



Morris County  
Construction Board of Appeals

**2021**  
**ANNUAL REPORT**

**MORRIS COUNTY  
CONSTRUCTION BOARD OF APPEALS  
2021 ANNUAL REPORT**

The Morris County Construction Board of Appeals, established in 1977 by the Morris County Board of Chosen Freeholders, now known as the Board of County Commissioners, serves as a quasi-judicial body to hear appeals filed by property owners in Morris County from decisions, actions, or an inaction of a municipal official pursuant to the State of New Jersey Uniform Construction Code, Uniform Fire Code, or the Developer Escrow Law. These municipal officials may be the Construction Code Official, a Construction Subcode Official, a Uniform Fire Code Official, or other Municipal Professionals.

The Morris County Construction Board of Appeals consists of five regular members and five alternate members including two certified Fire Subcode officials. There are two special members assigned to the Board to hear cases involving municipal escrow fees. Membership and qualification of members are governed by Uniform Construction Code Regulations 5:23 A-1.3 (a) and (b), and Board terms are four years. The volunteers who serve on the Morris County Construction Board of Appeals bring to the Board a diverse background and a wealth of professional and personal experience. Board members are also required to attend training sessions sponsored by the NJ Department of Community Affairs. Members of the Board who are Licensed Inspectors, Subcode Officials, or Construction Officials are required as a condition of their license to complete continued education training in accordance with the NJ Department of Community Affairs regulations. The required training consists of both administrative topics and topics within the technical area of their licenses.

Hearings are held at the call of the Chair, usually on the fourth Thursday of each month, at 7:00 p.m. in the CBA Hearing Room, 30 Schuyler Place, 2<sup>nd</sup> Floor, Morristown, New Jersey. Due to the ongoing COVID-19 pandemic, in accordance with the Open Public Meetings Act, New Jersey Executive Orders and N.J.A.C. 5:39-1.1 to 1.7, the Board's regularly scheduled meetings for 2021 were held remotely, via tele conference and/or Cisco WebEx video conference, beginning with the April 23, 2020 meeting.

Meetings are open to the public and are legally advertised in the Daily Record. Formal resolutions (decisions) prepared by the Board and the Board Counsel are approved by the Board members at the meeting following the hearing. The resolutions are filed with the NJ Department of Community Affairs, and the NJ Division of Fire Safety pursuant to State regulations. Copies are sent to the applicant, the municipality, and to their attorneys. Copies are also forwarded to the Board of County Commissioners, the County Administrator, and County Counsel. Minutes of all hearings and resolutions adopted by the Board are kept in bound minute books as a public record as required by N.J.A.C. 5:23A-2.3.

Case files which have been heard or withdrawn, are disposed of in accordance with records management procedures as implemented by the State and the County. Access to records continues to be controlled in accordance with Morris County Policy and Procedure 4:4.01, Public Records as well as applicable state law.

First Assistant County Counsel Staci L. Santucci, Esq., provided legal counsel to the Board in 2021. Board Secretary Sheila M. Leary, CPM continues to support the Board. As the Board members typically carry a full time commitment in their primary occupation, Ms. Leary keeps the members and the Counsel to the Board apprised of new developments, schedules, and coordinates the hearings; generates and issues correspondence; and is the point person for all external communication with citizens, as well as municipal, county and State government officials.

The Board performed its statutory obligations in 2021 with a complete complement of the required professionals per the UCC statute. The Board composition consists of multiple layers of qualified personnel in all required

disciplines who are employed in various municipalities, so the chances are minimal that an absence or conflict situation will affect the Board's ability to hear an appeal with competent, unbiased members in a timely manner.

The Board continues to communicate by email with attorneys, Board Members, Secretary and Counsel as well as updating the following website with Board information and forms at [www.planning.morriscountynj.gov./boards/construction/](http://www.planning.morriscountynj.gov./boards/construction/).

The Board uses a digital recorder to record the hearings. This process provides high quality direct recording to media files. These files are more readily copied and transferred when requested for transcripts. The Board is a member of the International Code Council, which provides a discount in the purchase of ICC sponsored codes and allows Board Members who choose to participate in one or more code making forums to do so.

