

[N.J.A.C. 5:23-4.1](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 50 No. 5, March 5, 2018

New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23. UNIFORM CONSTRUCTION CODE > SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

§ 5:23-4.1 Title; scope; intent

- (a) This subchapter, adopted pursuant to authority of the State Uniform Construction Code Act and entitled "Enforcing agencies; duties; powers; procedures", shall be known and may be cited through the regulation as N.J.A.C. 5:23-4," and when referred to in this part of the regulations, may be cited as "this subchapter".
- (b) Unless otherwise specifically provided, all references to article or section numbers or to provisions not specifically identified by number, shall be construed to refer to such article, section or provision of this subchapter.
- (c) This subchapter and N.J.A.C. 5:23-4A, 4B, 4C shall control matters related to: the structure, organization, and procedures of municipal, State, and interlocal enforcing agencies; their interrelationships; the structure, organization, and procedures of boards of appeal; the approval of premanufactured construction; private enforcing agencies; and the establishment of fees.
- (d) This subchapter seeks to provide an efficient administrative structure for enforcing agencies and boards of appeal, through which delay in the construction process can be reduced, uniformity of systems and procedures encouraged, and the public health and safety protected. Such intent shall be given full effect in the construction of any specific provision of this subchapter.

History

HISTORY:

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Reference to subchapter 4A added to (c).

Amended by R.1994 d.96, effective February 22, 1994.

See: 26 N.J.R. 1073(a).

Annotations

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Citation to former [N.J.A.C. 5:23-2.9](#) on enforcement. [Newark Health Welfare Dept. v. Rogers, 179 N.J.Super. 389, 432 A.2d 135 \(Ch.Div.1981\).](#)

City must proceed against property through its own ordinances rather than seek common law public nuisance injunction where no local board of health established and nuisance not proven. [Newark Health & Welfare Dept. v. Rogers, 179 N.J.Super. 389, 432 A.2d 135 \(Ch.Div.1981\).](#)

Research References & Practice Aids

LAW REVIEW AND JOURNAL COMMENTARIES:

Municipal employees--Construction Code Officials. Judith Nallin, 135 N.J.L.J. No. 14, 50 (1993).

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[N.J.A.C. 5:23-4.2](#)

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§ 5:23-4.2 Matters covered; exceptions

(a) Except as otherwise provided in subsection (b) below, the provisions of this subchapter shall apply to all agencies with an enforcement responsibility under the act and regulations.

(b) Rules concerning exceptions are:

1. Interstate agencies: This subchapter shall not apply to agencies created by Interstate Compact. Such agencies shall administer and enforce the subcodes, under such rules and regulations as they may develop, pursuant to authority of the State Uniform Construction Code Act, and any other applicable law of this State.
2. Department of Education:
 - i. When final plans for the construction or alteration of a public school facility have been submitted to the Department of Education, and approved under the standards for educational adequacy set forth at [N.J.A.C. 6A:26](#), and have been submitted for review to, and released by, either the Department of Community Affairs or a construction official of an enforcing agency, such plans shall be filed with the enforcing agency of the municipality in which the public school facility is located.
 - ii. The enforcing agency shall inspect any construction or alteration of a public school facility in the same manner as any other building or structure subject to the code for the purpose of determining if there are any violations of the educational enhancement and adequacy requirements as set forth at [N.J.A.C. 5:23-3.11A\(c\)](#) and (d) or any other provision of the State Uniform Construction Code.

(c) Rules concerning matters not specifically provided for are:

1. Any type or class of enforcing agency or board of appeals, the procedures of which are developed in this subchapter, may individually adopt further rules for their internal governance, not inconsistent with any specific provision of this subchapter, or with its stated intent.

History

HISTORY:

Amended by R.1991 d.309, effective June 17, 1991.

See: 23 N.J.R. 1084(a), 23 N.J.R. 1922(a).

Rule conformed to P.L. 1990 c.23; reference to [N.J.A.C. 6:22](#) added.

Amended by R.1997 d.417, effective October 6, 1997.

See: [29 N.J.R. 3387\(a\)](#), [29 N.J.R. 4285\(a\)](#).

In (b)2i, substituted "educational adequacy" for "facility adequacy", inserted "either the Department or" preceding "a construction official"; and substantially amended (b)2ii.

Amended by R.2000 d.166, effective April 17, 2000.

See: [31 N.J.R. 4151\(a\)](#), [32 N.J.R. 1376\(a\)](#).

Rewrote (b)2ii.

Administrative change.

See: [34 N.J.R. 1022\(a\)](#).

Annotations

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N.J.A.C. 5:23-4.3

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§ 5:23-4.3 Municipal enforcing agencies--establishment

(a) Notice of intention to establish:

1. Any municipality seeking to establish and operate an enforcing agency, pursuant to the act and the regulations, shall first notify the department of its intent to establish such an agency by registered and certified mail, return receipt requested, not later than one month prior to the effective date of the regulations. Such notice, in the form of a resolution of the governing body, shall state that enforcement will be carried out either by the municipal enforcing agency or by interlocal agreement. The resolution shall also state the extent to which the municipality anticipates that private on-site agencies will be utilized. The resolution shall state the address of the enforcing agency and the board of appeals, if different. Such resolution shall additionally state whether a board of appeals will be appointed within the municipality, whether an intermunicipal joint board of appeals will be established or whether appeals will be left to the jurisdiction of the county.
2. Any municipality which shall not choose to establish and operate an enforcing agency pursuant to the act and the regulations shall notify the department of this intent by registered or certified mail, return receipt requested, not later than one month prior to the effective date of the regulations. Such notice, in the form of a resolution of the governing body, shall state that the governing body requests that the department assume the task of administration and enforcement.
3. A municipality may, by resolution, provide for the employment of an elevator subcode official, licensed in accordance with N.J.A.C. 5:23-5, to perform inspections and witness tests within its jurisdiction. If a municipality fails to employ such an official by July 1, 1992, the Department shall have exclusive jurisdiction to review plans and witness tests for, and inspect elevators within, the municipality. Thereafter, a municipality may acquire such jurisdiction by enacting the necessary resolution and employing an elevator subcode official, but the transfer of jurisdiction to the municipality shall not be effective until 120 calendar days after a certified copy of the resolution is received by the Department.

(b) Remedies:

1. Whenever the department shall not have received the notice as described in (a)1 of this section, at least one month prior to the effective date of the regulations, it shall forward by certified or registered mail, return receipt requested, to the governing body of any such municipality, a notice of failure to comply with these regulations, a statement detailing the implications of such failure, and a statement of intention to seek the order of a court of competent jurisdiction requiring that the municipality declare its intention with respect to enforcement pursuant to (a)1 of this section or in the alternative that the department be established as the enforcing agency in such municipality.
2. The department may seek an order pursuant to this subsection after the expiration of 10 days from the mailing of such notice.

(c) Term; transfer:

N.J.A.C. 5:23-4.3

1. Whenever a municipality pursuant to (c)2 below, having relinquished its jurisdiction for the administration and enforcement of the code to the department, shall seek to reestablish such jurisdiction, it may do so upon the passage of an ordinance establishing an enforcement agency in accordance with the regulations; provided however, that such ordinance shall not take effect until the expiration of 120 calendar days from the date of certified copy of the ordinance is received by the department in order to give the department sufficient time to reallocate staff assignments.
2. Whenever a municipality having accepted responsibility for administration and enforcement of the regulations shall seek to relinquish such authority to the department, it may do so upon the passage of an ordinance repealing the functions and duties of the enforcing agency and transferring same to the department; provided however, that such ordinance shall not take effect until the expiration of 120 calendar days from the date a certified copy of the ordinance is received by the department, in order to give the department sufficient time to hire any necessary staff and to integrate the municipality's enforcing agency functions within its overall inspection program; provided further that whenever the commissioner shall determine that the interest of public health, safety and welfare cannot be accommodated within this period, the commissioner may notify the municipality that the department will not accept jurisdiction for an additional period to be specified. During this period the municipality shall continue to enforce the regulations.
 - i. Whenever the commissioner shall seek to delay acceptance of jurisdiction pursuant to this section beyond 120 days, such shall be upon notice and opportunity to be heard pursuant to the Administrative Procedures Act, N.J.S.A. 52:14.B-1 et seq.;
 - ii. In any transfer of authority, the department shall succeed to any and all records and files of the enforcing agency, or copies of such records and files, if the municipal enforcing agency so provides, which the department may transport to a location of its choice after the effective date of the repealing ordinance;
 - iii. The department shall be free to phase its procedures and operation in during the interim between the adoption of any repealing ordinance and its effective date;
 - iv. The department's fee schedules, hearing provisions, and any other requirements which pertain when the department acts in its capacity as the enforcing agency, shall come into operation on the effective date of the repealing ordinance. To the extent feasible, the department shall treat the holder of an outstanding construction permit in the same manner as he would have been treated under the municipal enforcing agency;
 - v. Whenever a county board of appeals shall have acted for such municipality, the commissioner shall notify the county board of the transfer and the termination of its jurisdiction.
3. Except as otherwise provided in (a)3 above with regard to enforcement of the elevator safety subcode, the Department shall not assume partial responsibility for the enforcement of the regulations pursuant to this section. Whenever the Department is constituted as the local enforcing agency by the municipality, it shall act as the exclusive enforcing agency with respect to all subcodes and all areas of the regulations within the limits of such municipality.

(d) Establishment by ordinance:

1. Any municipality which shall have complied with (a)1 above shall thereafter, but prior to the effective date of the regulations, adopt an ordinance constituting its enforcing agency.
2. Such ordinance shall establish the construction official as the chief administrator of the enforcing agency. It shall establish as many subcode official positions as the Commissioner shall issue types of licenses for subcode officials. Any person who holds more than one subcode official position shall be qualified for each position pursuant to N.J.A.C. 5:23-5. Staffing procedures shall not result in an inadequate municipal inspection force.
3. Such ordinance need not require that the construction official or each of the subcode officials, or any of their assistant and staff, work exclusively for the enforcing agency, or that they be located in one office

or building within the municipality. But such ordinance shall specify that for purposes of the regulations and its enforcement, any such dispersed personnel are subject to the procedures and policies of the enforcing agency and are primarily responsible to the construction official. Further, such ordinance shall indicate that irrespective of any dispersal of personnel, the public shall have the right, unless in the case of emergency, unforeseen or unavoidable circumstance, to do business at one enforcing agency center. Any reorganization necessary to provide for the coordination of dispersed personnel so as to enable the enforcing agency to act within the various time limits established by the act and the regulations shall be provided in such ordinance or may be delegated to the appointing authority.

4. Such ordinance shall, if the municipality has so chosen, establish a construction board of appeals in accordance with [N.J.A.C. 5:23A](#). The municipality may permit the board to hire new staff or to utilize existing municipal staff in addition to such staff as is provided for in [N.J.A.C. 5:23A](#) as it may deem appropriate.
5. Such ordinance shall establish a system of fees in accordance with [N.J.A.C. 5:23-4.17](#).
6. Such ordinance, including any amendments thereto whenever made, shall be forwarded to the department upon adoption.

(e) Personnel:

1. Personnel hired or transferred on a full or part-time basis, for purposes of the administration of the act and the regulations, may be hired or transferred by resolution of the governing body, or by such other procedure as is provided by law in the municipality for such purposes.
2. Not later than 30 days after the effective date of the regulations and whenever changed thereafter, the municipality shall file with the department a list containing the names and certification numbers of the construction official and each subcode official.

(f) Departmental intervention:

1. Except as otherwise provided in (f)2 below, whenever the Department shall have reasonable cause to believe that a local enforcing agency is not carrying out its functions as intended by the Act and regulations, it shall forward, by certified or registered mail, return receipt requested, to the governing body, to the construction official, and to the municipal manager or administrator, if any, having jurisdiction over the local enforcing agency, a notice stating the nature of the alleged failure of the local enforcing agency to perform, the implications of such failure, and a statement setting forth the corrective action required to be taken by the local enforcing agency.
 - i. In the case of a local enforcing agency which the Department finds to have repeatedly or habitually failed to enforce the provisions of the State Uniform Construction Code Act, the Department shall issue an order, in the manner, and subject to the requirements, set forth in (f)1 above, to dissolve the local enforcing agency and replace it by the Department.
 - ii. No local enforcing agency shall be dissolved and replaced by the Department for repeated or habitual failure to enforce the regulations except upon its failure, or the failure of the governing body or official having jurisdiction over it, to comply with a notice issued by the Department setting forth corrective action required to be taken in order to ensure proper administration of the local enforcing agency and enforcement of the Code.
 - iii. Prior to the issuance of an order for the dissolution of any local enforcing agency and its replacement by the Department, or as an alternative to any such order, the Department shall place the local enforcing agency under the temporary supervision of an administrator employed by the Department. For the first 60 days of any period in which a local enforcing agency is under the temporary supervision of a Department administrator, the local enforcing agency shall retain fee revenue and be responsible for the payment of employee salaries and other expenses, other than the expenses of the administrator, in the same manner as if the local enforcing agency were not under the supervision of a Department administrator. In the event the period of temporary supervision extends beyond 60 days and the Department has assigned its own personnel to serve

as officials and/or inspectors, fee revenue after the sixtieth day shall be paid to the Department and used by the Department to pay the costs of the local enforcing agency.

iv. In the event that any municipality having jurisdiction over a local enforcing agency subject to any notice or order issued pursuant to this paragraph is aggrieved by such notice or order, the municipality shall be entitled to an administrative hearing conducted in accordance with the Administrative Procedure Act, [N.J.S.A. 52:14B-1](#) et seq., and the Uniform Administrative Procedure Rules, [N.J.A.C. 1:1](#). A request for any such hearing must be mailed, within 15 days after receipt of the notice or order being appealed, to the Hearing Coordinator, Division of Codes and Standards, PO Box 802, Trenton, NJ 08625-0802. The right to a hearing under this paragraph shall also extend to any licensed code enforcement official or inspector who would be adversely affected by any Departmental order.

2. In any case in which it may find it necessary to do so, the Department may supplant or replace a local enforcing agency for a specific project.

(g) The commissioner may, upon written application by the governing body of a municipality, temporarily waive any administrative requirement of the regulations which because of special circumstances impedes a municipality in the enforcement of the code. Any municipality seeking such a temporary waiver, shall in its written request state the nature of the problem, the relief sought and alternative measures, if any, which might meet the intent of the requirement for which such temporary waiver is sought. The commissioner may grant a hearing pursuant to the Administrative Procedures Act, if a more complete record of the case is deemed necessary.

History

HISTORY:

Amended by R.1989 d.435, effective August 21, 1989.

See: 20 N.J.R. 1764(a), 21 N.J.R. 2474(a).

Deleted (e), which was "Interim Procedures" and recodified (f) "Personnel" as new (e), with no change in text. Deleted (g) "Failure to perform" and reserved subsection as (f). Recodified old (h) as (g).

Amended by R.1989 d.551, effective November 6, 1989.

See: 21 N.J.R. 2436(a), 21 N.J.R. 3460(b).

New subsection (f) added regarding departmental intervention.

Administrative Correction to (d)4.

See: 22 N.J.R. 2503(b).

Amended by R.1991 d.325, effective July 1, 1991.

See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Elevator plan review provisions added at (a)3.

Amended by R.1992 d.245, effective June 15, 1992.

See: 24 N.J.R. 1148(a), 24 N.J.R. 2244(a).

Exception for elevator safety subcode added to (a)3.

Administrative change.

See: 26 N.J.R. 5007(a).

Amended by R.1996 d.236, effective May 20, 1996 (operative January 1, 1997).

See: [27 N.J.R. 4050\(a\)](#), [28 N.J.R. 2586\(a\)](#).

Amended by R.1997 d.409, effective October 6, 1997.

See: [29 N.J.R. 2736\(a\)](#), [29 N.J.R. 4281\(a\)](#).

In (f)1iv, changed Division for appeals.

Annotations

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[Township of Edison v. Coleman, 239 N.J.Super. 301, 571 A.2d 312 \(A.D.1990\)](#).

Citation to former [N.J.A.C. 5:23-4.3](#) for construction official's duties; Township manager without authority over matters of code enforcement and official discipline due to State legislative preemption. [J.P. Properties, Inc. v. Macy, 183 N.J.Super. 572, 444 A.2d 1131 \(Law Div.1982\)](#).

Regulation required for Commissioner to order refund by municipal enforcement agencies of charges in excess of operating costs; no refund without regulation adoption. Bureau of Construction Code Enforcement v. Hasbrouck Heights, 4 N.J.A.R. 282 (1983).

Regulations govern municipal enforcement agencies. Bureau of Construction Code Enforcement v. Hasbrouck Heights, 4 N.J.A.R. 282 (1983).

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[N.J.A.C. 5:23-4.3A](#)

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§ 5:23-4.3A Enforcing agency classification

- (a) Local enforcing agencies shall be classified as Class 3 or RCS (specialty in residential and small commercial structures), Class 2 or ICS (specialty in industrial and commercial structures) or Class 1 or HHS (specialty in high-rise/hazardous structures). The classification of the enforcing agency shall be as determined by (b) below. The highest class of structures, as defined in (d) below, for which the enforcing agency in a municipality is authorized to do plan review shall correspond to the classification of the enforcing agency as determined by (b) below.
- (b) The classification of an enforcing agency is determined by the lowest level of inspector license held by any of the subcode officials appointed to establish such agency and by the highest level of inspector license held by the appointed construction official. In the case of subcode officials, the inspector license used to determine the classification of the agency must be in the subcode area for which that individual is appointed. Enforcing agencies shall be classified as follows:
1. Class 1 agency: The lowest level of inspector license held in accordance with N.J.A.C. 5:23-5 by the construction official or any of the subcode officials appointed to constitute the enforcing agency is an HHS inspector license.
 2. Class 2 agency: The lowest level of inspector license held in accordance with N.J.A.C. 5:23-5 by the construction official or any of the subcode officials appointed to constitute the enforcing agency is an ICS inspector license.
 3. Class 3 agency: The lowest level of inspector license held in accordance with N.J.A.C. 5:23-5 by the construction official or any of the subcode officials appointed to constitute the enforcing agency is an RCS inspector license.
- (c) Any change in the classification of an enforcing agency shall be effective immediately upon a change in the level of licensure of any of the officials appointed to constitute the enforcement agency as described in (a) above. The ability of a municipality to accept an application for plan review shall be determined by the classification of that municipality as of the date of application. Nothing contained herein, however, shall be construed to permit any enforcement agency to continue to review plans submitted if the classification of the agency has changed so as to render the agency no longer eligible to review the plans in question.
- (d) Structures shall be classified as follows (group classifications are as per the building subcode, areas are per floor and stories/height are above grade):
1. Class 3 structures:
 - i. Group B less than 7,200 square feet, two stories, 40 feet high;
 - ii. Group M less than 4,800 square feet, one story, 40 feet high;
 - iii. Group S-1 less than 4,200 square feet, one story, 40 feet high;
 - iv. Group S-2 less than 7,200 square feet, two stories, 40 feet high;

- v. Group R-3 as permitted in the building subcode and including accessory private garages, radio and television antennae and swimming pools;
- vi. Group R-5 as permitted in the one- and two-family dwelling subcode and including accessory private garages, radio and television antennae and swimming pools.

2. Class 2 structures:

- i. All plan review activities permitted to class 3 officials;
- ii. Group A-1 less than 4,200 square feet, one story, 40 feet high;
- iii. Group A-2 less than 2,400 square feet, one story, 55 feet high;
- iv. Group A-3 less than 8,400 square feet, two story, 55 feet high;
- v. Group A-4 less than 9,500 square feet, two story, 55 feet high;
- vi. Group A-5 less than 5,000 square feet, one story, 55 feet high;
- vii. Group B less than 37,500 square feet, five story, 65 feet high;
- viii. Group E less than 14,400 square feet, two story, 55 feet high;
- ix. Group F-1 less than 25,000 square feet, four story, 65 feet high;
- x. Group F-2 less than 37,500 square feet, five story, 65 feet high;
- xi. Paint Spray Booths, section 416;
- xii. Group I-1 less than 8,400 square feet, three story, 55 feet high;
- xiii. Group I-2 less than 7,200 square feet, one story, 55 feet high;
- xiv. Group I-3 less than 6,000 square feet, one story, 55 feet high;
- xv. Group I-4 less than 13,000 square feet, three story, 55 feet high;
- xvi. Group M less than 21,500 square feet, four story, 65 feet high;
- xvii. Group R-1 less than 9,600 square feet, three story, 55 feet high;
- xviii. Group R-2 less than 9,600 square feet, three story, 55 feet high;
- xix. Group R-4 less than 9,600 square feet, three stories, 55 feet high;
- xx. Group S-1 less than 26,000 square feet, four story, 65 feet high;
- xxi. Group S-2 less than 39,000 square feet, five story, 65 feet high;
- xxii. Group U as permitted by the building subcode.

3. Class 1 structures:

- i. All plan review activities permitted to class 2 and class 3 officials;
- ii. All remaining use groups and categories not reserved to the State.

(e) Departmental plan review shall not be required for class 3 work. Departmental plan reviews prior to the issuance of a permit shall be required for class 2 work, unless the municipal enforcing agency is classified as class 2. Departmental plan review prior to the issuance of a permit shall be required for class 1 work unless the municipal enforcing agency is classified as class 1.

