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**RULE PROPOSALS**

**COMMUNITY AFFAIRS  
DIVISION OF CODES AND STANDARDS**

48 N.J.R. 531(a)

**Proposed Amendments: N.J.A.C. 5:23-2.14, 2.15, and 12.1**

[Click here to view Interested Persons Statement](#)

**Uniform Construction Code**

**Administration and Enforcement; Process**

**Construction Permits - When Required; Construction Permits - Application**

**Elevator Safety Subcode**

**Definition of "Elevator" or "Elevator Device"**

Authorized By: Richard E. Constable, III, 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 2016-047.

Submit written comments by June 3, 2016, to:

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The agency proposal follows:

**Summary**

The proposed amendment to N.J.A.C. 5:23-2.14(g) would exempt retaining walls under the purview of a county or of the State Department of Transportation (DOT) from the requirement to obtain a construction permit. The proposed amendment to N.J.A.C. 5:23-2.15(a)5 adds a cross-reference to a provision adopted in 2009 (N.J.A.C. 5:23-2.15(f)4ii(1)) providing for plan review to be performed notwithstanding the fact that required approvals may not yet be in place as long as the permit application is otherwise complete.

The proposed amendment to N.J.A.C. 5:23-12.1(e)1 would make the terminology used in the Uniform Construction Code consistent with the terminology used in ASME (American Society of Mechanical Engineers) A17.1, the standard adopted by reference and containing the technical requirements for elevators. In addition to eliminating confusion by providing for consistent use of terminology, the proposed amendment [page=532] incorporates a more precise list of the devices included under the broader term "conveying devices."

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: (1) by making it clear that retaining walls subject to review and approval by a county or by the DOT do not require a construction permit; (2) by incorporating a cross-reference to eliminate any possibility of reading the rules governing permit applications as being inherently contradictory; and (3) by making the terminology used in the administrative rules consistent with the terminology used in the referenced standard, ASME A17.1.

**Economic Impact**

These proposed amendments are not expected to have any real, measurable economic impact. If there is, in fact, an impact, it would be an extremely modest one. If Uniform Construction Code permits have been obtained for retaining walls associated with county or DOT projects, the proposed rule amendment would make it clear that this is not necessary for future projects.

**Federal Standards Statement**

No Federal standards analysis is required because these 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, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., or to require them to engage any professional services they would not otherwise need to engage. The amendments include a construction permit exemption, provide a clarifying cross-reference to facilitate plan review, and conform rule terminology to the referenced ASME A17.1 standard.

**Housing Affordability Impact Analysis**

It is not expected that the proposed amendments will have any impact on the average cost of housing. The amendments include a construction permit exemption, provide a clarifying cross-reference to facilitate plan review, and conform rule terminology to the referenced ASME A17.1 standard.

### 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. The amendments include a construction permit exemption, provide a clarifying cross-reference to facilitate plan review, and conform rule terminology to the referenced ASME A17.1 standard.

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

#### 5:23-2.14 Construction permits--when required

(a)-(f) (No change.)

(g) No person shall construct, enlarge, alter, reconstruct, or demolish a retaining wall or series of retaining walls having a total height four feet or greater, or a retaining wall less than four feet having a negative impact on a foundation, without first obtaining a construction permit. The height of a retaining wall shall be the sum of the heights of all retaining walls on the same slope.

1. Exception: This requirement shall not apply to any retaining wall that is intended to be dedicated to the municipality and is subject to regulation, inspection, and the issuance of bonds under Article 6, Subdivision and Site Plan Review and Approval, of the Municipal Land Use Law, P.L. 1975, c. 291 (N.J.S.A. 40:55D-37 et seq.) **nor shall it apply to any retaining wall subject to review and approval by a county engineer or by the State Department of Transportation.**

#### 5:23-2.15 Construction permits--application

(a) The application for a permit shall be submitted on the standard Construction Permit Application form 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.-4. (No change.)

5. A statement that all required State, county, and local prior approvals have been given, including such certification as the construction official may require;

**i. Exception: For permit applications which lack one or more prior approvals, but are otherwise complete, plan review shall proceed as provided at (f)4ii(1) below;**

6.-8. (No change.)

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

### SUBCHAPTER 12. ELEVATOR SAFETY SUBCODE

#### 5:23-12.1 Title; scope; intent

(a)-(d) (No change.)

(e) For purposes of this subchapter, "elevator" or "elevator device" means a hoisting and lowering device equipped with a car or platform which moves in guides for the transportation of individuals or freight in a substantially vertical direction through successive floors or levels of a building or structure; or, a power driven, inclined, continuous stairway used for raising or lowering passengers; or, a type of passenger carrying device on which passengers stand or walk, and in

which the passenger carrying surface remains parallel to its direction of motion and is uninterrupted. This includes, without limitation, elevators, escalators, moving walks, dumbwaiters, wheelchair lifts, manlifts, stairway chairlifts, and any device within the scope of ASME A17.1 (Safety Code for Elevators and Escalators), ASME A18.1 (Safety Standard for Platform Lifts and Stairway Chairlifts), or ASME A90.1 (Safety Standard for Belt Manlifts).

1. This definition shall not apply to any conveying devices[,] **and** process equipment[, and mine elevators]. Conveying devices include [personnel hoists] **special purpose personnel elevators, mine elevators, marine elevators, wind turbine tower elevators, outside emergency elevators**, material hoists, conveyors, and any other device outside of the scope of ASME A17.1, A18.1, or A90.1.