During calendar year 2021, the Board met five times. The following is a summary of the cases filed with the Morris County Board:

**Morris County CBA 2021 Docket**

**Total**

<b>Cases Carried Over from Prior Years</b>	<b>4</b>
<b>Cases Filed in 2021</b>	<b>12</b>
<b>Cases Withdrawn/N/A and Dismissed in 2021</b>	<b>9</b>
<b>Case forwarded/transferred due to conflict of interest (Somerset &amp; Warren County)</b>	<b>3</b>
<b>Decisions issued by the Board in 2021</b>	<b>1</b>
<b>Cases Carried to 2022 (including matters pending Superior Court decision)</b>	<b>4</b>

Twelve appeals were filed in 2021 adding to the appeals carried over from the previous year. Please see the brief highlights about each case included in the attached "Summary of Cases".

***The following documents are attached to this report:***

Summary of Cases Decided by the Board in 2021  
Member Information (Qualifications & Terms)  
NJAC 5:23A Construction Board of Appeals Regulations  
Rules and Procedures

The Construction Board of Appeals serves all thirty-nine Morris County Municipalities.

As Chairman, I would like to express our gratitude and appreciation to the Board Members, the Board Counsel and the Board Secretary for their dedication and commitment to serving the Board of County Commissioners and Morris County residents throughout the year. The total hours devoted by the Board members in preparing for, hearing cases, and preparing decisions cannot be tabulated.

On behalf of the Board, we extend our thanks and appreciation to the Board of County Commissioners for personnel assigned to the Board.

Respectfully Submitted,

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Theodore Maglione, Chairman





# Morris County Construction Board of Appeals

## 2022

### Board Members Qualifications & Terms of Service

1	<u>Chairman</u> Theodore (Ted) Maglione	Regular/Special	<div>Builder – NJAC 5:23A-1.3 (e)</div> <div>Professional Engineer – NJAC 5:23A-1.3 (b) 1,2,3</div> <div>Construction Official</div> <div>Building subcode Official</div> <div>Building Inspector HHS</div>	12/31/2024 12/31/2022
2	<u>Vice Chairman</u> Jeffrey Betz	Regular	<div>Construction Official – NJAC 5:23A-1.3 (b) 3</div> <div>Certified Fire Official – NJAC 5:23A-1.3 (b) 5</div> <div>Fire Protection Subcode Official – NJAC 5:23A-1.3 (b) 4</div> <div>Building Inspector RCS</div> <div>Fire Protection Inspector HHS</div> <div>Housing code Official – NJAC 5:10 – 1B.2</div> <div>Inspector Hotels &amp; Multiple Dwellings - NJAC 5:10 – 1B.2</div>	7/31/2023 12/31/2022
3	John Kostrowski, Jr.	Regular	<div>Master Plumber- NJAC 5:23A-1.3(b)1</div> <div>Plumbing Subcode Official- NJAC 5:23A-1.3 (b)1</div> <div>Construction Official- NJAC 5:23A-1.3 (b)3</div> <div>Building Inspector RCS/ICS</div> <div>Plumbing Inspector ICS/HHS</div>	10/22/2024
4	Keith Lynch	Regular	<div>Electrical Contractor- NJAC 5:23A-1.3 (b) 2</div> <div>Construction Official- NJAC 5:23A-1.3 (b) 3</div> <div>Certified Fire Official- NJAC 5:23A-1.3 (b) 5</div> <div>Fire Protection Subcode Official- NJAC 5:23A-1.3 (b) 4</div> <div>Building Subcode Official Inspector HHS</div> <div>Fire Protection Inspector HHS</div> <div>Electrical Inspector HHS</div>	7/31/2023
5	Sean G. Donlon	Regular	<div>Construction Official- NJAC 5:23A-1.3 (b) 3</div> <div>Building Subcode Official</div> <div>Building Inspector HHS, ICS, RCS</div> <div>Housing Code Official</div> <div>Inspector Hotels &amp; Multiple Dwellings</div>	12/31/2025
6	Timothy (Tim) Braden	Alternate	<div>Construction Official- NJAC 5:23A-1.3 (b) 3</div> <div>Building Subcode Official</div> <div>Building Inspector RCS, ICS, HHS</div>	12/31/2022
7	Kimberly Hurley	Alternate	Architect- NJAC 5:23A-1.3 (b) 1, 2, 3	12/31/2025
8	Nicola (Nick) Marucci	Alt./Special	<div>Professional Engineer- NJAC 5:23A-1.3 (b) 1, 2, 3</div> <div>Certified Municipal Engineer- NJAC 5:23A-1.3 (e)</div> <div>Professional Land Surveyor</div> <div>Certified Floodplain Manager</div>	7/31/2023
9	Herold Endean	Alternate	<div>Electrical Contractor – NJAC 5:23A-1.3 (b) 2</div> <div>Construction Official– NJAC 5:23A-1.3 (b) 3</div> <div>Electrical Subcode Official– NJAC 5:23A-1.3 (b) 2</div> <div>Electrical Inspector HHS</div>	12/31/2025
10	ALTERNATE MEMBER VACANCY			