- 1.** Reconstruction, changes of use, additions to, or the installation or alteration of fire protection systems in class 1 or class 2 buildings shall be submitted to the Department when the municipal enforcing agency is not appropriately classified as per (e) above. The Department may, at its discretion, review such plans, or may return such plans to the municipality for review.

2. If an addition would cause a building not previously classified as class 1 or class 2 to be reclassified as class 1 or 2, and the municipal enforcing agency is not appropriately classified as per (e) above, then Departmental plan review shall be required.

(f) The Department shall issue a roster of enforcing agencies and their classification upon request. Copies may be obtained by contacting the Licensing Section, Bureau of Code Services, PO Box 816, Trenton, New Jersey 08625-0816.

History

HISTORY:

Amended by R.1992 d.272, effective July 6, 1992.

See: [24 N.J.R. 1446\(a\)](#), [24 N.J.R. 2424\(a\)](#).

Text on enforcing agency classification recodified from 3.10; new (a) added.

Amended by R.1993 d.662, effective December 20, 1993.

See: [25 N.J.R. 3891\(a\)](#), [25 N.J.R. 5918\(a\)](#).

Amended by R.1997 d.409, effective October 6, 1997.

See: [29 N.J.R. 2736\(a\)](#), [29 N.J.R. 4281\(a\)](#).

Amended by R.1999 d.424, effective December 6, 1999.

See: [31 N.J.R. 2428\(a\)](#), [31 N.J.R. 4001\(c\)](#).

Rewrote (e).

Amended by R.2001 d.127, effective April 16, 2001.

See: [33 N.J.R. 392\(a\)](#), [33 N.J.R. 1195\(a\)](#).

In (e), deleted "after January 1, 1981" and "as of January 1, 1977 and" in the introductory paragraph, and rewrote 1 and 2.

Amended by R.2003 d.217, effective May 19, 2003.

See: [35 N.J.R. 28\(a\)](#), [35 N.J.R. 2208\(a\)](#).

Rewrote (d).

Administrative correction.

See: [38 N.J.R. 4178\(a\)](#).

Amended by R.2007, d.384, effective December 17, 2007.

See: [39 N.J.R. 2684\(a\)](#), [39 N.J.R. 5211\(a\)](#).

In (d), substituted "(group classifications are as per the building subcode, areas are per floor and stories/height are above grade)" for "(keyed to section 302.1 of the building subcode)"; deleted former (d)1vi; recodified former (d)1vii as (d)1vi; in (d)1vi, substituted "one- and two-family dwelling" for "building"; added new (d)2xix; recodified former (d)2xix through (d)2xxi as (d)2xx through (d)2xxii; and deleted (d)4.

Amended by R.2013 d.081, effective June 3, 2013.

See: [44 N.J.R. 1303\(a\)](#), [45 N.J.R. 1393\(a\)](#).

Rewrote (a) and the introductory paragraphs of (d) and (e); and in the introductory paragraphs of (d)1, (d)2, and (d)3, substituted "structures" for "agencies".

Annotations

Notes

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§ 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. Construction official: The construction official shall serve as the chief administrator of the enforcing agency. He shall establish the day to day operating routines of the agency and shall coordinate the activities of the subcode officials. He shall be qualified in accordance with subchapter 5 of this chapter in at least one subcode.
2. Subcode officials: Subcode officials shall enforce the provisions of those subcodes for which they are responsible in accordance with N.J.A.C. 5:23-3 and qualified in accordance with N.J.A.C. 5:23-5 and for which they have been appointed by the appointing authority. Each subcode official shall be responsible for the administration and enforcement of the appropriate subcode, subject to the procedures of the enforcing agency as administered by the construction official. However, each subcode official shall have exclusive decision-making authority with respect to the technical provisions of the subcode for which he has been appointed the official.
3. Interface: Nothing shall prevent one person from serving in more than one position for which he is certified and qualified. However, more than one person shall not be appointed concurrently to the same position.
4. Assistants: The appointing authority may establish positions other than those provided in N.J.A.C. 5:23-5 as is deemed necessary. The commissioner reserves the right to establish categories of certification for such positions. The construction official or appropriate subcode official shall be responsible for the supervision of any such personnel.
5. Whenever the municipality contracts with private on-site inspection agencies for all subcodes, it shall as a minimum appoint a construction official to coordinate activities.
6. Acting appointments: A municipality shall appoint an acting construction official or subcode official any time the absence of such official would impede orderly administration of the Uniform Construction Code and other duties mandated by the municipality. Acting appointments shall be accomplished by any mechanism acceptable to the municipality; providing, however, that a written record shall be kept. Notice to the Department shall be provided within seven days any time an appointment is made for more than 30 days. Acting appointments may not be made for longer than 60 days, nor may they be extended or renewed beyond 60 days unless specific authority to do so is granted in writing by the Department.
 - i. Only an individual licensed as a construction official may be appointed as an acting construction official and only an individual licensed as a subcode official in a particular subcode may be appointed as an acting subcode official for that subcode. The technical license level of an acting construction or subcode official shall be superior or parallel to the enforcing agency classification of the municipality or such municipal classification shall be downgraded to the technical license level of the acting official for the period of time in the position. Employees of private on-site inspection

agencies shall not serve as acting construction officials. Employees of private on-site inspection agencies may serve as acting subcode officials, provided that notice of any such appointment shall be given to the Department by the construction official within seven days of the making of the appointment and that such notice shall contain information as to the form and amount of the payment being made to the agency for the services of the acting subcode officials.

- ii. Acting appointments shall not constitute the statutory four-year term for construction and subcode officials or any portion thereof.
 - iii. Conflict of interest provisions set forth in this subchapter shall apply to acting officials.
 - iv. Nothing in (b) of this section shall be interpreted as prohibiting licensed officials from serving in more than one municipality in regular or acting appointments.
7. The municipality shall provide the construction official, each subcode official and each inspector with personal identification which includes at least the name of the municipality, and the name, title and photograph of the individual. The identification shall be validated by the municipality.
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. Provisions concerning reappointment of construction and subcode officials in non-civil service municipalities are as follows:
- i. At least 30 days prior to the expiration of the statutory four-year term of office of a construction or subcode official, the appointing authority shall give written notice to the official indicating whether or not he or she is going to be reappointed.
 - ii. In the event that the official is neither reappointed, nor given written notice that he or she is not being reappointed, prior to the date of expiration of the statutory four-year term of office, the official shall be deemed to have been appointed to serve in an acting capacity for a period of not more than 60 days, in accordance with (a)6 above. The municipality is not relieved of the obligation, pursuant to (a)6 above, to notify the Department within seven days any time any acting appointment will exceed 30 days.
 - iii. In the event that the official is neither reappointed, nor given written notice that he or she is not being reappointed, prior to the expiration of the 60-day period following the date of expiration of the prior statutory four year term of office, the Department, in such circumstance, shall not extend any such acting appointment and the official shall be deemed to have been reappointed, such reappointment being effective retroactively to the date of expiration of the prior statutory four-year term.
- (b) The municipality shall establish a central permit office under the direction and supervision of the construction official. This office shall receive applications for construction permits and plan review, issue construction permits and certificates of occupancy, collect fees, penalties, fines and issue notices, and orders. The office shall be open during normal business hours at times to be determined by the municipality. These times shall be posted in a conspicuous place and shall be comparable with the amount of construction activity in the municipality. Nothing herein shall prevent a municipality from establishing branch offices, but the public shall not, unless in the case of an emergency, unforeseen or unavoidable circumstance, be required to do business, except at the central permit office.
- (c) The construction official and the subcode officials shall be available for consultation and discussion during normal business hours at scheduled times to be determined by the construction official. All inspections may take place between 7:00 A.M. and 6:00 P.M. on business days or on days and at times at which construction is taking place or at such other times as may be acceptable to the owner or the owner's representative, or otherwise in case of emergency.

- (d) The municipality shall ensure that the enforcing agency has adequate staff to review plans, applications, specifications and to schedule and perform inspections in a timely manner.

History

HISTORY:

Amended by R.1982 d.23, effective February 1, 1982.

See: 13 N.J.R. 863(a), 14 N.J.R. 142(b).

(a)6: text deleted and replaced with new text through (a)6iv.

Notice of correction: "30 days. Acting appointments may not be made for longer than" was omitted from text in (a)6.

See: 20 N.J.R. 2823(a).

Amended by R.1993 d.187, effective May 3, 1993.

See: 25 N.J.R. 624(a), 25 N.J.R. 1875(a).

Added (a)8.

Amended by R.1994 d.323, effective July 5, 1994 (operative January 1, 1995).

See: 25 N.J.R. 2162(a), 26 N.J.R. 2780(a).

Amended by R.1996 d.387, effective August 19, 1996 (operative November 1, 1996).

See: [28 N.J.R. 2434\(a\)](#), [28 N.J.R. 3923\(a\)](#).

In (a) added provisions relating to reappointment of construction and subcode officials in non-civil service municipalities.

Amended by R.2004 d.67, effective February 17, 2004.

See: [35 N.J.R. 4627\(a\)](#), [36 N.J.R. 949\(b\)](#).

In (a)8, added R-5 to the list of groups.

Amended by R.2007 d.143, effective May 7, 2007.

See: [39 N.J.R. 7\(a\)](#), [39 N.J.R. 1672\(a\)](#).

Rewrote (c).

Annotations

Notes

[Chapter Notes](#)

Case Notes

Municipal construction code official's appearance for work for 11 days after his four-year term expired did not confer tenure on him on basis of appointment to second consecutive term. [Cutler v. Borough of Westwood, 295 N.J.Super. 344, 685 A.2d 44 \(A.D.1996\)](#).

Township's failure to make a proper temporary appointment in conformance with regulation resulted in plaintiff's appointment as subcode plumbing inspector becoming one of tenure pursuant to [N.J.S.A. 52:27D-126\(b\)](#). [DeStefano v. Washington Twp., 220 N.J.Super. 273, 531 A.2d 1090 \(L.1987\)](#).

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N.J.A.C. 5:23-4.5

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New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23. UNIFORM CONSTRUCTION CODE > SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

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

(a) Records and procedures: The municipality shall ensure that the construction official, with the assistance of the subcode officials and other necessary municipal employees, maintains a central file system, by block and lot, for each property in the municipality for which a permit has been issued or requested or for which an action has been taken by the municipal enforcing agency.

1. The files shall contain all information, including inspection reports, correspondence, and so forth, relevant to each application for a construction permit or certificate of occupancy.
2. The files shall contain or indicate the storage location of all plans and specifications too bulky for inclusion in the central file.
3. The files and records of the municipal enforcing agency shall be open to Department review and audit during normal business hours.
 - i. File copies of all documents in connection with building operations shall be retained in the official records as provided by law.
 - ii. Files and records shall be maintained in a manner consistent with the Municipal Procedures Manual established by the commissioner for this purpose.

(b) Forms:

1. The construction official shall ensure that all necessary application forms are available to the public at the central permit office.
2. The following standardized forms established by the Commissioner are required for use by the municipal enforcing agency:

| Form No. | Name |
|----------|--|
| F100 | Construction Permit Application |
| F101 | Consent to Undertake Proposed Work |
| F110 | Building Subcode Technical Section |
| F120 | Electrical Subcode Technical Section |
| F130 | Plumbing Subcode Technical Section |
| F140 | Fire Subcode Technical Section |
| F145 | Mechanical Inspector Technical Section |
| F150 | Elevator Subcode Technical Section |
| F-155 | Elevator Subcode Multiple Devices |
| Form No. | Name |
| F-160 | Application for a Variation |
| F170 | Construction Permit, Required Inspection |
| F180 | Construction Permit Notice |
| F190 | Permit Update |
| F211 | Notice of Violation and Order to Terminate |
| F212 | Notice and Order of Penalty |

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| | |
|-------|---|
| F213 | Notice of Violation and Order to Terminate (Post Certificate of Occupancy - Residential Construction) |
| F214 | Notice and Order of Penalty (Post Certificate of Occupancy - Residential Construction) |
| F221 | Inspection Sticker Approval for Building |
| F-222 | Inspection Sticker Approval for Electric |
| F223 | Inspection Sticker Approval for Plumbing |
| F-224 | Inspection Sticker Approval for Fire Protection |
| F-225 | Inspection Sticker Approval for Elevator |
| F-230 | Inspection Sticker Approval--Not Approved |
| F241 | Notice of Unsafe Structure |
| F242 | Notice of Imminent Hazard |
| F-245 | Notice to Vacate |
| F250 | Stop Construction Order |
| F-255 | Stop Construction Notice |
| F260 | Certificate |
| F270 | Application for Certificate |
| F310 | Elevator Inspection |
| F-320 | Elevator Notice |
| F-325 | Notice of Elevator Device Sealed Out of Operation |
| F326 | Accident/Incident Report |
| F-350 | Cut-In Card |
| F-360 | Denial of Permit |
| F-370 | Chimney Verification for Replacement of Fuel Fired Equipment |
| F380 | Hydraulic System Data Plate |
| F390 | Framing Checklist |
| F391 | Digital Alarm Communicator Transmitters (DACT) utilizing Managed Facility Voice Networks (MFVN) Verification Form |
| F392 | Air Barrier and Insulation Checklist |

3. The following standardized forms established by the Commissioner are optional for use by the municipal enforcing agency; provided, however, that where they are not used, equivalent forms or mechanisms are used by the enforcing agency to accomplish the same purpose:

| Form No. | Name |
|----------|----------------------------------|
| F-200 | Inspection Notice |
| F-280 | T.C.O. Control Card |
| F-290 | Ongoing Inspections Control Card |
| F-300 | Ongoing Inspections Schedule |
| F375 | Tickler/X-Ref Card |

4. No forms other than those established by the Commissioner shall be required of the public in connection with the administration and enforcement of the State Uniform Construction Code. The municipal enforcing agency may use additional forms for its own internal processing and recordkeeping. Nothing in this section pertaining to forms or in the forms themselves shall be deemed to affect the

requirements for plans and specifications or documentation of prior approvals. Where there is insufficient space on a form for all required information, the form shall be used with attachments.

5. Printing of forms: The municipal enforcing agency shall arrange for the printing of all forms to be used in the office and application forms to be used by the public. Other interested persons may also arrange for the printing of forms or may purchase and use forms printed by others. The municipal enforcing agency may provide for the inclusion of its name and other appropriate identifying information on the forms it has printed. However, the municipal enforcing agency shall accept forms not having municipal identification and shall, in any such case, insert the name of the municipality. All required forms shall be exact replicas of the forms required by the Commissioner, conforming in content, size, format and colors, except that all multi-part forms may be printed with an additional copy so long as the additional copy shall be in a color distinct from those specified by the Commissioner. Forms F-110, F-120, F-130 and F-140 may have the Subcode Technical Sections printed in any color or colors of ink as desired and Form F-310 (Elevator Inspection) may be printed as a multipart form on separate pages with up to four copies of each page.

(c) Logs:

1. The following standardized logs established by the Commissioner are required to be maintained by the municipal enforcing agency:

| Log No. | Name |
|---------|------------------------|
| L700 | Permit Fee Log |
| L-710 | Inspection Log |
| L720 | Certificate Log |
| L730 | Ongoing Inspection Log |

2. The municipal enforcing agency shall maintain the required logs either on log sheets established by the commissioner or on log sheets or ledger books of its own choice or design, provided that all required entries are maintained.

(d) Monthly reports:

1. The following standardized report forms established by the Commissioner are required to be completed by the municipal enforcing agency and transmitted to the Department by the tenth business day following the end of each calendar month:

| Report No. | Name |
|------------|--|
| R-811 | Municipal Monthly Activity Report Certificates |
| R-812 | Municipal Monthly Activity Report Permits |

2. Municipalities currently submitting monthly reports electronically shall continue to do so. Municipalities that do not already submit monthly reports electronically using UCCARS I shall begin to do so according to the following schedule:

- i. By December 31, 1992, all municipalities issuing 600 or more permits per year as determined by the Department shall submit monthly reports electronically.
- ii. By December 31, 1993, all municipalities issuing fewer than 600, but more than 200, permits per year as determined by the Department shall submit monthly reports electronically.
- iii. All other municipalities shall have the option of submitting monthly reports electronically or by mail. Any municipality which issues more than 200 permits per year as determined by the Department for any future year shall submit monthly reports electronically beginning during the following year.
- iv. A municipality that determines that compliance with this schedule would impose an undue hardship may apply to the Department for an extension of time. A request for an extension shall be in writing

and shall set forth the reason(s) for such extension and the period of time for which the extension is sought. The Department shall give the municipality written notice of its determination in response to the extension request.

3. As long as funding permits, the Department shall provide the UCCARS I software, training and technical support for the system free of charge to municipalities. Municipalities may submit monthly reports electronically using an alternative system compatible with UCCARS as determined by the Department and capable of transmitting a monthly report based on UCCARS specifications.
 4. Municipalities, at their option, may choose to add UCCARS II and III systems to their UCCARS I System and may obtain them, at no cost, from the Department, when available.
- (e) Quarterly reports: The following standardized report established by the Commissioner is required to be completed by the municipal enforcing agency for State of New Jersey training fees and must be submitted quarterly, with the accompanying fees, pursuant to [N.J.A.C. 5:23-4.19](#):

| Report No. | Name |
|------------|---------------------------|
| R840 | State Training Fee Report |

- (f) The following standardized report form established by the Commissioner is optional for use by the municipal enforcing agency:

| Report No. | Name |
|------------|--------------------|
| R-800 | Inspector's Report |

- (g) Exceptions: Exceptions may be made by the municipal enforcing agency to those requirements for records and procedures, forms, logs, and reports as stated in this section and in the Municipal Procedures Manual established by the commissioner only with the express written authorization of the Department. Requests for exceptions shall be in writing and shall detail the requirement(s) to which an exception is sought, the reason(s) for such exception and the duration for which the exception is sought, and shall be accompanied by any appropriate documentation and examples of alternative procedures, forms, logs or reports.

- (h) Duties of construction officials:

1. The construction official shall enforce the regulations and:
 - i. Provide that applications are available, and assist the public in preparing the applications whenever necessary;
 - ii. Review all applications for completeness as to form and for verification of prior approvals. He may request additional documentation concerning prior approvals whenever it is deemed necessary;
 - iii. Upon receipt of the completed application, the construction official shall determine the proper fee for the work required;
 - iv. Collect all fees and penalties and ensure that funds are properly accounted for;
 - v. Ensure that the proper subcode official shall have an adequate time period to review appropriate applications, plans and specifications;
 - vi. Ensure that all requests for variation are properly prepared, documented and referred to the appropriate subcode officials;
 - vii. Issue the construction permit upon receiving the approval of all appropriate subcode officials;
 - viii. Record all notices of violation upon receiving notification of the appropriate subcode official, and determine all penalties for noncompliance with the penalty notices;
 - ix. Ensure that all required inspections are scheduled and performed within three business days of the time for which inspection has been requested;

- x. Ensure that the reports of all inspections are completed and properly filed;
- xi. Record stop construction orders upon notification of the appropriate subcode official or, in the case of a development-wide stop construction order, issue the stop construction order upon recommendation of the appropriate subcode official. Within 24 hours of issuance, a copy of the development-wide stop construction order shall be forwarded to the Department via mail to: Department of Community Affairs, Office of Regulatory Affairs, 101 S. Broad Street, PO Box 818, Trenton, NJ 08625.
- xii. Ensure that all final inspections have been completed prior to the issuance of a certificate of occupancy.
 - (1) Ensure that all inspection required for the purpose, has been completed prior to the issuance of temporary certificate of occupancy;
- xiii. Issue the certificate of occupancy, upon receiving the approval of all appropriate subcode officials.
 - (1) Issue the temporary certificate of occupancy, upon receiving the approval of all appropriate subcode officials;
- xiv. Ensure, in the case of a change of use, or upon a request for a certificate of continued occupancy, that each subcode official gives an approval based on an inspection and the review of all submitted data before issuing a certificate of continued occupancy;
- xv. Prepare and obtain reports required in the regulations;
- xvi. Attend meetings and hearings as required by the regulations;
- xvii. Carry out such other functions as are necessary and appropriate to the position of construction official;
- xviii. Coordinate the activities of the subcode officials in enforcement of the energy radon hazard, elevator safety and mechanical subcodes;
- xix. Reply within three business days to any request from the municipal search officer for information concerning construction permits or certificates of occupancy;
- xx. Within 10 business days of issuance, provide written notice to the fire official for the municipality appointed pursuant to [N.J.S.A. 52:27D-203](#) of all permits issued for installations of roof-mounted photovoltaic systems;
- xxi. Comply with any local procedures which may be established by the governing body to provide the municipal search officer with information concerning construction permits and certificates of occupancy;
- xxii. File with the Department a notice of the execution of each contract with a private on-site inspection agency, which notice shall specify the subcode(s) covered by the contract, within 10 days after the effective date of the contract;
- xxiii. Take or initiate appropriate disciplinary action in the case of any subcode official or inspector failing to properly enforce the UCC. If the action includes suspension or dismissal, the construction official shall report this action to the Office of Regulatory Affairs via mail: Department of Community Affairs, Office of Regulatory Affairs, 101 S. Broad Street, PO Box 818, Trenton, NJ 08625;
- xxiv. Issue a notice of violation pursuant to [N.J.A.C. 5:23-2.35](#) for any violation of the provisions of the Code in effect at the time of permit application that comes to his or her attention. Pursuant to [N.J.S.A. 2A:14-1.1](#), no notice of violation may be issued to the developer or to any contractor more than 10 years after issuance of the certificate of occupancy;
- xxv. Ensure that all units within a residential development, other than Group R-1, that might have similar violations are inspected for such violations and that any such violations found are cited and abated if violations of the provisions of the Code in effect at the time of permit application listed at

[N.J.A.C. 5:23-2.35\(a\)](#)¹ are found in a residential structure in the development subsequent to the issuance of a certificate of occupancy. The construction official shall supervise the work of any professional engineer or registered architect hired by the municipality for this purpose; and

xxvi. Report the name of the developer and the nature of the code violation(s) to the Department by sending this information in writing to the Office of Regulatory Affairs, 101 S. Broad Street, PO Box 818, Trenton, NJ 08625 whenever:

- (1) It is necessary to take development-wide action for code violations discovered after issuance of certificate(s) of occupancy pursuant to [N.J.A.C. 5:23-2.35\(a\)](#)¹;
- (2) The municipal engineer advises the construction official that the municipality has had to call a bond posted pursuant to [N.J.S.A. 40:55D-53](#) due to failure of the developer to complete site improvements satisfactorily; or
- (3) The developer fails to maintain funds in the escrow account required pursuant to [N.J.A.C. 5:23-4.17](#) unless the charges to the escrow account are under appeal.

