required structural and fire-resistance rating will be maintained for penetrations made for electrical, mechanical, plumbing, and communication conduits, pipes, and systems.

(1)-(2) (No change.)

viii. (No change.)

ix. Architect's or engineer's seal: The seal and signature of the registered architect or licensed engineer who prepared the plans shall be affixed to each sheet of each copy of the plans submitted and on the first or title sheet of the specifications and any additional supportive information submitted. **In the case of electronic submissions, such seal and signature may be electronic.**

(1) (No change.)

x.-xii. (No change.)

2. Prototype plan filing: Where a design is used repeatedly at different locations in a municipality or throughout the State, the plans and specifications may be submitted for "prototype" release and filed as follows:

i. Two complete sets of the plans and specifications for each prototype shall be submitted with a request for prototype plan release, **except that in the case of an electronic submission, one set is acceptable.** The plans and specifications shall be signed and sealed by a licensed or registered design professional. The plans and specifications will be stamped as released and the plan number and date will

be recorded with the prototype release so that prototype plan release may be confirmed for any subsequent use of the released prototype plans. Mirror-image designs shall not be a permitted option, and shall require separate prototype plan release, except for plans that are validated as identical to the original prototype, as provided [in] **at (f)2i(1)** below. Prototype applications that include a foundation design shall specify the conditions and limitations of that design;

(1) (No change.)

ii. Permit applications that rely on a released prototype shall consist of two copies of the following permit-specific documents to facilitate a thorough field inspection of the work. ([As per] **Pursuant to** N.J.A.C. 5:23-2.16(e), one set of the released plans shall be retained by the construction official [and the] **as either an electronic or physical set. The** second set shall **be a physical set and shall** be kept at the building site.)

(1)–(7) (No change.)

iii. (No change)

3. (No change.)

4. Plan review:

i. Department review: When a review and release of plans by the Department is required pursuant to N.J.A.C. 5:23-3.11 or requested for a prototype plan intended for use Statewide, the owner or agent of the owner shall file **either a physical or an electronic** application for construction plan release for each project. [along with] **Where the application is not electronic, the owner or agent of the owner shall also file three physical** sets of plans (two sets for prototypes), specifications,

and such other supporting information as the Department may require on forms obtained from the Department. The plans, specifications, and other supporting information shall conform to the requirements at (f) above. **Electronic submissions shall comply with the requirements at N.J.A.C. 5:23-2.15B.**

(1) (No change.)

(2) Endorsement of released plans: All plans and amendments thereto, when approved by the [department] **Department**, shall be stamped or endorsed "released", followed by a notation of the date of plan release.

[One] **In the case of physical submissions, one** set of such released plans shall be retained by the [department] **Department**, two sets of such released plans shall be submitted to the local enforcing agency with the application for construction permit as herein provided. **Electronic plan submissions shall comply with N.J.A.C. 5:23-2.15B.**

(3)–(5) (No change.)

ii.-vii. (No change.)

5:23-2.15A Construction permit for a single-family residence

(a) Any application for a construction permit for a [single family] **single-family** residence **shall be made either electronically or by a physical submission. Physical submissions** shall be accompanied by at least two copies of plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the work to be performed. **Electronic submissions shall comply with N.J.A.C. 5:23-2.15B.** Plans submitted shall not be required to

show more detail or include more information than is reasonably necessary to [assure] **ensure** compliance with the requirements of the Uniform Construction Code and rules in this chapter.

(b) Plans containing the following information shall be considered to meet the requirements [of] **at (a) above:**

1.-3. (No change.)

4. The drawings shall bear the seal and signature of the registered architect or licensed engineer who prepared the plans affixed to each sheet of each copy of the plans submitted and on the first or title sheet of the specifications and any additional supportive information submitted. **In the case of an electronic plan submission made in accordance with N.J.A.C. 5:23-2.15B, such signature and seal may be electronic.**

i.-ii. (No change.)

5.-7. (No change.)

5:23-2.15B Electronic permit submissions

(a) All enforcing agencies shall have a method of accepting and processing electronic permit applications and electronic plan submissions. Such systems shall meet the following criteria:

1. The system shall be accessible through the internet and be available to applicants on a 24-hour basis, seven days a week, provided the site may be temporarily unavailable due to system maintenance or general internet outages;

2. The system shall be capable of accepting all materials necessary for the issuance of a permit, including fees;

- 3. The system shall incorporate a method to schedule and confirm inspection requests;**
- 4. The system shall provide for the flow of information between the applicant and the enforcing agency regarding necessary revisions, amendments, or supplements that must be made to the application to enable the issuance of a permit; and**
- 5. The required review periods for the electronic permit submission shall be as provided for at N.J.A.C. 5:23-2.15.**

(b) Where the Department is the enforcing agency, submissions shall meet the following form and format requirements:

- 1. The application shall include electronic versions of the permit application and the technical sections relevant to the project. Electronic versions of such forms shall be available on the Department's website;**
- 2. All the necessary plans needed to verify code compliance shall be submitted and must meet the same requirements as described at N.J.A.C. 5:23-2.15, in terms of legibility, clarity, and completeness. Submissions shall be made such that each file submitted shall correspond to a single sheet of the plans. In addition, plans submitted shall meet the orientation, border, and block for placement of the plan review release stamp block requirements, as listed on the Department's website;**
- 3. Files that contain information necessary for determining compliance across multiple disciplines, shall be provided in multiple electronic copies equivalent to the number of disciplines requiring review;**

4. Plans, specifications, calculations, and other supporting information shall be submitted in PDF format or in other acceptable file formats and conform to the file size requirements, as listed on the Department's website;

5. Documents that are required to be signed and sealed by applicable professional licensing laws may be submitted with an electronic signature and seal for the purposes of permit issuance. Physical copies of the plans to be provided on the worksite shall require an appropriate signature and seal in accordance with the licensing law applicable to the relevant discipline; and

6. Such electronic applications shall be subject to surcharge fees in accordance with N.J.A.C. 5:23-4.22.

(c) Local enforcing agencies may elect to use the Electronic Permit Processing Review System (NJEPPRS). In such cases, the Department may reimburse the maintenance and licensing fees incurred by the local enforcing agency for the use of such system. Where the local enforcing agency elects to use a different electronic permit submission system, the system shall have equivalent functionality to NJEPPRS, pursuant to this section and shall be compatible with the Department's system to the extent necessary to transmit, read, and review documents in cases where the permit is issued by the local enforcing agency, but the plan review is performed by the Department.

(d) Where permits are issued electronically, the applicant shall provide a physical copy of the released plans at the worksite that are sealed and wet signed by the design professional pursuant to licensing law applicable to the relevant discipline.

SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

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

(a)–(d) (No change.)

(e) Quarterly reports: The following standardized report established by the Commissioner [is] **are** required to be completed by the [municipal] **local** enforcing agency for State of New Jersey training fees and **surcharge fees incurred when utilizing NJEPPRS, the Department’s electronic permitting system. Such reports** must be submitted quarterly, with the accompanying fees, pursuant to N.J.A.C. 5:23-4.19 **and 4.22**:

Report No	Name
R840	State Training Fee Report
R841	Electronic Permitting Surcharge Fees

(f)–(k) (No change.)

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

(a)–(c) (No change.)

(d) The application shall contain information relating to:

1.-5. (No change.)

6. The capability of the applicant to review plans and specifications and to inspect construction to ensure that the completed work is in compliance with the appropriate subcode. **This capability must include the ability to review permit applications, including associated plans and other related material in support of the application electronically.**

7. (No change.)

(e)–(g) (No change.)

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

(a)–(b) (No change.)

(c) Except as stated in the regulations, an executed contract in accordance with "Local Public Contracts Law" shall be required between the on-site inspection agency and a municipality prior to the enforcement of any subcode in that municipality by the on-site inspection agency. **Such contract shall stipulate that the private agency is able to accept and process electronic construction permit applications using a system that is compatible with the local enforcing agency served.**

(d)–(k) (No change.)

5:23-4.22 Electronic permit submission surcharges

(a) In order to support the maintenance and software licensing fees associated with the electronic permitting system, an enforcing agency, including the Department when issuing permits using the NJEPPRS, shall collect a surcharge fee to be based upon the value of new construction under the permit.

(b) Amount: This fee shall be in the amount of \$1.00 per \$1,000 of value of construction.

1. No fee shall be collected for pre-engineered systems of commercial farm buildings.

2. No fee shall be collected for permits to perform asbestos abatement or lead abatement.

- 3. No fee shall be collected for permits for the construction or rehabilitation of residential units that are to be legally restricted to occupancy by households of low- or moderate-income, as defined at N.J.A.C. 5:43-1.5.**
- 4. No fee shall be collected for demolition of buildings or structures.**
- 5. No fee shall be collected for work consequential to a natural disaster when the local code enforcement agency is waiving its fee.**
- 6. The minimum permit surcharge fee shall be \$2.00.**
- 7. No fee shall be submitted to the Department for local enforcing agencies that are not utilizing NJEPPRS.**

(c) Remitting and reporting shall be as follows:

- 1. Municipalities utilizing NJEPPRS, shall remit fees to the Department on a quarterly basis, in conjunction with Report Number R841, State Electronic Permit Surcharge Fee Report, in accordance with N.J.A.C. 5:23-4.5(e). Fees remitted shall be for the quarter. Checks shall be made payable to "Treasurer, State of New Jersey."**

(d) Where a municipality has elected to use an electronic permitting system other than the system used by the Department, it shall be eligible to collect a fee not in excess of the fees established in this section.