



Department of Community Affairs



Division of Fire Safety

Bureau of Fire Code Enforcement

To: LEA Fire Officials

From: Lou Kilmer, Chief Bureau of Fire Code Enforcement

Date: December 10, 2020

Subject: Temporary Emergency Shelters

As winter weather is rapidly approaching, plans are being made statewide for the temporary emergency housing of homeless individuals due to cold weather conditions. These plans are implemented on Code Blue nights. This year will be particularly challenging due to the current public health emergency and social distancing requirements. Depending on weather conditions and number of individuals seeking shelter, additional spaces may need to be made available.

This memorandum shall clarify existing rules and requirements in place for temporary emergency shelters as well as rule modifications put in place due to the current health emergency.

On March 25, 2020 Lieutenant Governor Sheila Y. Oliver, Commissioner of the Department of Community Affairs signed a Notice of Rule Waiver/Modification/Suspension concerning temporary emergency shelters for the homeless (the "Notice"). A copy is attached to this memo. The Notice affected both the Uniform Construction Code and the Uniform Fire Code. The requirements for Life Hazard Use registration of a homeless shelter have been waived for the duration of Executive Order 103. Additionally, the requirements for the installation of an approved smoke detection system in temporary emergency shelters for the homeless has also been waived for the duration of Executive Order 103. Smoke detection may be accomplished with battery-operated alarms.

Recently, it has been brought to the Division's attention that some local enforcing agency ("LEA") fire officials are requiring a Type 1 permit to be issued. This particular Type 1 permit is defined as "The use of any Group A-4 use, place of worship, as a shelter with a maximum permitted occupant load of 14 persons, for 14 or fewer consecutive days, for not more than 49 days in a year in accordance with Section 408.15 of the State Fire Prevention Code." N.J.A.C. 5:70-2.7(a)(3)(xvii).

The permit described above was never intended for temporary emergency shelters. This permit was intended to be used by faith-based religious organizations operating a hospitality program. A Hospitality Room is defined as "A room or space that is incidental to a religious use wherein 14 or fewer persons are provided shelter for 14 or fewer consecutive days for no more than 49 days in a year." N.J.A.C. 5:70-3, 202. This type of program typically provides shelter for homeless individuals and families on a rotating basis in different houses of worship within a municipality or specific area. If the original intent of this permit was for temporary homeless shelters, it would have not been limited to A-4 use group buildings only. Additionally, the size of the shelter would not be limited to 14 persons. Many temporary housing shelters have a much greater capacity.

In addition to the permit described above, some local enforcing agencies are issuing a Type 1 permit for group overnight stays. This is also incorrect. The Type 1 permit for group overnight stays is defined as "The occasional use of any non-residential occupancy other than Use Groups F, H, or S for group overnight stays of persons over 2 ½ years of age, in accordance with N.J.A.C. 5:70-3, the State Fire Prevention Code, Section 408.14." N.J.A.C. 5:70-2.7(a)(3)(iii). This permit is intended for situations where a building or facility not normally used for overnight stays is utilized for a group of children or young adults participating in an organized program or activity. An example of this is when a recreation center is used to host a high school after-graduation party whereby the graduates attend an organized overnight event participating in various activities within the building.

Based on the above information, absent a local amendment to the Uniform Fire Code there is no permit required for a temporary homeless shelter. It is strongly recommended that Fire Officials work with their local municipal officials and predesignate shelters in advance of a Code Blue night. The shelter should be inspected and meet Fire Code requirements ahead of when it is needed. Attached to this memo is an outline of fire safety requirements to utilize when inspecting these facilities.

Safety of the occupants of temporary emergency shelters is of paramount importance. I am requesting local Fire Officials to use good judgment when inspecting these facilities and utilize the attached guidance. While there are no State Fire Code permits required and no Life Hazard Use registration required, local registration or permits may be issued if your ordinance allows. While the imposition of fees at the local level is at the discretion of the municipalities, I would recommend the waiving of local fees if possible as these shelters are facing increased expenses due to the pandemic.

If you have any questions regarding homeless shelters or need specific guidance for a unique situation, please feel free to contact me at louis.kilmer@dca.nj.gov or by phone at 609-633-6131. I would like to take this opportunity to thank you and your staff for everything that you have done and continue to do to help the State during these difficult times.