2. Nothing contained herein shall prevent the construction official from overruling a decision of a subcode official if he is qualified and certified in that subcode pursuant to subchapter 5 of this chapter.

(i) Duties of subcode officials:

1. The subcode official shall enforce the regulations and:

- i. Review those aspects of the application, plans and specifications appropriate to his subcode for approval and release to the construction official for issuance of the permit;
- ii. Receive and review directly from the applicant applications involving only one trade or subcode and minor or emergency work for approval and release to the construction official for issuance of the permit;
- iii. Collect fees for permit applications involving only trade or subcode and minor or emergency work and forward same to the construction official for proper accounting;
- iv. Comply with the time limitations for review as determined by the construction official;
- v. Review requests for variations as necessary;
- vi. Perform all required inspections within three business days of the time for which inspection has been requested;
- vii. Issue in the name of the enforcing agency notices of violation and notify the construction official of same. The subcode official may issue verbal orders at the jobsite and shall record such orders in his inspection report;
- viii. Complete reports of all inspections performed;
- ix. Issue stop construction orders in the name of the enforcing agency and notify the construction official of same or, in the case of a development-wide stop construction order, make a recommendation to the construction official for issuance of the order;
- x. Perform final inspection and notify construction official of approval in order that the construction official may issue certificate of occupancy;
- xi. Make inspection, review submitted data and notify construction official of approval in the case of a change of use, or a request for a certificate of continued occupancy;
- xii. Assist the construction official in the preparation of all reports required in the regulations;
- xiii. Attend meetings and hearings as required by the regulations;
- xiv. Issue documentation and certification, such as cut-in cards to utilities and/or public agencies if required by the regulations;

- xv.** Carry out such other functions as are necessary and appropriate to the position of subcode official.
- 2.** In the course of enforcing the regulations, the fire protection subcode official shall cooperate, to the greatest extent possible, with the local fire service, which is the local fire department or district having jurisdiction.
- i.** The fire protection subcode official shall, upon request of the local fire service, allow a designated representative of the local fire service reasonable access to, and opportunity to review, plans submitted to the fire protection subcode official for his approval.
 - ii.** The fire protection subcode official shall consult with the local fire service prior to granting any variations from the requirements of the fire protection subcode. If the fire protection subcode official is not himself a member of the local fire service, he shall, upon receipt of an application for a variation, forward a copy thereof to the local fire service and shall not grant a variation until he has received the comments of the local fire service or until 10 business days have passed, whichever comes first.
 - iii.** The participation of the local fire service in the code enforcement process shall in no way be construed as reducing the responsibility of the fire protection subcode official for the proper enforcement of the fire protection subcode. Advice rendered by the local fire service shall in no way be binding upon the subcode official.

(j) Conflict of interest:

- 1.** No person employed by an enforcing agency as a construction or subcode official or as an inspector shall knowingly carry out any inspection or enforcement procedure with respect to any property or business in which he or she, or any close relative or household member, or his or her superior within the enforcing agency, or any close relative or household member of such superior, or any other public official or employee having any direct or indirect control over the funding or operations of the enforcing agency, or any household member of any such public official or employee, has an economic interest. For purposes of this paragraph, "close relative" shall mean and include a spouse, sibling, ancestor or descendant, or the spouse of any of them.
 - i.** Where an inspection or enforcement procedure is necessary or required in any such property or business, and there is no other person employed by the enforcing agency who is qualified, pursuant to this chapter, to perform the inspection or enforcement procedure and who is not a subordinate of the person with the direct or indirect economic interest in such property or business, the official or inspector shall arrange for the inspection or enforcement to be carried out either by another local enforcing agency or by the Department.
 - ii.** A separate log shall be maintained by the enforcing agency of all inspections and enforcement procedures performed, when permitted in accordance with (j)1i above, with regard to any properties or businesses in which any persons employed by the enforcing agency have a direct or indirect economic interest.
- 2.** No person employed by an enforcing agency as a construction or subcode official, assistant to the construction or subcode official, trainee, inspector, or plan reviewer, shall, whether directly or indirectly, be engaged in ownership of, or employment by, or contracting to provide goods or services to, any business furnishing labor, materials, products, or services for the construction, alteration, or demolition of buildings or structures, 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 any municipality in which he is so employed by an enforcing agency.
- 3.** Persons subject to this subsection shall annually report any income or benefits received from any business or property subject to the Code, or from any business furnishing materials, products, labor or services for types of work subject to the Uniform Construction Code regulations, to the municipal governing body. This report shall include a list of all sources of income, but need not list the amount.

4. No person employed by a municipal enforcing agency as a construction official, subcode official or inspector shall be employed to appear before any construction board of appeals, or be involved in any court proceeding within the State, as a paid expert witness, or in any other compensated capacity in any proceeding involving the enforcement of the Uniform Construction Code except on behalf of another enforcing agency, or as a court-appointed witness.
 - i. This prohibition shall not apply to any litigation not involving enforcement of the Code, or to an appearance as a fact witness; nor shall it apply to any activities unrelated to an action for, or an appeal of, enforcement of the Code.
 5. This section shall not apply to:
 - i. The ownership of stock or other investment instrument in any corporation listed on any national stock exchange.
 - ii. Any such business or employment outside the State;
 - iii. Dual employment by two or more enforcing agencies;
 - iv. Any business or employment which is not subject to the regulations.
 - v. Service as an instructor in a code enforcement training program.
 6. Nothing herein shall prohibit a municipality from establishing by ordinance more restrictive provisions covering conflict of interest.
- (k) No person employed by an enforcing agency as a construction official, subcode official or inspector shall accept, or continue to hold, employment in one or more other municipalities as a construction official, subcode official or inspector unless the resulting combined workload is such that it can be discharged in a manner consistent with the requirements of this chapter.

History

HISTORY:

Amended by R.1983 d.611, eff. January 3, 1984.

See: 15 N.J.R. 1789(a), 16 N.J.R. 45(b).

Deleted old (b)2.-3. and (c) and added new (b)2, (c), (d) and (e). Renumbered old (d)-(f) as new (f)-(h).

Amended by R.1984 d.303, effective July 16, 1984.

See: 16 N.J.R. 950(a), 16 N.J.R. 1968(b).

Added (g)2.

Amended by R.1990 d.61, effective February 5, 1990.

See: 21 N.J.R. 3346(b), 22 N.J.R. 351(b).

Form numbers updated, new (d)2. added and reference made to reports and fees being submitted quarterly.

Amended by R.1990 d.226, effective May 7, 1990.

See: 21 N.J.R. 3696(a), 22 N.J.R. 1356(a).

Radon mitigation added to (f)1xviii.

Amended by R.1991 d.325, effective July 1, 1991.

See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Elevator safety added at (f)1xviii; conflict of interest provision added at (h).

Amended by R.1992 d.47, effective February 3, 1992.

See: 23 N.J.R. 3440(a), 24 N.J.R. 405(a).

Electronic monthly reporting added at (d)2.-4.

Amended by R.1992 d.230, effective June 1, 1992.

See: 24 N.J.R. 168(a), 24 N.J.R. 2052(a).

Form numbers changed in (b).

Amended by R.1992 d.243, effective July 6, 1992.

See: 24 N.J.R. 678(a), 24 N.J.R. 2422(a).

Conflict of interest and exception provisions added.

Amended by R.1992 d.392, effective October 5, 1992.

See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).

Report form number changed at (e).

Amended by R.1993 d.581, effective November 15, 1993.

See: 25 N.J.R. 3693(a), 25 N.J.R. 5146(a).

Amended by R.1994 d.323, effective July 5, 1994 (operative January 1, 1995).

See: 25 N.J.R. 2162(a), 26 N.J.R. 2780(a).

Amended by R.1995 d.249, effective June 5, 1995, (operative October 1, 1995).

See: 27 N.J.R. 619(a), 27 N.J.R. 2187(a).

In (b)2 added Form No. F-370.

Amended by R.1996 d.512, effective November 4, 1996.

See: [28 N.J.R. 3697\(a\)](#), [28 N.J.R. 4782\(a\)](#).

Amended by R.1997 d.64, effective February 18, 1997 (operative May 19, 1997).

See: [28 N.J.R. 4695\(a\)](#), [29 N.J.R. 550\(a\)](#).

In (b)2, amended form references.

Amended by R.1997 d.378, effective September 15, 1997.

See: [29 N.J.R. 2742\(a\)](#), [29 N.J.R. 4103\(a\)](#).

In (b)2 and (c)1, amended form designations and in (b)2 deleted form F-330A and F-340A.

Amended by R.1997 d.419, effective October 6, 1997.

See: [29 N.J.R. 3406\(a\)](#), [29 N.J.R. 4287\(a\)](#).

In (j)1, inserted ", or his or her superior within ... any such superior,"; in (j)1i inserted ", and there is no other person ... property or business,"; and added (j)1ii.

Amended by R.2000 d.166, effective April 17, 2000.

See: [31 N.J.R. 4151\(a\)](#), [32 N.J.R. 1376\(a\)](#).

In (b)2, inserted a reference to Form No. F380.

Amended by R.2000 d.413, effective October 16, 2000.

See: [32 N.J.R. 2278\(a\)](#), [32 N.J.R. 3783\(a\)](#).

In (j)1, substituted references to close relatives or household members for references to members of the immediate family, and added the second sentence; and deleted former (j)7.

Amended by R.2003 d.363, effective September 15, 2003.

See: [35 N.J.R. 2426\(a\)](#), [35 N.J.R. 4281\(a\)](#).

In (b), added forms F211, F212, F241, F242 and deleted form F240; deleted the revision dates of the referenced forms throughout.

Amended by R.2003 d.385, effective October 6, 2003.

See: [35 N.J.R. 2423\(a\)](#), [35 N.J.R. 4713\(a\)](#).

In (h), added 3.

Amended by R.2005 d.446, effective December 19, 2005.

See: [37 N.J.R. 2747\(a\)](#), [37 N.J.R. 4907\(a\)](#).

Added (h)1xxii.

Amended by R.2006 d.75, effective February 21, 2006.

See: [37 N.J.R. 3110\(a\)](#), [38 N.J.R. 1183\(a\)](#).

In (b)2, added Form F390, Framing Checklist.

Administrative correction.

See: [38 N.J.R. 1827\(b\)](#).

In (h)1xxii, substituted "818" for "817" to correct PO Box number.

Amended by R.2006 d.355, effective October 2, 2006.

See: [38 N.J.R. 1789\(a\)](#), [38 N.J.R. 4175\(a\)](#).

In the table in (b)2, added entries for forms "F101", "F213", and "F214"; in (h)1xxi, deleted "and" from the end; in (h)1xxii, substituted a semicolon for a period at the end; added (h)1xxiii through xxv; and deleted (h)3.

Amended by R.2007 d.46, effective February 5, 2007.

See: [38 N.J.R. 872\(a\)](#), [39 N.J.R. 370\(b\)](#).

Rewrote (h)1xi and (i)1ix.

Administrative correction.

See: [39 N.J.R. 1249\(a\)](#).

Amended by R.2007 d.143, effective May 7, 2007.

See: [39 N.J.R. 7\(a\)](#), [39 N.J.R. 1672\(a\)](#).

In (j)1, inserted ", or any other public official or employee having any direct or indirect control over the funding or operations of the enforcing agency or any close relative or household member of any such public official or employee,".

Administrative correction.

See: [39 N.J.R. 3296\(a\)](#).

Amended by R.2007 d.310, effective October 1, 2007.

See: [39 N.J.R. 135\(a\)](#), [39 N.J.R. 4113\(b\)](#).

Added (k).

Administrative correction.

See: [40 N.J.R. 113\(a\)](#).

Amended by R.2008 d.273, effective September 15, 2008.

See: [40 N.J.R. 2630\(a\)](#), [40 N.J.R. 5195\(c\)](#).

In the introductory paragraph of (j)1, inserted "a" preceding "construction", inserted "knowingly" and inserted a comma following "agency" twice, and deleted "close relative or" preceding the third occurrence of "household member"; and rewrote (j)2.

Amended by R.2010 d.291, effective December 20, 2010.

See: [42 N.J.R. 1943\(a\)](#), [42 N.J.R. 3053\(a\)](#).

In (b)2, (b)3, (c)1, (d)1 and (f), updated the tables; in (b)5, deleted "they" preceding "may purchase", and deleted "A" following "F-110", "F-120", "F-130", "F-140" and "F-310"; and in (j)2, inserted ", or for the maintenance of any equipment or building component the maintenance of which is regulated pursuant to this chapter,".

Amended by R.2011 d.269, effective November 7, 2011.

See: [43 N.J.R. 904\(a\)](#), [43 N.J.R. 3008\(a\)](#).

In entry F-370 of (b)2, substituted "Verification" for "Certification".

Amended by R.2012 d.139, effective July 16, 2012.

See: [44 N.J.R. 8\(a\)](#), [44 N.J.R. 1969\(a\)](#).

In (b)1, substituted "application forms" for "forms and applications"; in the table in (b)2, inserted entries "F391" and "F392"; in (b)5, inserted "to be used in the office and application forms to be used by the public"; added new (h)1xx; and recodified former (h)1xx through (h)1xxv as (h)1xxi through (h)1xxvi.

Administrative correction.

See: [44 N.J.R. 3061\(a\)](#).

Amended by R.2015 d.029, effective February 17, 2015.

See: [46 N.J.R. 1507\(a\)](#), [47 N.J.R. 459\(a\)](#).

In (j)2, deleted ", or in any municipality adjacent to any municipality in which he is thus employed. For purposes of the prohibition set forth in this paragraph, it shall be immaterial whether the employment by the business, or the providing of goods and services to the business, occurred within the employing municipality or an adjacent municipality or occurred elsewhere" from the end.

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Former [N.J.A.C. 5:23-4.3](#) regarding conflict of interest valid. [New Jersey State Plumbing Inspectors Assn., Inc. v. Sheehan, 163 N.J.Super. 398, 394 A.2d 1244 \(App.Div.1978\)](#), certiorari denied 79 N.J. 484, 401 A.2d 239 (1979).

Adopting Initial Decision's conclusion that 60-day suspension of license, rather than revocation, was sufficient punishment for infractions where there was no evidence that the municipal building code official intended to receive an economic benefit, within the meaning of [N.J.A.C. 5:23-4.5\(j\)](#), on the transfer of stocks of the official's former plumbing business (adopting [2007 N.J. AGEN LEXIS 763](#) as modified). [Mazzer v. Office of Regulatory Affairs, OAL Dkt. No. CAF 07898-07 \(On Remand\), 2008 N.J. AGEN LEXIS 12](#), Final Decision (January 10, 2008).

Construction official violated [N.J.A.C. 5:23-4.5\(j\)\(2\)](#), where the official performed architectural services on an ongoing basis for a builder undertaking construction in the municipality in which the official was employed, as well as in the adjoining municipality. [Easse v. Dep't of Community Affairs, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842](#), Final Decision (July 24, 2007).

Location of the projects for which an official receives compensation for services from a builder is not relevant to the analysis of whether [N.J.A.C. 5:23-4.5\(j\)\(2\)](#) was violated; an official may not perform services for a builder anywhere, once that builder undertakes construction in the municipality in which the official is employed or an adjoining municipality. [Easse v. Dep't of Community Affairs, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842](#), Final Decision (July 24, 2007).

Code official does not have to commit a criminal offense in order to be in violation of [N.J.A.C. 5:23-4.5\(j\)\(2\)](#). A code official is in violation of [N.J.A.C. 5:23-4.5\(j\)\(2\)](#) if he or she enters into, or maintains, any involvement with any person or business entity that is involved in construction under circumstances where such involvement might reasonably be perceived as compromising the objectivity of the official and, thus, the integrity of the code enforcement system. [Easse v. Dep't of Community Affairs, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842](#), Final Decision (July 24, 2007).

Willfulness is not an element of violation of the [Uniform Construction Code rules](#). [Easse v. Dep't of Community Affairs, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842](#), Final Decision (July 24, 2007).

Code official's issuance of permits to a builder during the same period of time in which the official was providing compensated architectural services to the builder violated not only [N.J.A.C. 5:23-5.25\(a\)5](#), but also [N.J.A.C. 5:23-4.5\(j\)\(2\)](#). [Easse v. Dep't of Community Affairs, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842](#), Final Decision (July 24, 2007).

Multiple incidents involving conflicts of interest under [N.J.A.C. 5:23-4.5\(j\)\(2\)](#) warranted revocation of all of the official's Uniform Construction Code licenses, and a previously "unblemished" record did not overcome the seriousness of the violation. [Easse v. Dep't of Community Affairs, Office of Regulatory Affairs, OAL Dkt. No. CAF 03043-07, 2007 N.J. AGEN LEXIS 842](#), Final Decision (July 24, 2007).

Monetary penalty against builder for code violations was not reduced for financial hardship, but was reduced by half to secure prompt compliance. [Bureau of Housing Inspection v. Regency Village Apartments, 95 N.J.A.R.2d \(CAF\) 37](#).

Fraud and deceit while practicing as a licensed code enforcement official or inspector warranted license revocation. [Regulatory Affairs v. Zieniuk, 95 N.J.A.R.2d \(CAF\) 15](#).

Conflict of interest precluded employment as elevator inspector. [Kunz v. Department of Community Affairs, 94 N.J.A.R.2d \(CAF\) 32](#).

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[N.J.A.C. 5:23-4.5A](#)

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New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23. UNIFORM CONSTRUCTION CODE > SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

§ 5:23-4.5A (Reserved)

History

HISTORY:

Repealed by R.2006 d.128, effective April 3, 2006.

See: [37 N.J.R. 4106\(a\)](#), [38 N.J.R. 1573\(a\)](#).

Section was "Selection of private on-site inspection and plan review agencies".

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[N.J.A.C. 5:23-4.6](#)

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§ 5:23-4.6 Interlocal enforcing agencies--establishment

- (a) Parties: Any two or more municipalities may, by resolution, join to administer and enforce this chapter and any adopted subcode. Any municipalities that are party to an agreement establishing one enforcing agency having jurisdiction for all subcodes may further provide for the establishment of a joint board of appeals.
- (b) Agreement: Except as this section may add or substitute requirements, the procedures for the execution of any agreement pursuant to this section shall be governed by the Uniform Shared Services and Consolidation Act ([N.J.S.A. 40A:65-1](#) et seq.).
1. Upon the adoption of a resolution pursuant to the Uniform Shared Services and Consolidation Act, a copy of such resolution, the contract, and any other pertinent information shall be forwarded to the department;
 2. The term of any contract entered into pursuant to this section shall be four years.
 3. The contract shall stipulate that the term of office of any construction or subcode official shall, except for good cause, be four years.
 4. Such contract shall provide a mechanism for administration and enforcement within each of the contracting municipalities by one or more of the contracting municipalities, on an interim or emergency basis, should such agreement be invalidated by a court of competent jurisdiction or prove otherwise unenforceable.
 5. The contract shall additionally stipulate the information contained in [N.J.A.C. 5:23-4.7\(b\)](#) and [4.8\(a\)](#).

History

HISTORY:

Amended by R.2011 d.269, effective November 7, 2011.

See: [43 N.J.R. 904\(a\)](#), [43 N.J.R. 3008\(a\)](#).

Rewrote (a), the introductory paragraph of (b), and (b)1.

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[N.J.A.C. 5:23-4.7](#)

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§ 5:23-4.7 Interlocal enforcing agencies--organization

- (a) General: Except as is provided in this section, enforcing agencies organized pursuant to this section shall, insofar as is practicable, be organized in the same manner as are municipal enforcing agencies.
- (b) Exception: Nothing contained in [N.J.A.C. 5:23-4.3](#), with respect to offices, shall require that only one central office be established pursuant to this section. Whenever municipalities join pursuant to this section, they shall establish offices which are reasonably accessible in terms of distance, location and function.