Plumbing Subcode Official - NJAC 5:23A-1.3 (b) 1

Electrical subcode Official - NJAC 5:23A-1.3 (b) 2

Building Subcode Official, Architect, Professional Engineer with Building Construction Experience - NJAC 5:23A-1.3 (b) 3

Fire Protection Subcode Official - NJAC 5:23A-1.3 (b) 4

Certified Fire Official - NJAC 5:23A-1.3 (b) 5

Municipal Fee Escrow Disputes - NJAC 5:23A-1.3 (e)



# **MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS**

## Municipalities Represented (39)

### Five (5) Year Summary

	2017	2018	2019	2020	2021
Boonton					1
Boonton Twp.					
Butler					1
Chatham					
Chatham Borough					
Chester	1		1		
Chester Borough					
Denville		2	3		
Dover	1				2
East Hanover		1	2	2	
Florham Park	2	2			
Hanover			4		
Harding			2	2	
Jefferson			1		
Kinnelon		1			
Lincoln Park		1		1	
Long Hill			1		
Madison	1		2		
Mendham			1		
Mendham Borough					1
Mine Hill		1			
Montville			1		
Morris Plains					
Morris Twp.	2	3	1		
Morristown	1	1			
Mt. Arlington					
Mt. Olive			3	1	
Mountain Lakes					
Netcong					
Parsippany-Troy Hills	2	1	2	1	3
Pequannock		1			
Randolph					
Riverdale					
Rockaway				1	
Rockaway Twp.	1				
Roxbury		1			
Victory Gardens					
Washington				1	1
Wharton					
<i>Essex County</i>	1		1		
<i>Somerset County</i>	1	1	2	1	1
<i>Warren County</i>		2			2
<i>Bergen County</i>					
<i>Passaic County</i>					
<b>TOTAL CASES:</b>	13	18	27	10	12

# **MORRIS COUNTY CONSTRUCTION BOARD OF APPEALS**

## ***RULES OF PROCEDURES***

### **BOARD RULES REGARDING FILING OF APPEALS**

Appeals will be considered to be complete when a completed UCC form or similar facsimile thereof is received by the Secretary of the Board with the \$100 filing fee (the fee is waived for failure to act on application for permit N.J.A.C.5:23A-2.1(e)). The appeal document must clearly indicate the action, which aggrieved the appellant. The appellant should provide copies of all pertinent documents to support the appeal.

### **Pursuant to N.J.A.C. 5:23A-2.2(a) "Hearing procedures"**

All parties to any dispute shall be accorded full opportunity to address the construction board of appeals, present testimony and examine and cross-examine witnesses, consistent with reasonable rules or procedures and due process. All testimony shall be under oath or affirmation. Parties shall be allowed to appear through legal counsel or public or corporate officers. Construction, subcode and fire officials may appear and testify on behalf of their local enforcing agencies.

In the event of an appeal filed by the contractor or agent and where the outcome of the appeal may require changes to the structure, systems or components, the entity filing the appeal shall, in the absence of the Owner of Record, provide proof, satisfactory to the Board, that the contractor or agent will be allowed access to the property or structure to implement any corrective action or repairs. In the case of a Request for Variation, the Contractor shall provide proof that the Owner of Record is in concurrence with the requested variation.

