

[52 N.J.R. 1883\(a\)](#)

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RULE PROPOSALS

Reporter

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Interested Persons Statement

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of [N.J.S.A. 52:14B-3](#). An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at [N.J.A.C. 1:30-6.3](#). The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

Agency

COMMUNITY AFFAIRS > DIVISION OF CODES AND STANDARDS

Administrative Code Citation

Proposed Amendments: [N.J.A.C. 5:23-2.6](#), [2.15](#), [2.15A](#), and [2.38](#)

Text

Uniform Construction Code

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

Authority: [N.J.S.A. 52:27D-124](#).

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

Proposal Number: PRN 2020-100.

Submit written comments by December 18, 2020, to:

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Department of Community Affairs
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Trenton, New Jersey 08625
Fax No. (609) 984-6696

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The agency proposal follows:

Summary

The Department of Community Affairs (Department) seeks to amend Subchapter 2, Administration and Enforcement; Process, of the Uniform Construction Code, [N.J.A.C. 5:23](#), to make various changes to clarify rules, ensure consistency within sections of the Uniform Construction Code ("Code" or "UCC") and other codes, and reduce the Department's role in handling barrier free subcode recreation complaints. The proposed amendments were approved by the Uniform Construction Code Advisory Board; a section-by-section summary of the proposed amendments follows:

1. At [N.J.A.C. 5:23-2.6\(b\)4](#), proposed amendments would specify that hospitality rooms, as defined by the Emergency Shelters for the Homeless rules, [N.J.A.C. 5:15](#), are not considered a change of use under the Uniform Construction Code. This language aligns with the current text of the New Jersey International Fire Code, 2015 edition.

2. At [N.J.A.C. 5:23-2.15\(f\)](#), proposed amendments would address engineering plans for Class 3 structures. This subsection was originally drafted to permit smaller, lesser hazard buildings (classified as Class 3) to allow the licensed plumber or electrician to submit design plans. Over the years, more licenses have been established to ensure a multitude of trades have continuing education. Therefore, these proposed amendments would modify this subsection, as well as [N.J.A.C. 5:23-2.15A\(b\)4ii](#), which includes the regulations for construction permits for single-family dwellings, to be all-inclusive of licensed professionals submitting design plans for Class 3 structures. For example, in addition to the plumbing and electrical trades, certified fire protection equipment installers and licensed heating, ventilating, air conditioning, and refrigeration contractors would be able to design and submit plans for Class 3 buildings.

3. At [N.J.A.C. 5:23-2.15A\(b\)4i](#), proposed amendments would correct an inconsistency between [N.J.A.C. 5:23-2.15](#), Construction permits--application, and 2.15A, Construction permit for a single-family residence. The former was amended in 2013, to implement a flood design exception for general plan submittal. The proposed amendments would add the same exception for plan submittal for single-family residences.

4. At [N.J.A.C. 5:23-2.38\(b\)](#), proposed amendments would reflect the standard operating procedure throughout other Department rules regarding barrier free subcode recreation complaints. Instead of requiring the Department to perform fact finding for each case, the proposed amendments would allow for the Department to refer a complaint to the Office of Administrative Law for an initial decision, as is standard throughout other programs over which the Department has jurisdiction.

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

Though administrative in nature, the proposed amendments are expected to have a positive social impact because the proposed amendments improve the Uniform Construction Code by ensuring consistency within the Code and with other codes. In addition, by clarifying the process for barrier free subcode recreation complaints, the proposed amendments will ensure a fair hearing for aggrieved parties.

Economic Impact

The proposed amendments are not expected to have any economic impact. As discussed in the Summary above, the proposed amendments clarify the Uniform Construction Code and ensure consistency with the administrative requirements of other sections of the UCC.

Federal Standards Statement

A Federal standards analysis is not 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 requirements.

Jobs Impact

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

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 [page=1884] need to engage. The proposed amendments ensure consistency throughout sections of the UCC and eliminate the Department's role in handling barrier free subcode committee complaints.

Housing Affordability Impact Analysis

It is not expected that the proposed amendments will have any impact on the affordability of housing or on the average cost of housing, as the proposed amendments ensure consistency throughout sections of the UCC and eliminate the Department's role in handling barrier free subcode committee complaints.

Smart Growth Development Impact Analysis

It is not expected that the proposed amendments will have any impact upon housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, as the proposed amendments ensure consistency throughout sections of the UCC and eliminate the Department's role in handling barrier free subcode committee complaints.

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.

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

SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT; PROCESS

5:23-2.6 Change of use

(a) (No change.)

(b) Change of use: It shall be unlawful to change the use of any structure or portion thereof without the prior application for and issuance of a certificate of occupancy as provided below.

1. (No change.)