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[N.J.A.C. 5:23-4.8](#)

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§ 5:23-4.8 Interlocal enforcing agencies--administration and enforcement

- (a) General: Enforcing agencies organized pursuant to this article shall administer and enforce the regulations in the same manner as municipal enforcing agencies.
- (b) The provisions of [N.J.A.C. 5:23-4.3](#) regarding conflict of interest shall be applicable to interlocal enforcing agencies, including all municipalities party to the interlocal agreement, to the extent that the agreement covers specific subcode activities.

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[N.J.A.C. 5:23-4.9](#)

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§ 5:23-4.9 State enforcing agencies--establishment

(a) Department of Community Affairs:

1. The Bureau of Local Code Enforcement in the Division of Codes and Standards is constituted as the enforcing agency for the purpose of administering and enforcing the code in those municipalities which have decided, pursuant to [N.J.A.C. 5:23-4.3](#), not to enforce the code.
2. Pursuant to Reorganization Plan No. 004-1996, the Department is constituted as the sole plan review agency for the administration and enforcement of Federal and State standards applicable to the construction, alteration, demolition or maintenance of health care facilities, as defined in [N.J.A.C. 5:23-1.4](#).

(b) Division of Building and Construction, Department of the Treasury:

1. The Division of Building and Construction is constituted as the enforcing agency for the purpose of performing plan review if the Department of Community Affairs cannot approve plans within the 20-day period provided for in [N.J.S.A. 52:27D-131](#), with respect to buildings built under the supervision of the Division of Building and Construction.

History

HISTORY:

Administrative Correction to (a)1.

See: 22 N.J.R. 2503(b).

Amended by R.1997 d.417, effective October 6, 1997.

See: [29 N.J.R. 3387\(a\)](#), [29 N.J.R. 4285\(a\)](#).

In (a)1, changed enforcing agency and amended N.J.A.C. references; deleted (a)1i and (c); inserted (a)2; and recodified former (d) as (c).

Amended by R.2000 d.166, effective April 17, 2000.

See: [31 N.J.R. 4151\(a\)](#), [32 N.J.R. 1376\(a\)](#).

In (b)1, substituted "performing plan review" for "administering and enforcing the regulation" following "purpose of"; and deleted a former (c).

Administrative correction.

See: [36 N.J.R. 466\(a\)](#).

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[N.J.A.C. 5:23-4.10](#)

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§ 5:23-4.10 State enforcing agencies--organization

(a) Department of Community Affairs: Units of the Division of Codes and Standards enforcing the State Uniform Construction Code shall be organized, insofar as is practicable, in the same manner as are municipal enforcing agencies.

1. Such units shall employ persons qualified and licensed in accordance with N.J.A.C. 5:23-5.

(b) Other State agencies: Code enforcement functions of the Division of Buildings and Construction may be organized as such division may deem appropriate, but not in a manner inconsistent with the intent of this subchapter.

1. The Division shall employ persons qualified and licensed in accordance with N.J.A.C. 5:23-5.

History

HISTORY:

Administrative Corrections to (a) and (a)1.

See: 22 N.J.R. 2503(b).

Amended by R.1997 d.417, effective October 6, 1997.

See: [29 N.J.R. 3387\(a\)](#), [29 N.J.R. 4285\(a\)](#).

Substantially amended (b).

Amended by R.2000 d.166, effective April 17, 2000.

See: [31 N.J.R. 4151\(a\)](#), [32 N.J.R. 1376\(a\)](#).

In (b), deleted references to the Department of Labor throughout.

Amended by R.2001 d.303, effective September 4, 2001.

See: [33 N.J.R. 1991\(a\)](#), [33 N.J.R. 2989\(a\)](#).

In (a), substituted "Units of the Division of Codes and Standards enforcing the State Uniform Construction Code" for "The Construction Code Element" in the introductory paragraph, and substituted "Such units" for "The Element" and "licensed" for "certified" in 1; in (b)1, substituted "licensed" for "certified".

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[N.J.A.C. 5:23-4.11](#)

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§ 5:23-4.11 State enforcing agencies--administration and enforcement

- (a) Department of Community Affairs: The Division of Codes and Standards shall administer and enforce this chapter, insofar as is practicable, in the same manner as a municipal enforcing agency.
1. The conflict of interest provisions contained in [N.J.A.C. 5:23-4.5](#) shall be applicable only to personnel responsible for the administration and enforcement of this chapter and shall not extend to persons otherwise employed by the Division.
- (b) Division of Building and Construction, Department of the Treasury: The Division of Building and Construction may administer and enforce the rules as the Division may deem appropriate, but not inconsistent with the intent of this subchapter.
1. The conflict of interest provisions contained in [N.J.A.C. 5:23-4.5](#) shall apply to personnel involved in the administration and enforcement of the rules.

History

HISTORY:

Amended by R.1992 d.243, effective July 6, 1992.

See: [24 N.J.R. 678\(a\)](#), [24 N.J.R. 2422\(a\)](#).

Change made to reflect Department organizational changes.

Amended by R.1997 d.409, effective October 6, 1997.

See: [29 N.J.R. 2736\(a\)](#), [29 N.J.R. 4281\(a\)](#).

Amended by R.1997 d.417, effective October 6, 1997.

See: [29 N.J.R. 3387\(a\)](#), [29 N.J.R. 4285\(a\)](#).

Deleted (c); and recodified former (d) as (c).

Amended by R.2000 d.166, effective April 17, 2000.

See: [31 N.J.R. 4151\(a\)](#), [32 N.J.R. 1376\(a\)](#).

Deleted a former (c).

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[N.J.A.C. 5:23-4.12](#)

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§ 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 for specified subcodes.
1. No person shall undertake the services herein described or enter into any contract pursuant to this chapter without first receiving the authorization of the Department.
 - i. Except that, applicants who have received notice from the department that their application is complete and suitable for processing may begin to promote or otherwise make their anticipated availability known to municipalities, provided that the applicant discloses in writing at the time of undertaking any such activity, that he has not yet been authorized by the department.
- (b) Applicants for authorization as an on-site inspection agency shall submit an application, the required fee, and any additional information the department may require.
- (c) Following a determination by the department that an application is complete and suitable for processing, the department shall review and evaluate the information contained in the application and such other information as the department shall deem necessary to enable it to make an accurate and informed determination of approval or disapproval. Within 90 days following the receipt of a completed application, the department shall make its determination as to whether authorization as an on-site inspection agency shall be granted or denied, and shall notify the applicant. In the event of denial, the department shall provide the applicant with a written explanation of the reasons therefor.
- (d) The application shall contain information relating to:
1. The financial integrity of the applicant and any of its principal officers.
 2. The qualifications of the management and technical personnel of the applicant, including a statement that all technical personnel are certified by the commissioner in accordance with N.J.A.C. 5:23-5.
 3. The range of salaries and other compensation of all of the inspectors and other technical personnel of the applicant.
 4. The policies and procedures of the applicant for the hiring, training and supervision of all technical personnel, including education and training.
 5. The prior experience of the applicant in performing similar or related functions.
 6. The capability of the applicant to review plans and specifications and to inspect construction to insure that the completed work is in compliance with the appropriate subcode.
 7. A statement that the applicant is not affiliated with, influenced or controlled by any producer, manufacturers, supplier or vendor of products, supplies or equipment used in construction, components or assemblies.

- (e) Authorization shall be valid for a period of one year.
- (f) Applications for reauthorization shall be filed with the Department at least 60 days prior to the scheduled expiration for the current authorization from the Department. The on-site inspection agency shall make current the information previously submitted to the Department. The on-site inspection agency shall provide such additional information as the Department may request. The application shall be accompanied by the fee established by this chapter. The Department may conduct such additional investigations of the applicant as it may deem necessary.
1. Within 30 days following receipt by the Department of an application for reauthorization, the Department shall make its determination as to whether the on-site inspection agency continues to meet the requirements of this chapter. In the event of disapproval, the Department shall provide the on-site inspection agency with a written explanation of the reasons for such disapproval. Each reauthorization shall expire one year from the date of the current authorization from the Department.
 2. The department may, on its own motion or at the request of any on-site inspection agency, grant a temporary reauthorization of such agency for a period not to exceed 60 days.
- (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) Any person who enters into an agreement, other than a hiring as a bona fide municipal employee, to serve as a municipal subcode official shall be required to be first authorized by the department as an on-site inspection and plan review agency.
1. In order to be deemed a bona fide municipal employee for purposes of this subsection, such person shall receive no compensation for his service other than a fixed salary or hourly wage, which shall be subject to F.I.C.A. and Federal and State income tax withholding, and shall have minimum fixed working hours.

History

HISTORY:

As amended, R.1984 d.481, eff. November 5, 1984.

See: 16 N.J.R. 2031(a), 16 N.J.R. 3006(a).

Amended (a)4iii and (b)4iii.

As amended, R.1984 d.523, eff. November 19, 1984.

See: 16 N.J.R. 2321(a), 16 N.J.R. 3197(a).

(c) added.

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text of (b), on private inplant inspection agencies, deleted; (c) recodified to (b).

Amended by R.1991 d.325, effective July 1, 1991.

See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Stylistic changes.

Amended by R.2007 d.310, effective October 1, 2007.

See: [39 N.J.R. 135\(a\)](#), [39 N.J.R. 4113\(b\)](#).

Deleted (h)2.

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[N.J.A.C. 5:23-4.13](#)

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§ 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, 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 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 on-site inspection 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.
- (e) An on-site agency acting in place of an elevator subcode official in any municipality shall answer to the local construction official, who shall be responsible to the Department for supervising the activities of the elevator subcode official.
- (f) Each on-site inspection agency shall maintain an adequate number of offices for the purpose of meeting with the public and shall maintain records at such offices.
 - 1. The on-site inspection agency shall provide the municipal construction official with a schedule stating when these offices will be open during normal business hours and when the designated responsible official will be in that office.
 - 2. All inspections may take place between 7:00 A.M and 6:00 P.M. on business days or on days and at times at which construction is taking place, or at such other times as may be acceptable to the owner or the owner's representative, or otherwise in case of emergency.
- (g) Each on-site inspection agency shall employ a sufficient number of certified personnel to perform all administrative, plan review, inspection and reinspection functions required by the regulations.

History

HISTORY:

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text of (b), on private inplant inspection agencies, deleted.

Amended by R.1991 d.325, effective July 1, 1991.

See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Chain of responsibility specified at (e).

Amended by R.2007 d.143, effective May 7, 2007.

See: [39 N.J.R. 7\(a\)](#), [39 N.J.R. 1672\(a\)](#).

In the introductory paragraph of (f), substituted "at such offices." for "as follows."; and rewrote (f)2.

Administrative correction.

See: [39 N.J.R. 3296\(a\)](#).

Annotations

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[N.J.A.C. 5:23-4.14](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 50 No. 5, March 5, 2018

New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23. UNIFORM CONSTRUCTION CODE > SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

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

- (a) Records shall be maintained by the "on-site inspection agency" of all inspections, applications and plans reviewed and any other information that may be required by the municipal construction official or the Department. These records shall be open to Department audit and shall not be destroyed or removed from the offices of the on-site inspection agency without the permission of the Department.
- (b) The on-site inspection agency shall provide the Department with the following:
1. A copy of each executed contract and all amendments thereto, including any attachments containing any terms of the agreement, to be submitted at least 10 days prior to their effective date. Any subsequent amendments shall also be submitted;
 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 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. A list of names, certification numbers, addresses and telephone numbers of all technical personnel employed; and
 4. Monthly reports, due on the 15th of every month covering the period of the previous month, setting forth the following:
 - i. The number of inspections performed under each subcode in each municipality and the number of inspections performed under each subcode in each municipality more than 72 hours after the receipt of an inspection request by the construction official or the subcode official, whichever occurs first.
 - ii. The total number of inspections, broken down by subcode discipline, performed by the private agency during the reporting period and the total number of subcode officials and inspectors available during the reporting period, expressed as full-time equivalent (FTE). For purposes of this report, one FTE shall be the total number of subcode official and inspector hours worked during the reporting period divided by eight, divided by the number of working days in the reporting period. All days other than Saturdays, Sundays and official holidays shall be considered working days;
 - iii. The total payments received from each municipality during the reporting period; and
 - iv. The total amount billed to each municipality during the reporting period.
- (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.

- (d) The on-site inspection agency shall not collect fees from the property owner, his designated agent or anyone in his employ. The municipal construction official shall be the sole agent for the collection of all fees and penalties.
- (e) Each on-site inspection agency shall have the following responsibilities:
1. To maintain an adequate number of certified staff to review all plans and specifications for all classes and types of construction not reserved to the State.
 2. To act in place of the municipal subcode official and to perform the duties of a subcode official 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 and to be subject to his rulings, directives and orders.
 4. To provide adequate supervision, so that its employees are prompt and diligent in discharging their duties.
 5. To carry general liability insurance, at least in the amount of \$ 1,000,000 for each person and each occurrence, to satisfy claims or judgments for property damage and/or personal injury.
 6. To process and return all documents, plans, specifications, and applications within the time frame specified by the rules or the contract with the municipality, whichever is the lesser.
 7. To provide technical assistance to applicants in the preparation of a construction permit application, if requested by the construction official.
 8. To perform all required inspections and reinspections.
 9. To perform nondestructive tests, if required by the rules.
 10. To give testimony at hearings or in court, if required by the construction official.
 11. To prepare all reports to the Department as are required by the regulations or as may be required from time to time.
 12. To meet its obligations under its contract with the municipal enforcing agency.
 13. To issue documentation and certification, such as cut-in cards, to utilities and or public agencies if required by the rules.
 14. To ensure the attendance of all technical and supervisory employees at required training and orientation programs.
 15. To carry to full completion and receive all fees on all projects initiated prior to the termination of their contract with the municipality by reason of non-renewal, unsuccessful bidding, Department authorization disapproval or other reason except suspension or revocation.
- (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. 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, 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. This prohibition shall not apply to any litigation not involving enforcement of the Code, or as a fact witness; nor shall it apply to any activities unrelated to an action for, or an appeal of, enforcement of the Code.
 2. This subsection shall not apply to:
 - i. The ownership of stock or other investment instrument in any corporation listed on any national stock exchange;
 - ii. Any such business or employment outside the State;
 - iii. Any business or employment which is not subject to the regulations.
 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. The on-site inspection agency can only employ municipal subcode officials and inspectors. A municipal construction official shall not be employed by an agency in any capacity.
 - ii. The written approval of the construction official supervising a municipal subcode official or inspector shall be obtained by the on-site inspection agency prior to hiring such municipal subcode official or inspector.
 - iii. An on-site inspection agency that hires a municipal subcode official or inspector shall thereupon waive the right to bid or contract in the employed subcode official or inspector municipality or municipalities.
 - iv. No person employed by, or associated with, an on-site inspection agency as an employee, proprietor, officer, director, partner or manager shall be permitted to retain such employment or association if he or she accepts employment with a municipality as a subcode official or inspector enforcing a subcode that was the subject of a contract or proposed contract for which the on-site agency was an unsuccessful bidder at any time during the previous 24-month period.
 - 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)** The amount charged to a municipality by a private agency for work subject to a minimum fee under [N.J.A.C. 5:23-4.20\(c\)2](#) or for certificates of occupancy, certificates of approval and certificates of continued occupancy shall be the percentage set forth in a contract entered into in accordance with [N.J.S.A. 52:27D-124.3](#), times the amount of the minimum fee or fee for a certificate of occupancy or certificate of approval, times the amount determined in accordance with this subsection.
1. In the case of work requiring inspections by four subcode officials or their designees, the allocation of the fee revenue shall be as follows:
 - i. Building subcode: 40 percent;
 - ii. Fire protection subcode: 20 percent;
 - iii. Plumbing subcode: 20 percent; and
 - iv. Electrical subcode: 20 percent.
 2. In the case of work requiring inspections by fewer than four subcode officials or their designees, the allocation shall be among or between the subcodes involved in the proportions set forth in (g)1 above. (Thus, for example, in work involving only the building and plumbing subcodes, two-thirds of the fee (40/60) would be allocated to the building subcode and one-third of the fee (20/60) to the plumbing subcode.)
- (h)** Where plan review is performed more than one month before the construction permit is issued, or where a project does not go forward after a private on-site agency has performed plan review, then the municipality shall pay to the private agency 20 percent of the amount that would otherwise be due, which amount shall

be determined by multiplying the relevant fee set forth in [N.J.A.C. 5:23-4.20](#) by the percentage set forth in the contract between the municipality and the private agency entered into in accordance with [N.J.S.A. 52:27D-124.3](#).

- (i) Private on-site agencies shall bill for their services at least once monthly. Each bill shall specify the billing period and the amount currently due, amounts already paid, and any remaining balances, identified by permit number and totaled for the billing period.
- (j) 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 services to municipalities and shall not receive any payments from municipalities for any other goods or services whatsoever.

History

HISTORY:

Amended by R.1983 d.642, effective January 17, 1984.

See: 15 N.J.R. 1406(a), 16 N.J.R. 129(a).

Use of municipal subcode officials and inspectors further delineated.

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text of (b), on private inplant inspection agencies, deleted.

Amended by R.1992 d.243, effective July 6, 1992.

See: 24 N.J.R. 678(a), 24 N.J.R. 2422(a).

Conflict of interest provisions added.

Amended by R.1994 d.323, effective July 5, 1994 (operative January 1, 1995).

See: 25 N.J.R. 2162(a), 26 N.J.R. 2780(a).

Amended by R.1996 d.273, effective June 17, 1996 (operative October 1, 1996).

See: [28 N.J.R. 1586\(c\)](#); [28 N.J.R. 3120\(a\)](#).

Amended by R.2006 d.128, effective April 3, 2006.

See: [37 N.J.R. 4106\(a\)](#), [38 N.J.R. 1573\(a\)](#).

In introductory paragraphs (g) and (h), replaced "[N.J.A.C. 5:23-4.5A](#)" with new statute citation.

Amended by R.2010 d.291, effective December 20, 2010.

See: [42 N.J.R. 1943\(a\)](#), [42 N.J.R. 3053\(a\)](#).

Rewrote the introductory paragraph of (f).

Annotations

Notes

[Chapter Notes](#)**Case Notes**

In wrongful discharge claim brought by former employee for termination in violation of Family Leave Act, trial judge did not abuse his discretion in barring testimony from former employee's proffered expert on applicable conflict-of-interest regulations, even though former employer alleged that such testimony could have established that former employee's outside business activities violated Code regulation that prohibited an employee of an on-site inspection agency from engaging in any remunerated construction or alteration services within the [State. DePalma v. Bldg. Insp. Underwriters, 350 N.J. Super. 195, 794 A.2d 848.](#)

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[N.J.A.C. 5:23-4.15](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 50 No. 5, March 5, 2018

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§ 5:23-4.15 Suspension and revocation

(a) General:

1. In addition to any other remedies provided by the regulations, the Department may suspend or revoke its authorization of any private on-site agency if the Department determines that the authorization or reauthorization was based on the submission of fraudulent or materially inaccurate information, or that the authorization or reauthorization was issued in violation of the regulations, or that a change of facts or circumstances make it unlikely that the inspection agency can continue to discharge its responsibilities under the regulations in a satisfactory manner, or that the inspection agency has violated the regulations.
2. During the period of suspension the affected agency shall not be authorized to discharge any of its responsibilities under the regulations unless otherwise specified in the notice of suspension or order of the department.

(b) Notice:

1. The department shall notify such agency of its suspension or revocation in writing. Copies of the notice of suspension shall be forwarded by the department to all manufacturers or municipalities with implementing contracts with the affected inspection agency.
2. The suspension shall be effective on the date the affected inspection agency receives the notice of suspension or on any later date that may be designated in the notice of suspension.

(c) Revocation without suspension:

1. The Department may revoke its approval of any inspection agency without previously suspending its authorization. In such event, the Department shall send a written notice to the affected inspection agency of its intention to consider revocation of its authorization, stating the grounds therefor, and establishing a time and a place for a hearing on the question. The notice shall be sent to the affected inspection agency and to all manufacturers or municipalities having contracts with the affected inspection agency.
2. No such agency shall reapply for approval as an on-site agency until the expiration of one year from the date of the order of revocation.

(d) Termination of contract: Upon the suspension or revocation of approval of any inspection agency, any municipality or any manufacturer with an implementing contract with the inspection agency shall have the right to terminate its contract with such inspection agency and be free of all obligations thereon and to enter with such inspection agency and be free of all obligations thereon and to enter into an implementing contract with any other inspection agency.

(e) In the case of the suspension or revocation of any on-site inspection agency, the department shall, upon the request of any municipality with an implementing contract with the suspended or revoked inspection agency, consult with such municipality to establish a temporary arrangement by which the municipality can

continue to enforce the regulations until the suspension or revocation is lifted or an implementing contract entered into with another on-site inspection agency. For these purposes, the department may, at its discretion, discharge some or all of the responsibilities of an on-site inspection agency. The department may also approve any other temporary arrangement which the department determines would best promote the purposes of the act and these regulations under the circumstances.

- (f) The department shall provide any person aggrieved by any action of the department pursuant to this section with a hearing in accordance with the applicable provisions of the Administrative Procedure Act, [N.J.S.A. 52:14B-1](#) et seq. and [N.J.A.C. 1:1](#). The case shall be adjudicated before the Office of Administrative Law and the final decision shall be issued by the Commissioner.

History

HISTORY:

Amended by R.1982 d.436, effective December 20, 1982.

See: 14 N.J.R. 734(a), 14 N.J.R. 1449(a).