**Proof of Service** if not on the documents submitted shall be provided by the Local Enforcing Agency with a full copy of the file documents from the Municipality. **For PL 1995 appeals**, the Municipality must forward to the Board a copy of the full record of the application (N.J.A.C.5:23A-2.1c (1)).

**Ten (10) sets of copies** to be used at the hearing should be submitted to the Board within seven days prior to the hearing.

**All documents submitted to the board by either party must be copied to the adversarial party.** (N.J.A.C.5:23A-2.1(d)).

**All documents submitted** shall be in hard copy form, legible, and capable of additional reproduction in standard office equipment. Partial plans and other incomplete documents will not be accepted for use at the hearing.

### **BOARD RULES REGARDING SCHEDULING OF APPEALS AND ADJOURNMENTS**

**Appeals are required to be heard by the Board within ten (10) business days.**

In general the Board has established a schedule of regular meetings held on a monthly basis to hear appeals. The appellant may sign a waiver to permit the hearing to be scheduled beyond the ten day period at a regularly scheduled meeting of the Board. Unless the waiver is granted, the hearing before the Board will be held on a "hear or dismiss" basis within the ten day period.

**Appeals involving the Uniform Construction Code (UCC)** may be adjourned on the request of the Appellant for good reason, provided that there is not a life safety issue involving an occupied building with the outstanding violation notice. The Board may request the Local Enforcing Agency to concur on the request.

**Appeals involving the Uniform Fire Code (UFC)** may be adjourned on the request of the Appellant, for good reason, but only with the written concurrence of the Local Enforcing Agency.

**In the case of an extended stay in a life safety or other matter posing a significant risk to the occupants, employees, visitors or public in general,** the LEA may be requested to initiate an analysis that the continued operation or occupancy with the cited violations outstanding does not constitute an unreviewed safety question.

**Cases will be heard or dismissed at the third hearing scheduled by the Board to hear the appeal** (second request to reschedule the appeal) unless extenuating circumstances can be demonstrated to the Board, or if for any reason the Board is unable to convene a forum of five members. The Board may require an appearance by the parties to address any such requests at the Boards discretion.

**In general, scheduling and notification of hearings will be by formal communication** however where extenuating circumstances exist, telephone and facsimile may be used to notify board members and persons involved in appeals provided that at least 48 hours' notice is given (N.J.A.C.5:23A-1.5(a)1).

**Appeals will be scheduled in the order that they had been submitted,** except in cases where an imminent hazard exists. **Imminent hazard cases are heard as a priority,** and the Board may schedule a special hearing to decide the case promptly.

**The Board reserves the right to adjust the hearing schedule at the meeting to accommodate special needs.**



## **BOARD RULES REGARDING WITHDRAWN CASES AND FEES**

**Appeals should be withdrawn prior to 1:00 PM the day of the hearing.** Failure to do so may require the parties to put an appearance on the record as scheduled.

**The Board will only acknowledge a request to withdraw an appeal from the Appellant, authorized agent or Counsel for the Appellant.**

## **CONDUCT OF HEARING**

### **5:23A — 2.2 Hearing Procedures**

**The hearing will begin with the Chairperson making opening remarks regarding:**

- Statue under which the appeal is being brought
- The nature of the appeal
- The date of the action appealed from
- The basis of the appeal

**The Chairperson** may request motions from the parties to the appeal regarding timeliness of the filing if it is unclear that the appeal was filed within the time limits prescribed by the regulations.

**The Chairperson** will request an affirmation from the parties to the appeal that the matter is not being addressed in any other forum or jurisdiction.

**Municipal Enforcing Agency and Appellant** will present all witnesses who may give evidence at the hearing. Witnesses to be sworn in.

**Opening Statement:** Representative of the enforcing agency, the municipality, or the professional hired by the municipality or municipal agency, shall explain the basis for the action, ruling, order, notice or fee.

**Opening Statement:** The appellant, or his or her representative, shall then present the basis for his or her disagreement.

**Municipal Enforcing Agency** will then present their witnesses to testify, who will then be cross examined by the appellant and then by the Board in the order of presentation.