2. If any non-residential occupancy, other than Use Groups F, H, or S, accommodates seven or more non-consecutive group overnight stays within a calendar year for persons over 21/2 years of age, and the activities involve planned periods of sleep, the building is considered to have undergone a change of use. In such a case, it shall be necessary to apply for and be issued a Certificate of Occupancy. This shall be a dual Certificate of Occupancy to allow Use Group R-1 in addition to the existing use of the building. Any facility that accommodates six or fewer overnight stays within a calendar year shall obtain a permit under the Uniform Fire Code, [N.J.A.C. 5:70](#). Group overnight stays in Use Groups F, H, and S shall be prohibited.

3. (No change.)

4. If any room or space incidental to a religious occupancy is being used as a hospitality room, accommodates 15 persons for emergency shelter, for 15 consecutive days or 50 days in a calendar year, and the activities involve planned periods of sleep, the building is considered to have undergone a change of use. In such a case, it shall be necessary to apply for and be issued a Certificate of Occupancy. This shall be a dual Certificate of Occupancy to allow Use Group R-1, in addition to the existing use of the building. Any facility that accommodates fewer stays within a calendar year shall obtain a permit under the Uniform Fire Code, [N.J.A.C. 5:70](#). Hospitality rooms in occupancies other than a religious occupancy shall be prohibited.

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.-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 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) [Plumbing plans] **Plans** for class 3 structures may be prepared by persons licensed **or certified** pursuant to ["The Master Plumber Licensing Act," [N.J.S.A. 45:14C-1](#) et seq. Electrical plans for class 3 structures may be

prepared by persons licensed pursuant to "The Electrical Contractors Licensing Act," [N.J.S.A. 45:5A-1](#) et seq.] **their respective laws and rules.**

(2) Whenever the licensing board **or certifying agency** pursuant to [either of the above Acts] **the applicable rules** shall provide for a seal **or other form of identification** evidencing that the holder is licensed **or certified**, such shall be acceptable to the enforcing agency in lieu of affidavit.

[(3) Mechanical plans for class 3 structures may be prepared by licensed heating, ventilation, air conditioning, and refrigeration contractors.]

viii.-xii. (No change.)

2.-4. (No change.)

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

(a) (No change.)

(b) Plans containing the following information shall be considered to meet the requirements of (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.

i. **Exception:** The construction official shall waive the requirement for sealed plans in the case of a single family home owner who had prepared his or her own plans for the construction, addition, reconstruction, alteration, renovation or repair of a detached structure used or intended to be used exclusively as his or her private residence providing that the owner shall submit an affidavit attesting to the fact that he or she has personally prepared the plans and provided further that said plans are in the opinion of the construction official, and appropriate subcode official, legible and complete for the purposes of ensuring compliance with the regulations. **This exception shall not apply to the structural design, specifications, and plans for new construction or substantial improvement of a home in a V Zone in a flood hazard area, which must be developed or reviewed by a registered architect or licensed engineer pursuant to the National Flood Insurance Program rules, [44 CFR 60.3](#).**

ii. [Plumbing plans, electrical plans and mechanical plans] **Plans** may be prepared by licensed [plumbers, licensed electrical contractors and mechanical] **or certified** contractors[, respectively,] in accordance with [these regulations] **their laws and rules, respectively.**

(1) (No change.)

5.-7. (No change.)

5:23-2.38 Departmental appeal

(a) (No change.)

(b) Any party in interest aggrieved by any decision made by a facility manager or owner or administering agency with respect to compliance with either the Barrier Free Recreation Standards ([N.J.A.C. 5:23-7.15](#) through [7.31](#)) or the Playground Safety Subcode (N.J.A.C. 5:23-11) shall have the right to appeal the decision to the Department.

[1. The Department shall forward a copy of the complaint to the facility manager and to the facility owner or agency responsible for administration of the facility and shall request a response from the facility manager.

[page=1885] 2. The facility manager shall respond in writing within 45 days of receipt of the request.

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3. The Department shall review the response and shall determine whether the complaint is justified and what corrective measures shall be required to be taken by the facility owner or administering agency. The Department shall make such determination and issue any necessary orders within 60 days.]

[4.] 1. [In the event that the] **The** owner or administering agency of a **recreation** facility [appeals any such order and the Department determines that a contested case exists, it] shall forward such case [for adjudication in an administrative hearing before the Office of Administrative Law and the final decision shall be issued by the Commissioner] **to the Department**. Hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act ([N.J.S.A. 52:14B-1](#) et seq., and [52:14F-1](#) et seq.) and the Uniform Administrative Procedure Rules ([N.J.A.C. 1:1](#)) **and the final decision shall be issued by the Commissioner**.

5. (No change.)

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