Added cases to be heard by the OAL with final decision by the Commissioner.

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text on inplant inspection agencies and temporary arrangements deleted.

Notice of Petition to amend section.

See: [27 N.J.R. 3232\(a\)](#).

Amended by R.1997 d.409, effective October 6, 1997.

See: [29 N.J.R. 2736\(a\)](#), [29 N.J.R. 4281\(a\)](#).

Annotations

Notes

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Case Notes

Pursuant to [N.J.A.C. 5:23-4.15\(a\)](#), the Department may suspend or revoke its authorization when a private on-site agency submits fraudulent or materially inaccurate information. This remedy is in addition to any other remedies provided by the regulations under [N.J.A.C. 5:23-2.31\(b\)](#), allowing a penalty of up to \$ 500 in the case of a false or misleading written statement made to the Department that is not willful, and [N.J.A.C. 5:23-2.31\(e\)](#), allowing for a penalty of up to \$ 2,000 in a case where such a statement is made willfully; therefore, [N.J.A.C. 5:23-4.15\(a\)](#)¹ does not preclude the levying of a penalty in addition to, or in lieu of, suspension or revocation of an authorization previously given to a private on-site inspection agency (adopting with modification [2009 N.J. AGEN LEXIS 700](#)). *Office of Regulatory Affairs v. EIC Inspection Agency Corp.*, OAL Dkt. No. CAF 01069-09, 2009 N.J. AGEN LEXIS 1022, Final Decision (November 12, 2009).

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[N.J.A.C. 5:23-4.16](#)

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§ 5:23-4.16 (Reserved)

History

HISTORY:

Repealed by R.1987 d.374, effective September 21, 1987.

See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).

Section was "Fire limits".

Annotations

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[N.J.A.C. 5:23-4.17](#)

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§ 5:23-4.17 Municipal enforcing agency fees

- (a) Ordinance: The municipality shall set enforcing agency fees by ordinance for the following activities: plan review, construction permit, certificate of occupancy, certificates of continued occupancy, demolition permit, elevator permit and sign permit.
1. The municipality shall include in any such ordinance all fees pertaining to the operations of the enforcing agency, including those for which the department has not set standards, such as fees for reinstatement of lapsed permit. All minimum fees shall be stipulated. Fees may be rounded to nearest dollar amount if the municipality's ordinance so provides.
- (b) On or before February 10 of each year, in a municipality that budgets according to the calendar year (January 1 to December 31), or on or before August 10 of each year, in a municipality that budgets according to the State fiscal year (July 1 to June 30), the construction official shall, with the advice of the subcode officials and in consultation with the municipal finance officer, prepare and submit to the governing body a report detailing the receipts and expenditures of the enforcing agency and indicating his recommendations for a fee schedule, based on the operating expense of the agency.
1. The report shall be structured in accordance with (c) below and with such guidelines as shall be issued from time-to-time by the Commissioner so as to accurately portray true enforcing agency expenses in general and for structures of different use groups. This report shall serve as the basis for the ordinance to be enacted by the municipality, as it may deem appropriate, establishing the fee schedule.
 2. A copy of the construction official's report recommending a fee schedule and setting forth enforcing agency revenues and expenses shall be filed with the Department when prepared and a copy of the ordinance, together with the fee schedule, shall be filed with the Department when enacted or amended.
 3. The appropriation and expenditure of construction code fee revenues generated from the fee schedule established pursuant to (b)1 above shall be audited annually by an independent auditor acceptable to the Department and a copy of the auditor's report shall be provided to the Department when it is issued to the municipality. Submission of a copy of the annual municipal audit required to be submitted to the Division of Local Government Services at the time that it is required to be submitted to that Division shall constitute compliance with this requirement provided, however, that the annual municipal audit tests and contains an opinion that all expenditures of construction code fees have been made for purposes herein permitted.
- (c) Costs: The fee schedule shall be calculated to reasonably cover the municipal costs of enforcing the regulations.
1. It is the purpose and intent of this subsection to facilitate the accumulation by municipalities of the funds necessary to offset future construction code enforcement expenses, to ensure that construction code revenue is used only for construction code enforcement purposes, and to provide a means of making such revenue readily available for such purposes from year to year.

2. All fees collected pursuant to the fee schedule established in accordance with (b)1 above shall be appropriated in accordance with the requirements of the Uniform Construction Code Act and the Local Budget Law to be applied solely to meet the municipal costs of enforcing the regulations, which costs shall be defined as including only the following:
- i. Salaries and employee benefits for licensed code enforcement officials and inspectors and clerical personnel assigned to the enforcing agency, in an amount proportionate to the time spent in performing work for the enforcing agency provided, however, that detailed time records are kept where employees divide their time between Uniform Construction Code and Non-Uniform Construction Code duties;
 - ii. Cost of motor vehicles in an amount proportionate to their use by or for the enforcing agency. Payments for this purpose may be in the form of mileage reimbursement paid to employees for use of their own motor vehicles, cost of purchase of motor vehicles by the municipality for the exclusive use of the enforcing agency (which cost may not be amortized), depreciation and operating expenses of motor vehicles made available to the enforcing agency by another municipal agency, and cost of rental of motor vehicles for use by the enforcing agency;
 - iii. Direct costs in support of the agency such as equipment, supplies, furniture, office equipment maintenance, standardized forms, printing, and safety equipment that are supplied directly to the enforcing agency for its sole use;
 - iv. Professional expenses of enforcing agency personnel that are directly related to the enforcement of the regulations, including publications, membership dues, license fees, and authorized travel to conferences, meetings and seminars;
 - v. Fees for services performed under contract by private on-site inspection agencies;
 - vi. Documented charges for legal services required in connection with construction code enforcement litigation;
 - vii. Fees for the annual audit of the dedicated fund by an independent auditor; and
 - viii. Subject to the limitations set forth in (c)3 below, indirect, overhead, and other expenses of the municipality in support of the enforcing agency, including:
 - (1) Legislative and Executive expenses;
 - (2) Administration, including personnel, payroll, and general training services provided to the agency in common with all other municipal offices;
 - (3) Central services shared jointly with other municipal offices, such as telephone, reproduction, centralized computer services, etc.;
 - (4) Insurance except for group insurance premiums included under employer fringe benefits;
 - (5) General building maintenance expenses;
 - (6) Finance, including bookkeeping, purchasing, and auditing;
 - (7) Office space expenses, including rent or interest and debt service on municipal capital facilities; and
 - (8) Such other expenses as may be properly allocable to construction code enforcement.
3. Indirect and overhead expenses charged to the construction code fee revenues shall not exceed 12 percent of all other costs of the enforcing agency unless the indirect and overhead expenses of the municipality exceed 12 percent of the entire municipal budget, in which case indirect and overhead expense may be charged to construction code fee revenues in proportion to the general municipal overhead and expense ratio. A detailed written justification for any charge for indirect and overhead expenses in excess of 12 percent shall be prepared and made available for inspection both by the Department and by the public.

4. This subsection shall not be construed as precluding the use of money from the general fund of the municipality to pay costs of code enforcement when the construction code fee revenues generated from the fee schedule established pursuant to (b)1 above are insufficient for that purpose or when necessary to compensate the enforcing agency for work done without fee pursuant to statute or ordinance.
- (d) The fee for development-wide inspection of homes after issuance of a certificate of occupancy ordered pursuant to [N.J.A.C. 5:23-2.35](#) shall be an amount equal to twice the hourly base salary paid to any licensed code official performing the work or the hourly fees charged to the municipality by a professional contracted to provide such services pursuant to [N.J.A.C. 5:23-2.35](#), subject to the accounting procedures and limits set forth below.
1. Such charges or fees shall be only those that are reasonable and necessary in order to ascertain whether a violation exists or to verify that any work performed has abated the violation.
 2. The municipality shall place in escrow all monies paid by the developer for this purpose. The escrow shall be held in any account maintained by the municipality in the same manner as that established for the deposit of escrow funds paid for professional review services, inspection fees and performance and maintenance guarantees as provided for at [N.J.S.A. 40:55D-53.1](#).
 3. The developer shall post an initial deposit in the amount of \$ 200.00 per home or an amount determined by the municipality to be necessary to cover the estimated cost of two months' inspection activity, whichever is greater. At monthly intervals, the developer shall increase the amount in the escrow fund so that it shall be sufficient to pay the cost of the next two months' inspection activity or the cost of completing the inspections, whichever is less.
 4. Standards for hourly charges for development-wide inspection of homes after issuance of a certificate of occupancy shall be as follows:
 - i. Hourly charges shall be limited only to municipal or consulting professional charges for inspections, review of plans and supporting documents and preparation of reports and documents and shall accurately reflect the hours engaged in these activities.
 - ii. The only costs that shall be added to any such charges shall be actual out-of-pocket expenses of any consulting professional engineer or registered architect hired for this purpose including normal and typical expenses incurred in performing inspections and reviewing plans and supporting documents for the required corrective work.
 - iii. The developer shall not be billed and no charge shall be made to any escrow account or deposit for any municipal clerical or administrative functions, overhead expenses, meeting room charges, or any other municipal costs and expenses except as provided for in this subsection, nor shall a municipal enforcing agency professional add any such charges to his expenses.
 - iv. Where licensed municipal code officials perform these inspections, the fee shall be 200 percent of the hourly base salary of the inspector(s) multiplied by the number of hours spent on inspections and review of plans and supporting documents for any necessary corrective work.
 5. Payments shall be charged to the escrow, and shall be made by the Chief Financial Officer of the municipality, and a final accounting shall be provided, in accordance with the procedure set forth in paragraphs c and d of [N.J.S.A. 40:55D-53.2](#). Payments shall be made from any such escrow by the Chief Financial Officer only upon approval by the Construction Official.
 6. Appeals of any charges levied by the municipality pursuant to this subsection shall be made to the construction board of appeals, in accordance with the procedures set forth in [N.J.S.A. 40:55D-53.2a](#) and [N.J.A.C. 5:23A](#).
- (e) Interlocal enforcement: When two or more municipalities or a county and one or more municipalities enter into an agreement to administer and enforce this chapter pursuant to [N.J.A.C. 5:23-4.6\(b\)](#) and the Uniform Shared Services and Consolidation Act ([N.J.S.A. 40A:65-1](#) et seq.), there shall be one uniform fee

schedule which shall be applied by all parties to the agreement. Said fee shall be collected by the interlocal enforcing agency performing the administration and enforcement of the regulations. No additional fee shall be required to be paid or be paid by an applicant to any municipality or county for any Uniform Construction Code enforcement service. The enforcing agency shall maintain financial records showing for each municipality the amounts of money collected and expended in the enforcement of this chapter.

History

HISTORY:

Amended by R.1982 d.401, effective November 15, 1982.

See: 14 N.J.R. 495(a), 14 N.J.R. 1300(a).

Added (d). Prior to recodification of [N.J.A.C. 5:23](#), this section was codified at 5:23-4.8.

Amended by R.1982 d.402, effective November 15, 1982.

See: 14 N.J.R. 943(a), 14 N.J.R. 1300(b).

Added to (b)2 that copy of report ... must be filed every two years.

Emergency amendment, R.1989 d.405, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2127(b).

In (a): added "certificates of continued occupancy, certificate of approval" and deleted "moving of building permit ...".

In (a)1: added language regarding rounding of dollar amounts in fees.

Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989.

See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).

Provisions of emergency amendment R.1989 d.405 readopted without change.

Amended by R.1990 d.115, effective February 5, 1990 (operative March 1, 1990).

See: 21 N.J.R. 3348(a), 22 N.J.R. 352(a).

Requirements added at (c) for the establishment of a mechanism (dedication by rider) to ensure construction fees are used for no other purpose than to fund annual costs for the operation of enforcing agencies.

Amended by R.1990 d.489, effective October 1, 1990.

See: 22 N.J.R. 1871(a), 22 N.J.R. 3147(a).

Amended to state that appropriation of municipal construction code fees may be done by rider or by estimates in advance, in accordance with the Local Budget Law, [N.J.S.A. 40A:4-1](#) et seq.

Amended by R.1992 d.148, effective April 6, 1992.

See: 24 N.J.R. 169(a), 24 N.J.R. 1399(a).

Construction official may report based on the municipality's fiscal year.

Amended by R.1996 d.544, effective December 2, 1996 (operative February 1, 1997).

See: [28 N.J.R. 3996\(a\)](#), [28 N.J.R. 5071\(a\)](#).

Amended by R.2006 d.355, effective October 2, 2006.

See: [38 N.J.R. 1789\(a\)](#), [38 N.J.R. 4175\(a\)](#).

Added new (d); and recodified former (d) as (e).

Administrative correction.

See: [38 N.J.R. 5355\(c\)](#).

Administrative correction.

See: [44 N.J.R. 2947\(a\)](#).

Annotations

Notes

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Case Notes

Fee schedules must be calculated to reasonably cover municipal code enforcement costs. Bureau of Construction Code Enforcement v. Hasbrouck Heights, 4 N.J.A.R. 282 (1983).

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[N.J.A.C. 5:23-4.18](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 50 No. 5, March 5, 2018

New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23. UNIFORM CONSTRUCTION CODE > SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

§ 5:23-4.18 Standards for municipal fees

(a) General:

1. The fee for plan review, computed as a percentage of the fee for a construction permit, shall be paid at the time of submission of an application for a permit. The amount of this fee shall then be deducted from the amount of the fee due for a construction permit, when the permit is issued; provided however, that the municipality may provide by ordinance that the plan review fee be paid at the time of granting the permit. Plan review fees are not refundable.
2. The fee to be charged for a construction permit will be the sum of the basic construction fee computed in accordance with (c) below herein plus any applicable special fees, such as elevator or sign fees. This fee shall be paid before a permit is issued.
3. The fee to be charged for a certificate of occupancy shall be paid before a certificate is issued. This fee shall be in addition to the construction permit fee;
4. The fee to be charged for an annual construction permit shall be charged annually. This fee shall be a flat fee based upon the number of maintenance workers employed by the facility and who are primarily engaged in work that is governed by a subcode. Managers, engineers and clericals shall not be considered maintenance workers for the purposes of establishing the annual construction permit fee. Annual permits may be issued for building/fire protection, electrical and plumbing. Annual permit fees shall be non-refundable.
5. Prior to the issuance of the annual permit, a training registration fee of \$ 140.00 per subcode and a list of not more than three individuals to be trained per subcode shall be submitted by the applicant to the municipal construction official, who shall forward the fee and list to the Department of Community Affairs, Bureau of Code Services, Training Section along with a copy of the construction permit (Form F170). Checks shall be made payable to "Treasurer, State of New Jersey." The Department shall register these individuals and notify them of the courses being offered.

(b) Plan review fees:

1. Plan review fees shall be computed as a percentage of the fee to be charged for the construction permit. This percentage shall, to the extent possible, approximate the actual costs incurred in plan review activities, but in any case shall be not less than five percent nor more than 25 percent of the amount that would be charged for the construction permit. For projects which do not require plan review for all subcodes, the fee shall be the appropriate percentage of the subcode fee which is applicable.
2. When plans have been reviewed and released by the Department or when a plan review is waived by the municipality in accordance with [N.J.A.C. 5:23-2.15\(f\)1x](#), then the enforcing agency construction permit fee shall be reduced by 20 percent from the amount otherwise specified in the municipal enforcing agency fee schedule.
3. If a municipality has not established a plan review fee by ordinance, 20 percent of the construction permit fee shall be designated as the plan review fee for prototype plans.

4. Whenever a permit application is received based on a released prototype plan, the permit fee shall be reduced by the amount of the plan review fee.
 - i. For Statewide prototype plans released by the Department or for other prototype plans where the prototype did not include the foundation detail, the construction permit fee shall be reduced by 15 percent from the amount otherwise specified in the municipal enforcing agency fee schedule.
 5. The municipality may establish an hourly fee for review of any amendment or change to a plan that has already been released.
- (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. Fees for new construction or alterations shall be as follows:
 - i. Fees for renovations, alterations, reroofing, repairs, and site construction associated with pre-engineered systems of commercial farm buildings, premanufactured construction, and the external utility connections for premanufactured construction, shall be based upon the estimated cost of the work. The fee shall be computed as a unit rate per \$ 1,000 of estimated cost.
 - ii. Fees for renovations, alterations, and repairs shall be based upon the estimated cost of the work. The fee shall be computed as a unit rate per \$ 1,000 of estimated cost.
 - iii. Fees for additions shall be computed on the same basis as for new construction for the added portion;
 - iv. Fees for combination renovations and additions shall be computed as the sum of the fees for the addition and alteration computed separately in accordance with (b) and (c) above;
 - v. The unit rates may vary for different occupancy groups or structures of different sizes within the same occupancy group.
 - vi. The unit rate for large, open-volume, single story spaces in buildings, such as barns, silos, greenhouses, warehouses, distribution centers, and other agricultural, and storage-use occupancies, shall be less than the unit rate for other types of buildings and occupancy classifications. This shall be clearly indicated in the ordinance and schedule.
 - (1) For the purpose of calculating the volume to determine the fee for these spaces, the height shall be limited to 20 feet notwithstanding the fact that the actual height of the space may be greater than 20 feet;
 - vii. Temporary structures and all structures for which volume cannot be computed, such as swimming pools and open structural towers, shall be charged a flat rate;
 - viii. Fees for minor construction work shall be based upon the estimated cost of the work. The fee shall be computed as a unit rate per \$ 1,000 of estimated cost or fraction thereof.
 - ix. Fees for retaining walls shall be as follows:
 - (1) A retaining wall with a surface area greater than 550 square feet that is associated with a Class 3 residential structure shall have a flat fee.
 - (2) A retaining wall with a surface area of 550 square feet or less that is associated with a Class 3 residential structure shall have a flat fee.
 - (3) A newly constructed retaining wall of any size at other than a Class 3 residential structure shall be based on the cost of the construction.
 - x. A different unit rate may be established for permits for work done in response to Notices of Violation issued pursuant to [N.J.A.C. 5:23-2.35](#).

2. Plumbing fixtures and stacks: Fees shall be based upon the number of plumbing fixtures, devices, plumbing stacks and utility service connections to be installed. Utility service connections include sewer connections and water service connections. The fee shall be a unit rate per fixture, stack, and utility service connection. The unit rate may vary for different types of fixtures and utility service pipes, but this shall be clearly indicated in the ordinance and schedule. There shall be no inspection fee charged for gas service entrances.
 3. Electrical fixtures and devices: Fees shall be based upon the number of electrical fixtures or rating of electrical equipment and devices to be installed. The fee shall be a unit rate per fixture or per kilowatt, horsepower or ampere rating of the device or equipment. The unit rate may vary for different types of fixtures or devices, but this shall be clearly indicated in the ordinance and schedule.
 4. Fees shall be based upon the number of sprinkler heads, standpipes, and detectors (smoke and heat) and shall be reasonable unit charges. Fees may also be charged for the inspection of premanufactured fire suppression systems, for gas and oil fired appliances not connected to the plumbing system, for kitchen exhaust systems and for incinerators, replacement of an existing transmission means as per [N.J.A.C. 5:23-2.17A\(c\)5v](#), and crematoriums. The municipal ordinance shall clearly set forth what fees are to be charged for what devices.
 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. Fees for construction permits for individual tenant spaces in multi-tenant buildings shall be applied as follows:
 - i. If full plans and specifications for the space(s) are not part of the original permit application, the fee for permit updates shall be based on the cost of the work. For electrical, fire, and plumbing work, the fees for permit updates shall be based on the equipment installed in accordance with (c)2, 3, or 4 above.
- (d)** Demolition permit fees: Permit fees for demolition of a building or structure shall be a flat fee. This fee may vary according to type of structure or whether there has been a condemnation, but this shall be clearly indicated in the ordinance and schedule.
- (e)** Sign permit fees: The fee for a permit to construct a sign shall be either based upon the square foot area of the surface of the sign, computed on one side only for double-faced signs, or a flat fee per sign.
- (f)** Certificate fees:
1. The fee for a certificate of occupancy for new construction shall be computed as a percentage of the fee to be charged for the construction permit. This percentage shall be an amount sufficient to cover the actual costs for processing the certificate of occupancy. In the alternative, the municipality may establish a flat fee for the certificate of occupancy.
 2. The municipality shall establish a flat fee for certificate of continued occupancy, for certificate of occupancy granted pursuant to a change of use, for multiple certificates of occupancy (as for a shopping center), and similar conditions.
 3. The fee for the first issuance and the renewal of a temporary certificate of occupancy shall not exceed \$ 30.00.
 - i. Exception: There shall be no fee for the first issuance of the temporary certificate of occupancy provided the certificate of occupancy fee is paid at that time.
 4. Where a written request for a temporary certificate of occupancy is made for reasons other than uncompleted work covered by the permit (such as prior approvals from state or municipal agencies), the duration of the temporary certificate of occupancy shall be reasonably consistent with the time required for compliance with the conditions of the prior approval.

5. There shall be no fee charged for a certificate of approval issued pursuant to [N.J.A.C. 5:23-2.23\(j\)](#).
6. There shall be no fee for a certificate of compliance.

(g) Elevator, backflow preventer and cross connection fees are as follows:

1. The fee for a permit to install an elevator device shall be a flat fee. The fee may vary for different types of inspections, tests and elevator devices.
2. The fees for inspections and witnessing of tests for an elevator, escalator, moving walk, dumbwaiter or other elevator device shall be flat fees. These fees may vary for different required inspections and tests, but any variation shall be set forth in the ordinance and the schedule.
3. The categories of municipal elevator fees shall be identical to the categories of elevator fees listed at [N.J.A.C. 5:23-12.6\(a\)](#) and (b).
4. For cross-connections and backflow preventers that are subject to annual re-testing, the fee shall be a flat fee.

(h) No special fee shall be established for any class or type of work which is undertaken as a part of work authorized by a construction permit, except elevator and sign permits as herein provided. Other special fees may be established for work regulated by the code but not undertaken as a part of the new construction project. Such special fees shall be flat fees.

(i) Rules concerning the appeal of fees are:

1. Whenever any person shall believe that the fees established by a municipality, pursuant to this subsection, fail to meet the standards of this section for establishing fees, that person shall be entitled to petition the commissioner for a review of the fee schedule in question.
 - i. Any such petition shall state the name, place of residence and the manner in which the fee schedule affects the petitioner. It shall further state the manner in which the petitioner believes the fees established to be inconsistent with the standards established herein.
 - ii. If, upon investigation, the commissioner determines that there is reason to believe that the fees in question do not meet the standards established herein, then the commissioner shall set a time and the place for a hearing. The purpose of the hearing shall be to determine the facts.
 - iii. No such hearing shall be called except upon 30 days notice to the municipality and the petitioner. The municipality shall be required to furnish such information concerning construction volume, construction activity, and local enforcing agency costs as the commissioner may require in order that a determination may be made.
 - iv. As soon as practical after the conclusion of such a hearing, the commissioner shall make a finding and determination as to whether the fee schedule in question, as a whole or in any of its parts, conforms or fails to conform to the standards established in this section.
2. In addition to any other actions that he may take upon determining that the fees established by a municipality fail to meet the standards of this section, the commissioner may order the repayment of the excess amount of such fees to the persons who have paid them.
3. Any appeal of hourly charges imposed pursuant to (l) below shall be made in accordance with [N.J.S.A. 40:55D-53.2a](#) and [N.J.A.C. 5:23A](#).

(j) Fees to be charged by municipalities where private on-site inspection and plan review agencies carry out subcode official responsibilities shall not exceed those amounts to be paid to those private agencies for those services, pursuant to the contract between the private agency and the municipality, plus such amount as may be sufficient to cover a proportionate share of administrative costs incurred by the local enforcing agency in connection with inspections performed by private agencies.

- (k) The fee charged for the annual electrical inspection of a swimming pool, spa, or hot tub shall be a flat fee and the amount of the fee shall be set to cover the cost. A reduced fee shall be set for each additional swimming pool, spa, or hot tub on a site.
- (l) Fees for development-wide inspection of homes after issuance of a certificate of occupancy shall be in accordance with [N.J.A.C. 5:23-4.17\(d\)](#).

History

HISTORY:

Amended by R.1984 d.260, effective July 2, 1984.

See: 16 N.J.R. 3(a), 16 N.J.R. 1714(c).

Section substantially amended.

Amended by R.1985 d.351, effective July 15, 1985.

See: 17 N.J.R. 1029(a), 17 N.J.R. 1756(b).

Old (a)4 deleted and new text substituted.

Amended by R.1986 d.213, effective June 16, 1986.

See: 17 N.J.R. 2490(a), 18 N.J.R. 1266(a).

Added text to (a)4 "annual permit-fees shall be non-refundable" and (a)5 "Prior to the issuance of the annual permit" and "Bureau of Construction Code Enforcement."

Emergency amendment, R.1989 d.405, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2127(b).

Minor technical changes made throughout section.

Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989 (operative January 1, 1990 for 4.18(c)-(e)).

See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).

Provisions of emergency amendment R.1989 d.405 readopted with change.

Added sections (c)4; (k)1iv and v.

Deleted sections (e), "Removal permit fees"; (l)1ii, "Fire subcode"; and (l)4, "Elevator fees . . .", with renumbering and recodification.

Amended by R.1991 d.325, effective July 1, 1991.

See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Uniform flat fees for elevators to be set forth in ordinance and schedule.

Amended by R.1992 d.230, effective June 1, 1992.

See: 24 N.J.R. 168(a), 24 N.J.R. 2052(a).

Form numbers changed in (a)5.

Amended by R.1992 d.313, effective August 3, 1992.

See: 24 N.J.R. 1846(a), 24 N.J.R. 2712(b).

No inspection fee for gas service entrances.

Amended by R.1993 d.187, effective May 3, 1993.

See: 25 N.J.R. 624(a), 25 N.J.R. 1875(a).

Added (c)5.

Amended by R.1993 d.353, effective July 19, 1993.

See: 25 N.J.R. 1629(a), 25 N.J.R. 3147(a).

Amended by R.1993 d.665, effective December 20, 1993.

See: 25 N.J.R. 4548(a), 25 N.J.R. 5928(a).

Amended by R.1994 d.96, effective February 22, 1994.

See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

Amended by R.1994 d.323, effective July 5, 1994 (operative January 1, 1995).

See: 25 N.J.R. 2162(a), 26 N.J.R. 2780(a).

Amended by R.1995 d.381, effective July 17, 1995.

See: 27 N.J.R. 970(a), [27 N.J.R. 2715\(a\)](#).

Amended by R.1995 d.475, effective September 5, 1995 (operative January 1, 1996).

See: 27 N.J.R. 1716(a), [27 N.J.R. 3325\(a\)](#).

In (a)(5) added individuals to be trained and registered.

Amended by R.1995 d.476, effective September 5, 1995 (operative January 1, 1996).

See: 27 N.J.R. 1846(a), [27 N.J.R. 3325\(b\)](#).

Rewrote (f) and (g).

Amended by R.1995 d.603, effective November 20, 1995 (operative March 20, 1996).

See: [27 N.J.R. 2655\(a\)](#), [27 N.J.R. 4699\(a\)](#).

Amended by R.1997 d.409, effective October 6, 1997.

See: [29 N.J.R. 2736\(a\)](#), [29 N.J.R. 4281\(a\)](#).

Amended by R.1997 d.418, effective October 6, 1997.

See: [29 N.J.R. 3402\(a\)](#), [29 N.J.R. 4286\(a\)](#).

In (c)5, inserted reference plumbing inspector.

Amended by R.2000 d.47, effective February 7, 2000.

See: [31 N.J.R. 2314\(a\)](#), [32 N.J.R. 443\(a\)](#).

Rewrote (c)3; and added (l).

Amended by R.2001 d.347, effective October 1, 2001.

See: [32 N.J.R. 3218\(a\)](#), [33 N.J.R. 3430\(a\)](#).

Rewrote (f).

Amended by R.2004 d.67, effective February 17, 2004.

See: [35 N.J.R. 4627\(a\)](#), [36 N.J.R. 949\(b\)](#).

In (c), rewrote 5.

Amended by R.2004 d.144, effective April 5, 2004.

See: [35 N.J.R. 4944\(a\)](#), [36 N.J.R. 1753\(a\)](#).

In (b), rewrote 2, deleted the N.J.A.C. reference in 3 and added 4; deleted former (i) and recodified former (j) through (l) as (i) through (k).

Amended by R.2005 d.446, effective December 19, 2005.

See: [37 N.J.R. 2747\(a\)](#), [37 N.J.R. 4907\(a\)](#).

Added (c)1viii.

Amended by R.2006 d.120, effective April 3, 2006.

See: [37 N.J.R. 3753\(a\)](#), [38 N.J.R. 1567\(a\)](#).

In (c)5, added ", including the bonding conductor (jumper),".

Amended by R.2006 d.128, effective April 3, 2006.

See: [37 N.J.R. 4106\(a\)](#), [38 N.J.R. 1573\(a\)](#).

In (j), substituted "plus such amount as may be sufficient to cover a proportionate share of administrative costs incurred by the local enforcing agency in connection with inspections performed by private agencies" for "by more than 15 percent".

Amended by R.2006 d.355, effective October 2, 2006.

See: [38 N.J.R. 1789\(a\)](#), [38 N.J.R. 4175\(a\)](#).

Added (c)1ix, (i)3 and (l).

Amended by R.2007 d.125, effective May 7, 2007.

See: [38 N.J.R. 3707\(a\)](#), [39 N.J.R. 1671\(a\)](#).

Added (c)6.

Amended by R.2007 d.310, effective October 1, 2007.

See: [39 N.J.R. 135\(a\)](#), [39 N.J.R. 4113\(b\)](#).

Added (b)5.

Administrative correction.

See: [39 N.J.R. 4571\(a\)](#).

Amended by R.2012 d.139, effective July 16, 2012.

See: [44 N.J.R. 8\(a\)](#), [44 N.J.R. 1969\(a\)](#).

In (c)4, inserted ", replacement of an existing transmission means as per [N.J.A.C. 5:23-2.17A\(c\)5v](#),".

Amended by R.2012 d.179, effective November 5, 2012.

See: [44 N.J.R. 1679\(a\)](#), [44 N.J.R. 2557\(a\)](#).

Rewrote (c)1v and (k); and in (g)4, substituted "annual re-testing" for "testing and require reinspection".

Amended by R.2016 d.044, effective May 16, 2016.

See: [47 N.J.R. 2696\(a\)](#), [48 N.J.R. 801\(a\)](#).

In the introductory paragraph of (c), inserted a comma following "electrical"; recodified (c)1v in part as new (c)1vi; in (c)1vi, inserted ", single story spaces in", deleted "recreational, " following "agricultural," substituted "occupancies" for the second occurrence of "buildings", and substituted a period for a semicolon at the end; added (c)1vi(1); and recodified former (c)1vi through (c)1ix as (c)1vii through (c)1x.

Annotations

Notes

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Case Notes

Owner was not entitled to hearing before administrative law judge to review adverse determination of Department of Community Affairs regarding its challenge to permit fees charged in connection with construction of new building absent evidence that township's permit fee revenues exceeded its expenditures, in violation of governing law. [Toys R Us, Inc. v. Township of Mount Olive, 300 N.J.Super. 585, 693 A.2d 539 \(A.D. 1997\).](#)

Fee standards violation. Bureau of Construction Code Enforcement v. Hasbrouck Heights, 4 N.J.A.R. 282 (1983).

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[N.J.A.C. 5:23-4.19](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 50 No. 5, March 5, 2018

New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23. UNIFORM CONSTRUCTION CODE > SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

§ 5:23-4.19 New Jersey State permit surcharge fees

- (a) In order to provide for the training and certification and technical support programs required by the Act, an enforcing agency, including the Department when acting as the local agency, shall collect a surcharge fee to be based upon the volume of new construction within the municipality. Said fee shall be accounted for and forwarded to the Division of Codes and Standards in the manner herein provided.
- (b) Amount: This fee shall be in the amount of \$ 0.00371 per cubic foot volume of new buildings and additions. Volume shall be computed in accordance with [N.J.A.C. 5:23-2.28](#). The fee for all other construction shall be \$ 1.90 per \$ 1,000 of value of construction.
1. No fee shall be collected for preengineered 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 in [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 \$ 1.00.
- (c) Remitting and reporting:
1. The municipality shall remit fees to the Bureau on a quarterly basis, in conjunction with report number R-840B State Training 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."

History

HISTORY:

Amended by R.1982 d.220, effective July 19, 1982.

See: 14 N.J.R. 456(a), 14 N.J.R. 755(b).

In (c)3i deleted "state fiscal" and "third and fourth quarter" and added "quarters of the calendar" year. In (c)3ii deleted reporting on an annual basis and added quarterly report. Also added iii and (1). Prior to recodification of [N.J.A.C. 5:23](#), this section was codified at 5:23-4.8(c).

Amended by R.1983 d.611, effective January 3, 1984.

See: 15 N.J.R. 1789(a), 16 N.J.R. 45(b).

In (c), deleted old 1.-3. and added new 1.

Emergency adoption, R.1989 d.405, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2127(b).

In (b): changed "will" to "shall" and changed "\$ 0.0006" to "\$ 0.0014" per cubic foot.

Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989.

See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).

Provisions of emergency amendment R.1989 d.405 readopted without change.

Amended by R.1990 d.61, effective February 5, 1990.

See: 21 N.J.R. 3346(b), 22 N.J.R. 351(b).

At (c)1, monthly reporting and fee submissions changed to quarterly.

Amended by R.1991 d.181, effective April 1, 1991, operative July 1, 1991.

See: 23 N.J.R. 257(b), 23 N.J.R. 1029(a).

In (b) increased fee amount from \$ 0.0014 to \$ 0.0016 per cubic foot.

Amended by R.1992 d.47, effective February 3, 1992.

See: 23 N.J.R. 3440(a), 24 N.J.R. 405(a).

Fees to be paid to Regulatory Affairs.

Amended by R.1992 d.392, effective October 5, 1992.

See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).

Fee amount amended at (b).

Amended by R.1995 d.603, effective November 20, 1995 (operative March 20, 1996).

See: [27 N.J.R. 2655\(a\)](#), [27 N.J.R. 4699\(a\)](#).

Administrative correction.

See: [28 N.J.R. 1981\(b\)](#).

Amended by R.1997 d.303, effective July 21, 1997.

See: [29 N.J.R. 1437\(b\)](#), [29 N.J.R. 3247\(a\)](#).

Subdivided (b); in (b), deleted reference to preengineered systems of commercial farm buildings; and added (b)2.

Amended by R.2001 d.194, effective June 18, 2001.

See: [33 N.J.R. 1041\(a\)](#), [33 N.J.R. 2097\(a\)](#).

In (a), substituted "Division of Codes and Standards" for "Bureau of Regulatory Affairs"; in (b), added 3 and 4.

Amended by R.2002 d.42, effective February 4, 2002.

See: [33 N.J.R. 3713\(a\)](#), [34 N.J.R. 732\(a\)](#).

In (b), added 5.

Amended by R.2002 d.260, effective August 5, 2002.

See: [34 N.J.R. 1572\(a\)](#), [34 N.J.R. 2781\(c\)](#).

In (b), substituted "\$ 0.0019" for "\$ 0.0016" and "\$ 0.96" for "\$ 0.80" in the introductory paragraph.

Administrative correction.

See: [35 N.J.R. 2208\(b\)](#).

Amended by R.2003 d.249, effective June 16, 2003.

See: [35 N.J.R. 1361\(a\)](#), [35 N.J.R. 2639\(a\)](#).

In (b), substituted "\$ 0.00265" for "\$ 0.0019" and "\$ 1.35" for "\$ 0.96".

Amended by R.2009 d.77, effective March 2, 2009.

See: [40 N.J.R. 5895\(a\)](#), [41 N.J.R. 1009\(b\)](#).

In the introductory paragraph of (b), substituted "\$ 0.00334" for "\$ 0.00265" and "\$ 1.70" for "\$ 1.35"; and added (b)6.

Amended by R.2014 d.149, effective October 6, 2014.

See: [46 N.J.R. 898\(a\)](#), [46 N.J.R. 2024\(a\)](#).

In the introductory paragraph of (b), substituted "\$ 0.00371" for "\$ 0.00334" and "\$ 1.90" for "1.70".

Annotations

Notes

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[N.J.A.C. 5:23-4.20](#)

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New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23. UNIFORM CONSTRUCTION CODE > SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

§ 5:23-4.20 Department fees

(a) General:

1. The fee for plan review, computed as a percentage of the fee for a construction permit, shall be paid at the time of application for a permit. The amount of this fee shall then be deducted from the amount of the fee due for a construction permit, when the permit is issued. Plan review fees are not refundable.
2. The fee to be charged for a construction permit will be the sum of the basic construction fee plus all applicable special fees, such as elevator or sign fees. This fee shall be paid before a permit is issued.
3. The fee to be charged for a certificate of occupancy shall be paid before a certificate is issued. This fee shall be in addition to the construction permit fee.
4. Where the Department, pursuant to [N.J.A.C. 5:23-4.24](#), is designated as the plan review agency, or when the Department has been requested to provide plan review services by a municipality pursuant to [N.J.A.C. 5:23-4.24](#), or when the Department is designated as the local enforcing agency pursuant to [N.J.A.C. 5:23-4.3](#), the following schedule of fees shall pertain.
5. The construction or rehabilitation of residential units that are to be legally restricted to occupancy by households of low or moderate income shall be exempted from the fees set forth in (b) and (c) below and otherwise payable to the Department.
6. No fee shall be collected for work consequential to a natural disaster when the Department is the local enforcing agency.

(b) Departmental plan review fee:

1. The plan review fee for new construction shall be based upon the volume of the structure.
 - i. For buildings or structures in Use Groups A, F, or S, the plan review fee shall be \$.014 per cubic foot;
 - ii. For health care facilities in Use Groups B or I, the plan review fee shall be \$.031 per cubic foot; and
 - iii. For all other buildings or structures, the plan review fee shall be \$.022 per cubic foot.
2. The plan review fee for renovations, alterations, repairs, site construction associated with pre-engineered systems of commercial farm buildings, premanufactured construction, and external utility connections for pre-manufactured construction shall be based upon the estimated cost of work.
 - i. For health care facilities in Use Groups B or I, the fee shall be \$ 20.00 per \$ 1,000 or part thereof for estimated cost not exceeding \$ 50,000, \$ 16.00 per \$ 1,000 or part thereof for estimated cost in excess of the first \$ 50,000 and not exceeding \$ 100,000, and \$ 13.00 per \$ 1,000 or part thereof for estimated cost in excess of the first \$ 100,000; and
 - ii. For all other buildings or structures, the fee shall be \$ 15.00 per \$ 1,000 or part thereof for estimated cost not exceeding \$ 50,000, \$ 11.00 per \$ 1,000 or part thereof for estimated cost in excess of the

N.J.A.C. 5:23-4.20

first \$ 50,000 and not exceeding \$ 100,000, and \$ 10.00 per \$ 1,000 or part thereof for estimated cost in excess of the first \$ 100,000.

3. The elevator device plan review fee shall be as set forth in (c)6 and 7 below.
 4. There shall be an additional fee of \$ 64.00 per hour for review of any amendment or change to a plan that has already been released.
 5. In any case where the Department conducts plan review for a local enforcing agency, the fee charged by the local enforcing agency for inspection services shall be 80 percent of the fee that would otherwise be determined under the local fee schedule.
- (c) Departmental (enforcing agency) fees shall be as follows:
1. The fee for plan review shall be 20 percent of the amount to be charged for a construction permit.
 - i. The elevator device plan review fee shall be as in (c)6 and 7 below.
 - ii. The fee for plan review for Statewide prototype plans released by the Department or for other prototype plans where the prototype did not include the foundation detail shall be five percent of the amount to be charged for a construction permit.
 2. The basic construction permit fee shall be the sum of the parts computed on the basis of the volume or cost of construction, the number of plumbing fixtures and pieces of equipment, the number of electrical fixtures and rating of electrical devices, the number of sprinklers, standpipes, and detectors (smoke and heat) at the unit rates, and/or the applicable flat fees as provided in this subchapter plus any special fees.
 - i. Building volume or cost: The fees for new construction or alteration are as follows:
 - (1) Fees for new construction shall be based upon the volume of the structure. Volume shall be computed in accordance with [N.J.A.C. 5:23-2.28](#). The new construction fee shall be in the amount of \$ 0.038 per cubic foot of volume for buildings and structures of all groups and types of construction as classified and defined in Chapters 3 and 6, respectively, of the building subcode;
 - (2) The fee shall be \$ 0.021 per cubic foot of volume for groups A-1, A-2, A-3, A-4, A-5, F-1, F-2, S-1, and S-2, and the fee shall be \$ 0.0011 per cubic foot for structures on farms, including commercial farm buildings under [N.J.A.C. 5:23-3.2\(d\)](#), with the maximum fee for such structures on farms not to exceed \$ 1,602.
 - (A) For purposes of calculating the volume to determine the fee for large, open-volume, single story spaces in buildings, such as barns, silos, greenhouses, warehouses, distribution centers, and other agricultural and storage-use occupancies, the height shall be limited to 20 feet notwithstanding the fact that the actual height of the space may be greater than 20 feet.
 - (3) Fees for renovations, alterations, and repairs or site construction associated with pre-engineered systems of commercial farm buildings, premanufactured construction, and the external utility connection for premanufactured construction shall be based upon the estimated cost of work. The fee shall be in the amount of \$ 34.00 per \$ 1,000 for the first \$ 50,000, prorated. From \$ 50,001 to and including \$ 100,000, the fee on the amount exceeding \$ 50,000 shall be in the amount of \$ 26.00 per \$ 1,000 of estimated cost, prorated. Above \$ 100,000, the fee on the amount exceeding \$ 100,000 shall be in the amount of \$ 22.00 per \$ 1,000 of estimated cost, prorated. For the purpose of determining estimated cost, the applicant shall submit to the Department such cost data as may be available produced by the architect or engineer of record, or by a recognized estimating firm, or by the contractor. A bona fide contractor's bid, if available, shall be submitted. The Department shall make the final decision regarding estimated cost.

- (4) Fees for additions shall be computed on the same basis as for new construction for the added portion.
- (5) Fees for combination renovations and additions shall be computed as the sum of the fees computed separately in accordance with (c)2i(3) and (4) above.
- (6) The fee for tents, in excess of 900 square feet or more than 30 feet in any dimension, shall be \$ 129.00.
- (7) The fee for roofing and siding work completed on structures of Group R-3 or R-5 shall be \$ 65.00.
- (8) The fee for an above-ground swimming pool shall be \$ 140.00 for a pool with a surface area greater than 550 square feet; the fee in all other cases shall be \$ 70.00. The fee for an in-ground swimming pool shall be \$ 210.00 for a pool with a surface area greater than 550 square feet; the fee in all other cases shall be \$ 106.00.
- (9) Fees for retaining walls shall be as follows:
 - (A) The fee for a retaining wall with a surface area greater than 550 square feet that is associated with a Class 3 residential structure shall be \$ 210.00;
 - (B) The fee for a retaining wall with a surface area of 550 square feet or less that is associated with a Class 3 residential structure shall be \$ 106.00; and
 - (C) The fee for a newly constructed retaining wall of any size at other than a Class 3 residential structure shall be based on the cost of the construction.

ii. Plumbing fixtures and equipment: The fees shall be as follows:

- (1) The fee shall be in the amount of \$ 15.00 per fixture, piece of equipment, or appliance connected to the plumbing system, and for each appliance connected to the gas piping or oil piping system, except as indicated in (c)2ii(2) below.
- (2) The fee shall be \$ 91.00 per special device for the following: grease traps, oil separators, refrigeration units, utility service connections, backflow preventers equipped with test ports (double check valve assembly, reduced pressure zone, and pressure vacuum breaker backflow preventers), steam boilers, hot water boilers (excluding those for domestic water heating), active solar systems, sewer pumps, and interceptors. There shall be no inspection fee charged for gas service entrances.

iii. Electrical fixtures and devices: The fee shall be as follows:

- (1) For the first block consisting of one to 50 receptacles, fixtures, or devices, the fee shall be \$ 50.00; for each additional block consisting of up to 25 receptacles, fixtures, or devices, the fee shall be \$ 9.00. For the purpose of computing this fee, receptacles, fixtures, or devices shall include lighting fixtures, wall switches, convenience receptacles, sensors, dimmers, alarm devices, smoke and heat detectors, communications outlets, light-standards eight feet or less in height including luminaries, emergency lights, electric signs, exit lights or similar electric fixtures, and devices rated 20 amperes or less including motors or equipment rated less than one horsepower (hp) or one kilowatt (kw).
- (2) For each motor or electrical device rated from one hp or one kw to 10 hp or 10 kw; for each transformer or generator rated from one kw or one kilovolt-amperes (kva) to 10 kw or 10 kva; for each replacement of wiring involving one branch circuit or part thereof; for each storable pool or hydro massage bath tub; for each underwater lighting fixture; for household electric cooking equipment rated up to 16 kw; for each fire, security, or burglar alarm control unit; for each receptacle rated from 30 amperes to 50 amperes; for each light-standard greater than eight feet in height including luminaries; and for each communications closet, the fee shall be \$ 15.00.

- (3) For each motor or electrical device rated from greater than 10 hp or 10 kw to 50 hp or 50 kw; for each service equipment, panel board, switch board, switch gear, motor-control-center, or disconnecting means rated 225 amperes or less; for each transformer or generator rated from greater than 10 kw or 10 kva to 45 kw or 45 kva; for each electric sign rated from greater than 20 amperes to 225 amperes including associated disconnecting means; for each receptacle rated greater than 50 amperes; and for each utility load management device, the fee shall be \$ 65.00.
- (4) For each motor or electrical device rated from greater than 50 hp or 50 kw to 100 hp or 100 kw; for each service equipment, panel board, switch board, switch gear, motor-control-center, or disconnecting means rated from greater than 225 amperes to 1,000 amperes; and for each transformer or generator rated from greater than 45 kw or 45 kva to 112.5 kw or 112.5 kva, the fee shall be \$ 129.00.
- (5) For each motor or electrical device rated greater than 100 hp or 100 kw; for each service equipment, panel board, switch board, switch gear, motor-control-center, or disconnecting means rated greater than 1,000 amperes; and for each transformer or generator rated greater than 112.5 kw or 112.5 kva, the fee shall be \$ 640.00.
- (6) The fee charged for electrical work for each permanently installed private swimming pool as defined in the building subcode, spa, hot tub, or fountain shall be a flat fee of \$ 77.00, which shall include any required bonding, and associated equipment such as filter pumps, motors, disconnecting means, switches, required receptacles, and heaters, etc., excepting panelboards and underwater lighting fixtures. For public swimming pools, the fee shall be charged on the basis of number of electrical fixtures and rating of electrical devices involved in accordance with (c)2iii(1) through (5) above.
- (7) The fee charged for the installation of single and multiple station smoke or heat detectors and fire, burglar, or security alarm systems in any one or two-family dwelling shall be a flat fee of \$ 33.00 per dwelling unit. For fire, burglar, and security alarm systems and detectors in buildings other than one or two-family dwellings, the fee shall be charged in accordance with (c)2iii(1) and (2) above.
- (8) For installations consisting of multimeter stacks, the fee shall be based on the ampere rating of the main bus and not upon the number of meters or rating of disconnects on the meter stack. Individual loadside panel boards shall be charged in accordance with (c)2iii(3), (4) or (5) above. There shall be no additional fee charged for the concurrent installation of individual feeder conductors.
- (9) For motors or similar devices requiring concurrent installation of individual controls, relays and switches, the fee shall be based only upon the rating of the motor or device. There shall be no additional fee charged for the concurrent installation of individual circuit components, for example, controllers, starters, and disconnecting means.
- (10) For electrical work requiring replacement of service entrance conductors or feeder conductors only, the fee shall be based on the designated ampere rating of the overcurrent device of the service or feeder as follows:
- (A) 225 amperes or less, the fee shall be \$ 65.00;
 - (B) 226 to 1,000 amperes, the fee shall be \$ 129.00; and
 - (C) Greater than 1,000 amperes, the fee shall be \$ 640.00.
- (11) The fee charged for process equipment shall be based on the ampere rating of the overcurrent device protecting the conductor feeding the process equipment or the cutoff device.

- (12) For the purpose of computing these fees, all electrical and communications devices, utilization equipment and motors which are part of premises wiring, except those which are portable plug-in type, shall be counted.
- (13) For photovoltaic systems, the fee shall be based on the designated kilowatt rating of the solar photovoltaic system as follows:
- (A) One to 50 kilowatts, the fee shall be \$ 65.00;
 - (B) Fifty-one to 100 kilowatts, the fee shall be \$ 129.00; and
 - (C) Greater than 100 kilowatts, the fee shall be \$ 640.00.
- iv. For fire protection and hazardous equipment, sprinklers, standpipes, detectors (smoke and heat), pre-engineered suppression systems, gas and oil fired appliances not connected to the plumbing system, kitchen exhaust systems, incinerators, and crematoriums, the fee shall be as follows:
- (1) The fee for 20 or fewer heads shall be \$ 91.00; for 21 to and including 100 heads, the fee shall be \$ 168.00; for 101 to and including 200 heads, the fee shall be \$ 321.00; for 201 to and including 400 heads, the fee shall be \$ 831.00; for 401 to and including 1,000 heads, the fee shall be \$ 1,150; for over 1,000 heads, the fee shall be \$ 1,469.
 - (2) The fee for one to 12 detectors shall be \$ 50.00; for each 25 detectors in addition to this, the fee shall be in the amount of \$ 17.00.
 - (3) The fee for each standpipe shall be \$ 321.00.
 - (4) The fee for each independent pre-engineered system shall be \$ 129.00.
 - (5) The fee for each gas or oil fired appliance that is not connected to the plumbing system shall be \$ 65.00.
 - (6) The fee for each kitchen exhaust system shall be \$ 65.00.
 - (7) The fee for each incinerator shall be \$ 511.00.
 - (8) The fee for each crematorium shall be \$ 511.00.
 - (9) For single and multiple station smoke or heat detectors and fire alarm systems in any one or two-family dwellings, there shall be a flat fee of \$ 33.00 per dwelling unit. For detectors and fire alarm systems in buildings other than one or two-family dwellings, the fee shall be charged in accordance with (c)2iv(2) above.
 - (10) The fee for replacement of an existing transmission means as per [N.J.A.C. 5:23-2.17A\(c\)5v](#) shall be \$ 35.00.
3. Fees for certificates and other permits are as follows:
- i. The fee for a demolition or removal permit shall be \$ 92.00 for a structure of less than 5,000 square feet in area and less than 30 feet in height, for one- or two-family dwellings (Group R-3 or R-5 of the building subcode), structures on farms, including commercial farm buildings under [N.J.A.C. 5:23-3.2\(d\)](#), and \$ 168.00 for all other Groups.
 - ii. The fee for a permit to construct a sign shall be as follows:
 - (1) Fees for pylon signs shall be \$ 6.00 per square foot for the first 100 square feet, \$ 4.75 per square foot for the next 400 square feet, and \$ 3.50 per square foot thereafter;
 - (2) Fees for ground signs or wall signs shall be \$ 3.00 per square foot for the first 100 square feet, \$ 2.10 per square foot for the next 400 square feet, and \$ 1.40 per square foot thereafter;
 - (3) The minimum fee shall be \$ 65.00.
 - iii. The fee for a certificate of occupancy shall be \$ 39.00.

- iv. The fee for a certificate of occupancy granted pursuant to a change of use group shall be \$ 168.00.
- v. The fee for a certificate of continued occupancy issued under [N.J.A.C. 5:23-2.23\(c\)](#) shall be \$ 168.00.
- vi. The fee for the first issuance and the renewal of a temporary certificate of occupancy shall be \$ 39.00.
- (1) Exception: There shall be no fee for the first issuance of the temporary certificate of occupancy provided the certificate of occupancy fee is paid at that time.
- (2) Exception: Where a written request for a temporary certificate of occupancy is made for reasons other than uncompleted work covered by the permit (such as uncompleted work required by prior approvals from state or municipal agencies), no renewal fee shall be charged.
- vii. The fee for plan review of a building for compliance under the alternate systems and non-depletable energy source provisions of the energy sub-code shall be \$ 383.00 for one- and two-family dwellings (Group R-3 or R-5 of the building subcode), and for light commercial structures having the indoor temperature controlled from a single point, and \$ 1,915 for all other structures.
- viii. The fee for an application for a variation in accordance with [N.J.A.C. 5:23-2.10](#) shall be \$ 821.00 for class 1 structures and \$ 168.00 for class 2 and class 3 structures. The fee for resubmission of an application for a variation shall be \$ 321.00 for class 1 structures and \$ 91.00 for class 2 and class 3 structures.
- ix. The fee for a permit for lead hazard abatement work shall be \$ 196.00. The fee for a lead abatement clearance certificate shall be \$ 39.00.
4. For cross connections and backflow preventers that are subject to annual re-testing, the fee shall be \$ 12.00 for each device.
5. Annual permit requirements are as follows:
- i. The fee to be charged for an annual construction permit shall be charged annually. This fee shall be a flat fee based upon the number of maintenance workers who are employed by the facility, and who are primarily engaged in work that is governed by a subcode. Managers, engineers and clericals shall not be considered maintenance workers for the purpose of establishing the annual construction permit fee. Annual permits may be issued for building/fire protection, electrical and plumbing.
- ii. Fees for annual permits shall be as follows:
- (1) One to 25 workers (including foremen) \$ 933.00/worker; each additional worker over 25, \$ 329.00/worker.
- (2) Prior to the issuance of the annual permit, a training registration fee of \$ 196.00 per subcode and a list of not more than three individuals to be trained per subcode shall be submitted by the applicant to the Department of Community Affairs, Bureau of Code Services, Education Unit along with a copy of the construction permit (Form F170). Checks shall be made payable to "Treasurer, State of New Jersey." The Department shall register these individuals and notify them of the courses being offered.
6. The fee for plan review for elevator devices in structures of Group R-3, R-4, or R-5, and for elevator devices wholly within dwelling units in structures of Group R-2 shall be \$ 70.00 for each device.
7. The fee for plan review for elevator devices in structures of Groups other than R-3, R-4, or R-5 and devices in structures of Group R-2 exempted by (c)6 above shall be \$ 365.00 for each device.
8. The fees for elevator device inspections and tests shall be as set forth in N.J.A.C. 5:23-12.

9. The fee for a mechanical inspection in a structure of Group R-3 or R-5 by a mechanical inspector shall be \$ 60.00 for the first device and \$ 15.00 for each additional device. No separate fee shall be charged for gas, fuel oil, or water piping connections associated with the mechanical equipment inspected.
 10. The fee for the annual electrical inspection of a swimming pool, spa, or hot tub shall be \$ 50.00. The fee for the annual electric inspection of each additional swimming pool, spa, or hot tub on a site shall be \$ 34.00.
- (d) The fee for an application by a manufacturer, distributor, owner or any other person for approval of any fixture, appurtenance, material or method, pursuant to [N.J.A.C. 5:23-3.8](#), shall be an amount equal to the cost incurred, or to be incurred, by the Department for such tests as the Department may require, plus an administrative surcharge in the amount of 10 percent of such cost.
- (e) Hourly charges and fees for development-wide inspection of homes after issuance of a certificate of occupancy shall be in such amount as may be reasonable and necessary in order to ascertain whether a violation exists or to verify that any work performed has abated the violation.
1. The hourly charge shall be the same as the hourly charge set forth at [N.J.A.C. 5:23-4.20\(b\)](#) 4 times the number of hours spent by the code official in determining whether a violation exists or verifying that any work performed has abated the violations.
 2. Any appeal of a charge levied by the Department pursuant to this subsection shall be made in accordance with [N.J.A.C. 5:23-2.38](#).

History

HISTORY:

Amended by R.1982 d.402, effective November 15, 1982.

See: 14 N.J.R. 943(a), 14 N.J.R. 1300(b).

Text substantially amended. Department fees increased approximately 50 percent.

Amended by R.1982 d.463, effective January 3, 1983.

See: 14 N.J.R. 1129(a), 14 N.J.R. 1449(a).

Added (c)10, periodic reinspection fees.

Amended by R.1983 d.548, effective December 5, 1983.

See: 15 N.J.R. 1406(a), 15 N.J.R. 2033(b).

In (c)2., added "mechanical systems and equipment" and "the number of sprinklers and standpipes". Also added iv.-v.

Amended by R.1983 d.641, effective January 17, 1984.

See: 15 N.J.R. 1911(a), 16 N.J.R. 129(b).

Substantial changes in section.

Correction: 16 N.J.R. 2267(a).

Amended by R.1985 d.351, effective July 15, 1985.

See: 17 N.J.R. 1029(a), 17 N.J.R. 1756(b).

(c)11 and 12 added.

Amended by R.1986 d.213, effective June 16, 1986.

See: 17 N.J.R. 2490(a), 18 N.J.R. 1266(a).

Added text to (a)12 "Prior to the issuance of the annual permit" and "Bureau of Construction Code Enforcement".

Amended by R.1987 d.490, effective November 16, 1987.

See: 19 N.J.R. 1684(a), 19 N.J.R. 2134(a).

Fees raised.

Emergency amendment, R.1989 d.405, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2127(b).

Amended extensively based on an overall increase of approximately 30 percent in fees for code enforcement and planned real estate development, and an increase in the State training fee per cubic foot volume of new construction. Changed fee amounts throughout.

Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989.

See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).

Provisions of emergency amendment R.1989 d.405 readopted with change.

Restructured section.

In (a): added new 5.

In (c): deleted (c)2i(5) regarding minor construction work fees.

In (c)2ii(2): added text to specify equipment fees and deleted (c)2ii(3) regarding fixtures.

In (c)2iii: deleted (3)-(5) and added new (3)-(6).

Deleted (c)3-6 regarding fees, and added (c)2iv, with new (3)-(7) on new fee structure.

Added (c)3 and 4 and renumbered (c)7-12 as (c)3-6ii.

Amended by R.1990 d.61, effective February 5, 1990.

See: 21 N.J.R. 3346(b), 22 N.J.R. 351(b).

Technical change of Form number in (c)6ii.

Amended by R.1991 d.181, effective April 1, 1991.

See: 23 N.J.R. 257(b), 23 N.J.R. 1029(a).

In (b), plan review surcharge increased from 30 to 40 percent; plan review only increased from 20 to 25 percent; minimum fee increased from \$ 33.00 to \$ 43.00.

In (c)2, basic construction fee permit increased from \$ 33.00 to \$ 43.00.

In (c)2i(1), new construction fee increased from \$ 0.019 to \$ 0.025; for use groups A-1, A-2, A-3, A-4, F-1, F-2, S-1, S-2 increased from \$ 0.011 to \$ 0.014; farm structures increased from \$ 0.0005 to \$ 0.0007; maximum farm structures fee increased from \$ 815.00 to \$ 1,060.

In (c)2i(2), fees increased from \$ 17.00 to \$ 22.00; from \$ 13.00 to \$ 17.00 above \$ 50,000; from \$ 11.00 to \$ 14.00 above \$ 100,000.

In (c)2ii(1), fee increased from \$ 7.00 to \$ 9.00 per fixture.

In (c)2ii(2), fee increased from \$ 46.00 to \$ 60.00 per special device.

In (c)2iii(1), fee increased from \$ 25.00 to \$ 33.00 for one to 50 receptacles or fixtures; each 25 additional increased from \$ 4.00 to \$ 5.00.

In (c)2iii(2), fee increased from \$ 7.00 to \$ 9.00.

In (c)2iii(3), fee increased from \$ 33.00 to \$ 43.00.

In (c)2iii(4), fee increased from \$ 65.00 to \$ 85.00.

In (c)2iii(5), fee increased from \$ 325.00 to \$ 423.00.

In (c)2iv(1), fee increased from \$ 46.00 to \$ 60.00 for 20 or fewer heads; from \$ 85.00 to \$ 111.00 for 21 to 100 heads; from \$ 163.00 to \$ 212.00 for 101 to 200 heads; from \$ 423.00 to \$ 550.00 for 201 to 400 heads; from \$ 585.00 to \$ 761.00 for 401 to 1,000 heads; from \$ 748.00 to \$ 972.00 for over 1,000 heads.

In (c)2iv(2), fee increased from \$ 163.00 to \$ 212.00.

In (c)2iv(3), fee increased from \$ 65.00 to \$ 85.00.

In (c)2iv(4) and (5), fee increased from \$ 33.00 to \$ 43.00.

In (c)2iv(6) and (7), fee increased from \$ 260.00 to \$ 338.00.

In (c)4i, demolition and removal permit increased from \$ 46.00 to \$ 60.00 and for form structure removal from \$ 85.00 to \$ 111.00.

In (c)4ii, fee for permit to construct a sign increased from \$ 0.85 to \$ 1.11 per square foot; minimum fee increased from \$ 33.00 to \$ 43.00.

In (c)4iii, certificate of occupancy fee increased from \$ 85.00 to \$ 111.00; minimum fee for form structures increased from \$ 46.00 to \$ 60.00.

In (c)4iv, fee increased from \$ 124.00 to \$ 161.00.

In (c)4v, fee increased from \$ 85.00 to \$ 111.00.

In (c)4vii, fee increased from \$ 20.00 to \$ 26.00.

In (c)4viii, fees increased from \$ 195.00 to \$ 254.00 for one and two-family homes and from \$ 975.00 to \$ 41,268 for light commercial structures.

In (c)4ix, fees increased from \$ 423.00 to \$ 550.00 for class I structures and from \$ 85.00 to \$ 111.00 for class II and III structures. Resubmission of applications increased from \$ 163.00 to \$ 212.00 for class I structures and from \$ 46.00 to \$ 60.00 for class II and III structures.

In (c)5iii, fees increased from \$ 33.00 to \$ 43.00 for thrice annual testing and from \$ 85.00 to \$ 111.00 for annual testing.

In (c)6ii(1), fees increased from \$ 475.00 to \$ 618.00 for one to 25 workers and from \$ 165.00 to \$ 215.00 per worker over 25.

In (c)6ii(2), fee increased from \$ 100.00 to \$ 130.00.

Amended by R.1991 d.325, effective July 1, 1991.

See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Departmental fees set at (c).

Amended by R.1992 d.147, effective April 6, 1992.

See: 24 N.J.R. 170(a), 24 N.J.R. 1397(a).

Elevators wholly within R-2 residences exempt.

Notice of correction, effective May 18, 1992.

See: 24 N.J.R. 1879(b).

Amended by R.1992 d.230, effective June 1, 1992.

See: 24 N.J.R. 168(a), 24 N.J.R. 2052(a).

Form numbers changed in (c).

Amended by R.1992 d.313, effective August 3, 1992.

See: 24 N.J.R. 1846(a), 24 N.J.R. 2712(b).

No inspection fee for gas service entrances.

Amended by R.1992 d.390, effective October 5, 1992.

See: 24 N.J.R. 1844(a), 24 N.J.R. 3515(b).

Fee for indirect apportionment systems set at (d).

Amended by R.1992 d.392, effective October 5, 1992.

See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).

Fees increased throughout.

Amended by R.1993 d.187, effective May 3, 1993.

See: 25 N.J.R. 624(a), 25 N.J.R. 1875(a).

Added (c)9.

Amended by R.1994 d.28, effective January 18, 1994.

See: 25 N.J.R. 4546(b), 26 N.J.R. 352(a).

Administrative correction.

See: 26 N.J.R. 796(a).

Amended by R.1994 d.96, effective February 22, 1994.

See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

Amended by R.1994 d.323, effective July 5, 1994 (operative January 1, 1995).

See: 25 N.J.R. 2162(a), 26 N.J.R. 2780(a).

Amended by R.1994 d.434, effective September 6, 1994 (operative January 1, 1995).

See: 26 N.J.R. 1911(a), 26 N.J.R. 3706(b).

Amended by R.1995 d.381, effective July 17, 1995.

See: 27 N.J.R. 970(a), [27 N.J.R. 2715\(a\)](#).

Amended by R.1995 d.475, effective September 5, 1995 (operative January 1, 1996).

See: 27 N.J.R. 1716(a), [27 N.J.R. 3325\(a\)](#).

In (c)5ii(2) added individuals to be trained and registered.

Amended by R.1995 d.476, effective September 5, 1995 (operative January 1, 1996).

See: 27 N.J.R. 1846(a), [27 N.J.R. 3325\(b\)](#).

Eliminated minimum fee in (b) and rewrote (c).

Amended by R.1995 d.603, effective November 20, 1995 (operative March 20, 1996).

See: [27 N.J.R. 2655\(a\)](#), [27 N.J.R. 4699\(a\)](#).

Amended by R.1995 d.647, effective December 18, 1995 (operative March 18, 1996).

See: [27 N.J.R. 3517\(a\)](#), [27 N.J.R. 5012\(a\)](#).

Amended by R.1997 d.409, effective October 6, 1997.

See: [29 N.J.R. 2736\(a\)](#), [29 N.J.R. 4281\(a\)](#).

Amended by R.1998 d.35, effective January 5, 1998.

See: [29 N.J.R. 4215\(a\)](#), [30 N.J.R. 194\(a\)](#).

In (c)2.i.(1), added A-5 structures to the fee schedule.

Amended by R.2000 d.47, effective February 7, 2000.

See: [31 N.J.R. 2314\(a\)](#), [32 N.J.R. 443\(a\)](#).

Rewrote (c).

Amended by R.2000 d.166, effective April 17, 2000.

See: [31 N.J.R. 4151\(a\)](#), [32 N.J.R. 1376\(a\)](#).

In (c)3i, inserted a reference to group R-4.

Amended by R.2001 d.194, effective June 18, 2001.

See: [33 N.J.R. 1041\(a\)](#), [33 N.J.R. 2097\(a\)](#).

In (a)5, substituted "The construction or rehabilitation of" for "Newly constructed".

Amended by R.2001 d.347, effective October 1, 2001.

See: [32 N.J.R. 3218\(a\)](#), [33 N.J.R. 3430\(a\)](#).

In (c)3, inserted new vi, and recodified former vi through viii as vii through ix.

Amended by R.2002 d.6, effective January 7, 2002.

See: [33 N.J.R. 2570\(a\)](#), [33 N.J.R. 3883\(a\)](#), [34 N.J.R. 268\(a\)](#).

In (c)5ii(2), substituted "Education Unit" for "Training Section".

Amended by R.2002 d.42, effective February 4, 2002.

See: [33 N.J.R. 3713\(a\)](#), [34 N.J.R. 732\(a\)](#).

In (a), added 6.

Amended by R.2002 d.260, effective August 5, 2002.

See: [34 N.J.R. 1572\(a\)](#), [34 N.J.R. 2781\(c\)](#).

Rewrote (b) and (c)1.

Amended by R.2004 d.67, effective February 17, 2004.

See: [35 N.J.R. 4627\(a\)](#), [36 N.J.R. 949\(b\)](#).

Added references to Group R-5 throughout.

Amended by R.2004 d.144, effective April 5, 2004.

See: [35 N.J.R. 4944\(a\)](#), [36 N.J.R. 1753\(a\)](#).

Rewrote (c)1.

Amended by R.2004 d.260, effective July 6, 2004.

See: [35 N.J.R. 3474\(b\)](#), [36 N.J.R. 3274\(a\)](#).

In (c)3, rewrote ii.

Amended by R.2005 d.446, effective December 19, 2005.

See: [37 N.J.R. 2747\(a\)](#), [37 N.J.R. 4907\(a\)](#).

In (c), added 2i(8).

Amended by R.2006 d.355, effective October 2, 2006.

See: [38 N.J.R. 1789\(a\)](#), [38 N.J.R. 4175\(a\)](#).

Added (e).

Amended by R.2007 d.231, effective August 6, 2007.

See: [39 N.J.R. 722\(a\)](#), [39 N.J.R. 3295\(a\)](#).

In (c)2iii(10), deleted "in accordance with (c)2iii(2) through 5above" and inserted "as follows:"; and added (c)2iii(10)(A) through (c)2iii(10)(C) and (c)2iii(13).

Amended by R.2007, d.384, effective December 17, 2007.

See: [39 N.J.R. 2684\(a\)](#), [39 N.J.R. 5211\(a\)](#).

In (c)2iii(6), substituted "\$ 55.00" for "\$ 46.00" and "underwater" for "under-water".

Amended by R.2009 d.48, effective February 2, 2009.

See: [40 N.J.R. 5319\(a\)](#), [41 N.J.R. 733\(b\)](#).

In (c)2i(1), substituted "chapters 3 and 6, respectively," for "articles 3 and 4".

Amended by R.2009 d.77, effective March 2, 2009.

See: [40 N.J.R. 5895\(a\)](#), [41 N.J.R. 1009\(b\)](#).

Updated the fees throughout; in (c)2i(1), substituted "buildings" for "building" following "farm"; in (c)2i(2), inserted "for the first \$ 50,000, prorated" and substituted "fee on the amount exceeding \$ 50,000" for "additional fee", the second occurrence of ", prorated" for "above \$ 50,000", "fee on the amount exceeding \$ 100,000" for "additional fee", and the third occurrence of ", prorated" for "above \$ 100,000"; and in (c)2iii(2), substituted "underwater" for "under-water".

Amended by R.2012 d.139, effective July 16, 2012.

See: [44 N.J.R. 8\(a\)](#), [44 N.J.R. 1969\(a\)](#).

Added (c)2iv(10).

Amended by R.2012 d.179, effective November 5, 2012.

See: [44 N.J.R. 1679\(a\)](#), [44 N.J.R. 2557\(a\)](#).

In (c)4, substituted "annual re-testing," for "testing, requiring reinspection annually," and "\$ 10.00" for "\$ 58.00", and deleted "when they are tested" following "device"; and in (c)10, substituted "a swimming pool, spa, or hot tub" for "swimming pools, spas or hot tubs", and inserted the last sentence.

Amended by R.2013 d.081, effective June 3, 2013.

See: [44 N.J.R. 1303\(a\)](#), [45 N.J.R. 1393\(a\)](#).

In (c)3viii, substituted "1" for "I", "2" for "II", and "3" for "III".

Amended by R.2014 d.149, effective October 6, 2014.

See: [46 N.J.R. 898\(a\)](#), [46 N.J.R. 2024\(a\)](#).

Rewrote (b) and (c).

Amended by R.2016 d.044, effective May 16, 2016.

See: [47 N.J.R. 2696\(a\)](#), [48 N.J.R. 801\(a\)](#).

Rewrote (c)2i(1) as (c)2i(1) and (c)2i(2); added (c)2i(2)(A); recodified former (c)2i(2) through (c)2i(8) as (c)2i(3) through (c)2i(9); and in (c)2i(5), substituted "(c)2i(3) and (4)" for "items (2) and (3)".

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[N.J.A.C. 5:23-4.21](#)

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§ 5:23-4.21 Private enforcing agency authorization and reauthorization fees

- (a) Authorization fee: Any onsite inspection agency submitting an application to the Department under [N.J.A.C. 5:23-4.12](#) for approval as an inspection agency shall pay a fee of \$ 2,800 for each subcode for which authorization is sought.
- (b) Reauthorization fee:
1. Any onsite inspection agency submitting an application to the Department under [N.J.A.C. 5:23-4.12](#) for reapproval as an inspection agency shall pay a fee of \$ 1,400 for each subcode for which authorization is sought plus an amount equal to two percent of the gross revenue earned from State Uniform Construction Code enforcement activities during the previous 12-month period.
 - i. The fee of \$ 1,400 per subcode plus two percent of gross revenue earned from State Uniform Construction Code enforcement activities shall be applicable to all applications for authorization or reauthorization required to be filed on or after November 1, 2005.
 2. The fee shall be paid to the Department in 12 equal installments, beginning with the month immediately following the end of the 12-month period for which the fee is calculated. Payment shall be made prior to the last business day of each month.

History

HISTORY:

Amended by R.1984 d.260, effective July 2, 1984.

See: 16 N.J.R. 3(a), 16 N.J.R. 1714(e).

Section substantially amended.

Amended by R.1985 d.353, effective July 15, 1985.

See: 17 N.J.R. 1032(a), 17 N.J.R. 1758(b).

(b)1: substantially amended.

Public Notice: Notice of Petition to amend section.

See: 17 N.J.R. 2688(a).

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text on inplant inspection agencies deleted.

Amended by R.1991 d.181, effective April 1, 1991.

See: 23 N.J.R. 257(b), 23 N.J.R. 1029(a).

In (a), authorization fee increased from \$ 2,000 to \$ 2,600. In (b), reauthorization fee increased from \$ 1,000 to \$ 1,300.

Amended by R.1992 d.392, effective October 5, 1992.

See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).

Fees increased.

Amended by R.2006 d.207, effective June 5, 2006.

See: [38 N.J.R. 1121\(a\)](#), [38 N.J.R. 2418\(a\)](#).

In (b), added the designations for 1 and 2; in (b)1, substituted "two" for "five" and inserted (i).

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[N.J.A.C. 5:23-4.22](#)

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§ 5:23-4.22 (Reserved)

History

HISTORY:

Amended by R.1984 d.481, effective November 5, 1984.

See: 16 N.J.R. 2031(a), 16 N.J.R. 3006(a).

Amended by R.1986 d.142, effective May 5, 1986.

See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

Substantially amended.

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Modular unit fee of \$ 100.00 deleted; title changed.

Amended by R.1991 d.181, effective April 1, 1991.

See: 23 N.J.R. 257(b), 23 N.J.R. 1029(a).

In (a) and (b), insignia fee increased from \$ 50.00 to \$ 65.00.

Amended by R.1992 d.392, effective October 5, 1992.

See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).

Fees increased.

Repealed by R.1994 d.96, effective February 22, 1994.

See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

Section was "Building element and manufactured home add-on unit insignia of certification fees".

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§ 5:23-4.23 Payment of fees

- (a) All fees paid to the Department under the regulations shall be nonrefundable except as otherwise specifically set forth in the regulations. All fees shall be paid by check or money order, payable to the "Treasurer, State of New Jersey".

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[N.J.A.C. 5:23-4.24](#)

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§ 5:23-4.24 Plan review by the Department of Community Affairs

- (a) There is established in the Department of Community Affairs, Division of Codes and Standards, a Bureau of Construction Projects Review, hereinafter "the plan review bureau." The plan review bureau shall review plans, applications and specifications submitted to the Department in its enforcing agency capacity, and as further required or permitted by this section.
- (b) Plan review:
1. Plan review shall be required for all uses except as may be otherwise provided in the regulations whenever the department acts as an enforcing agency in any municipality.
 2. Special or hazardous uses and types of construction:
 - i. N.J.A.C. 5:23-3 divides all construction into three classes according to its 'complexity and potential hazard to the public health and safety. N.J.A.C. 5:23-5 provides for three levels of subcode official certification which correspond to the three classes in N.J.A.C. 5:23-5.
 - ii. For class 1, department plan review and release shall be required on the effective date of the regulations prior to the issuance of a construction permit unless the municipal enforcing agency is classified as class 1.
 - iii. For class 2, department plan review and release shall be required after January 1, 1981, prior to the issuance of a construction permit unless the municipal enforcing agency is classified as class 1 or class 2.
 - iv. For class 3, departmental plan review shall not be required except when the department acts as the enforcing agency.
 - v. Installations of elevators, escalators, and moving walks, except devices in structures of Group R-3, R-4, or R-5 and those devices in structures of Group R-2 that are otherwise exempted in [N.J.A.C. 5:23-3.11\(b\)](#), shall require Departmental plan review and release.
 3. Premanufactured construction: Department plan review and release shall be required for all modular construction other than those authorized to be approved by an inplant inspection agency as provided in [N.J.A.C. 5:23-4A.10](#).
- (c) The plan review bureau shall review all applications, plans and specifications for conformance to the regulations.
- (d) Plans reviewed by the Department that are judged to be in conformance with the regulations shall be stamped with the word "released" and signed and dated by the reviewing official of the Department.
- (e) All plans submitted, and any amendments thereto, accompanied by the required fee, shall be numbered, docketed, and examined promptly after their submission for compliance with the regulations. In the case of plans submitted by an architect or engineer bearing his or her signature, registration number, and seal, plan examination may, except for compliance with exit requirements, be limited to a supervisory check.

- (f) If the Department judges a plan not to be in conformance with the regulations, it shall notify the applicant in writing of the reason for rejection.
- (g) The Department shall provide such technical assistance to the applicant as may be appropriate pursuant to the regulations.
- (h) The municipal enforcing agency shall perform all field inspections required by the regulations, except that the Department shall have the right to perform partial or complete field inspection services for any project for which it has released plans.

History

HISTORY:

Amended by R.1986 d.142, effective May 5, 1986.

See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

(a)iii added.

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Reference to subchapter 4A added at (a)2iii.

Amended by R.1991 d.325, effective July 1, 1991.

See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Text added at (a)2i(5).

Amended by R.1992 d.147, effective April 6, 1992.

See: 24 N.J.R. 170(a), 24 N.J.R. 1397(a).

Elevators wholly within R-2 residences exempt.

Amended by R.1994 d.96, effective February 22, 1994.

See: 26 N.J.R. 1073(a).

Amended by R.1997 d.409, effective October 6, 1997.

See: [29 N.J.R. 2736\(a\)](#), [29 N.J.R. 4281\(a\)](#).

Deleted (a) and (b); recodified (a)1 as (a), (a)2 as (b), and (b)1 through 6 as (c) through (h); in (a), amended agencies referenced, in (a) through (h), deleted titling of subsections; and in (h), substituted "Department shall have the right" for "department deserves the right".

Amended by R.2004 d.67, effective February 17, 2004.

See: [35 N.J.R. 4627\(a\)](#), [36 N.J.R. 949\(b\)](#).

In (b)2v, added R-5 to the list of groups.

Amended by R.2013 d.081, effective June 3, 2013.

See: [44 N.J.R. 1303\(a\)](#), [45 N.J.R. 1393\(a\)](#).

Rewrote (b)2ii and (b)2iii, and in (b)2iv, substituted "3" for "three".

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[N.J.A.C. 5:23-4.25](#)

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§ 5:23-4.25 Emergency building inspection program

- (a) The emergency building inspection program is hereby established, pursuant to section 1 of P.L. 2007, c. 2 ([N.J.S.A. 52:27D-126.3](#)). In accordance with section 5 of P.L. 2007, c. 2 ([N.J.S.A. 52:27D-126.7](#)), participation in the emergency building inspection program is voluntary, but any municipality not enacting and filing a resolution of non-participation by February 15, 2008 shall be deemed to be participating, unless and until an opt-out resolution is later enacted and filed. Municipalities that later choose to participate may do so by enacting and filing a resolution of participation. All such resolutions of non-participation and of participation shall be effective upon filing with the Office of Regulatory Affairs, PO Box 818, Trenton, NJ 08625.
- (b) Participating municipalities shall be responsible for the payment of any costs that they incur with regard to their own employees for regular and overtime pay, insurance coverage and liability, and for equipment and supplies used in the course of any assistance or deployment for the benefit of another municipality. In the event of a presidentially-declared disaster, participating municipalities shall, subject to Federal rules, be eligible for Federal reimbursement for costs incurred, even if they are not located within the disaster area.
- (c) The Department shall provide the construction official of each participating municipality with contact information for construction officials and subcode officials of all participating municipalities, Department contact persons, and registered architects, licensed professional engineers and persons holding construction code licenses but not employed by participating municipalities who have volunteered to participate in the program. Such information shall be provided through the Department's "Permits NJ" Internet program and shall be a nonpublic record.
1. The list shall include information as to each person's name; home and office addresses; and home and office and cellular telephone numbers which shall have been provided to the Office of Regulatory Affairs, PO Box 818, Trenton, NJ 08625.
 2. Licensed professional engineers, registered architects and persons who are licensed as construction officials, subcode officials or inspectors pursuant to this chapter but are not employed by a State or local enforcing agency shall be eligible to participate in the program. Any such individuals who wish to participate in the program shall provide the contact information required in (c)1 above to the Office of Regulatory Affairs for inclusion in the list. If and when such individuals are sent by the Department to assist a local enforcing agency in an emergency situation, they shall be deemed to be temporary employees of the Department.
- (d) In the event of an emergency affecting a participating municipality for which assistance is required, the construction official, or any subcode official acting with authorization from the construction official, shall first call code officials in neighboring participating municipalities that are not themselves affected by the emergency. In the event of a regional emergency, or of any other emergency that requires assistance beyond that which would be available from neighboring participating municipalities, the construction official or authorized subcode official shall contact the designated contact person at the Department. The Department shall then deploy code officials in its employ and shall contact participating municipalities and

persons participating in the program pursuant to (b) above and ask them to assist the municipality or municipalities affected by the emergency. In the event that the nature or scope of the emergency is such that voluntary assistance is insufficient, the Department shall first utilize its own employees. If more assistance is needed, the Department may then order the deployment of personnel from any participating municipality that is not itself affected by the emergency.

- (e) The construction official and subcode officials of the affected municipality shall have jurisdiction over all aspects of construction code enforcement in the affected municipality. The construction official may authorize the issuance of permits within the affected municipality by other licensed construction officials who provide assistance. If so authorized by the construction official of the affected municipality, licensed subcode officials providing assistance may exercise all functions of a subcode official within the affected municipality; if not so authorized, they shall exercise the functions of an inspector. All records of construction code enforcement activity in the affected municipality shall be the property of the affected municipality.
- (f) The governing bodies of two or more municipalities, whether or not they are participating in the emergency building inspection program, may by resolution enter into agreements with each other for mutual construction code enforcement aid concerning the evaluation of buildings and structures affected by a natural or man-made disaster or emergency. Such agreements may provide for the reimbursement of the municipality or municipalities rendering such aid, including reimbursement for any damage to property and for payment to any official or employee of a local construction code enforcing agency for injuries sustained while serving pursuant to such agreements, or to a surviving spouse or other dependent in the event of death of that official or employee. A copy of any such agreement shall be filed with the Office of Regulatory Affairs, PO Box 818, Trenton, NJ 08625, by the local enforcing agencies concerned.

History

HISTORY:

Amended by R.1986 d.142, effective May 5, 1986.

See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

Subsections (b) and (r) recodified as 4.26 through 4.38.

Repealed by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

New Rule, R.2007, d.376, effective December 17, 2007.

See: [39 N.J.R. 3439\(a\)](#), [39 N.J.R. 5212\(a\)](#).

Section was "Reserved".

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[N.J.A.C. 5:23-4.26](#)

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§ 5:23-4.26 Certification of building elements

(a) Building elements shall be certified in accordance with the following provisions:

1. Building elements, such as fire walls, fire separation walls, wall panels, pre-stressed/prefabricated floor or roof panels, and pre-engineered structural frames, built in accordance with the New Jersey Uniform Construction Code, may be approved by (a)1i or ii below:
 - i. Approval for both design and construction by a nationally recognized laboratory or a product certification agency. The local municipal subcode official has the authority to accept such approvals based on the evidence, test and/or documentation presented to him or her;
 - ii. Approval for both design and construction by a professional engineer licensed either in the State of New Jersey or in the state of manufacture. The local municipal subcode official has the authority to accept such approvals based on the evidence, of test and/or documentation presented to him or her;
 - iii. If applicable, Fabricator Approval per Section 1704.2.5.1 of the building subcode is required for Class 1 buildings in addition to (a)1i or ii above.

History

HISTORY:

Amended by R.1986 d.142, effective May 5, 1986.

See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

Recodified from 4.25(b) and substantially amended.

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text at (a), (a)1, (a)2, (b) and (c) deleted; stylistic revisions.

Amended by R.1994 d.96, effective February 22, 1994.

See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

Amended by R.2005 d.403, effective November 21, 2005.

See: [37 N.J.R. 2753\(a\)](#), [37 N.J.R. 4399\(b\)](#).

In (a)1, deleted "trusses," preceding "fire walls."

Amended by R.2013 d.081, effective June 3, 2013.

See: [44 N.J.R. 1303\(a\)](#), [45 N.J.R. 1393\(a\)](#).

In the introductory paragraph of (a)1, substituted "(a)1i or ii below" for "any of the following options"; in (a)1i and (a)1ii, substituted a semicolon for a period at the end; and added (a)1iii.

Amended by R.2018 d.021, effective January 16, 2018.

See: [49 N.J.R. 306\(a\)](#), [50 N.J.R. 303\(a\)](#).

In the introductory paragraph of (a)1, inserted a comma following "panels"; and in (a)1iii, substituted "1704.2.5.1" for "1704.2.2".

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[N.J.A.C. 5:23-4.27 through 4.40](#)

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§ 5:23-4.27 through 4.40 (Reserved)

History

HISTORY:

Amended by R.1986 d.142, effective May 5, 1986.

See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

Recodified from 4.25(c) and substantially amended.

Repealed by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

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