**Appellant** will then present his or her witnesses to testify, who will then be cross examined by the Municipal Enforcing Agency and then by the Board in the order of presentation.

**Municipal Enforcing Agency** will present closing argument. Since the Board has just heard the case, this is intended to highlight areas and may be waived.

**Appellant** will present closing argument. Since Board has just heard the case, this is intended to highlight areas and may be waived.

There will be open discussion by the Board. In general the parties will not be allowed to provide additional testimony, comments or discussion regarding the Board's discussion, except for extenuating cases where the Board seeks additional information.

The Board will by motion, approved by a majority of the quorum, decide to uphold, modify, or reverse the action by the municipal official or provide any other decision as permitted by the regulations.

All questions concerning the presentation of evidence will be ruled upon by the chair. Evidence will be liberally construed; however, all evidence must be relevant. Hearsay evidence will not be admitted nor will documents unique to the appeal unless the authority who prepared the document is presented and sworn in as a witness.

Robert's Rules of Order will control the procedures. The Board's attorney will advise the Board or the chair on any legal procedures and is to render advice to the Board and to the chair and is not available to give advice to either appellant or the respondent on procedures.

The Board will draft a resolution to be voted upon at the next meeting when sufficient members are present to act on the resolution.

The Board's attorney may prepare the resolution as directed by the Board. In the event that the Board prepares the resolution, the Board's Attorney shall review and advise the Board of the adequacy of the resolution prior to the Board's adoption of same.

The Board's attorney shall, in his discretion, defend or prosecute any litigation, which may occur after a meeting of the Board and prior to the next meeting of the Board.

All applicable federal and state statutes and administrative code provisions shall govern the Board's action. These Rules of Procedure embrace the regulations that govern the Board's, and add local rules as required by the Board. In the case of conflicts, the Regulations take precedence over local rules.

The Board shall comply with N.J.S.A 10:4-8 (Open Public Meeting Act) and N.J.A.C 5:23A as well as all other applicable statutes when setting meeting dates.

The Board reserves the right to relax any of these rules as deemed appropriate.

## [N.J.A.C. 5:23-1.1](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 16, August 16, 2021

***NJ - New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23.  
UNIFORM CONSTRUCTION CODE > SUBCHAPTER 1. GENERAL PROVISIONS***

### **§ 5:23-1.1 Title; division into subchapters**

(a) These regulations shall be known as the "Regulations for the New Jersey Uniform Construction Code" and are referred to herein as "the regulations".

(b) The chapter consists of the following subchapters:

1. "General provisions" which may be cited throughout the regulations as N.J.A.C. 5:23-1 and when referred to in subchapter 1 of this chapter may be cited as this subchapter.
2. "Administration and enforcement; process" which may be cited throughout the regulations as N.J.A.C. 5:23-2 and when referred to in subchapter 2 of this chapter may be cited as this subchapter.
3. "Subcodes" which may be cited throughout the regulations as N.J.A.C. 5:23-3 and when referred to in subchapter 3 of this chapter may be cited as this subchapter.
  - i. [N.J.A.C. 5:23-3.11B](#) contains references to the Department of Environmental Protection's rules concerning underground storage tanks, codified at N.J.A.C. 7:14B, which are jointly enforced by this Department and local enforcing agencies pursuant to this chapter.
4. "Enforcing agencies: duties, powers, and procedures" which may be cited throughout the regulations as [N.J.A.C. 5:23-4](#) of this chapter and when referred to in subchapter 4 of this chapter may be cited as this subchapter.
5. "Industrialized/Modular Buildings and Building Components" which may be cited throughout the regulations as [N.J.A.C. 5:23-4A](#) and when referred to [N.J.A.C. 5:23-4A](#) may be cited as this subchapter.
6. "Recreational Park Trailers Subcode" which may be cited throughout the regulations as [N.J.A.C. 5:23-4D](#) and, when referred to in Subchapter 4D of this chapter, may be cited as this subchapter.
7. "Licensing of Code Enforcement Officials" which may be cited throughout the regulations as N.J.A.C. 5:23-5 and when referred to in subchapter 5 of this chapter may be cited as this subchapter.
8. "Rehabilitation Subcode" which may be cited throughout the regulations as N.J.A.C. 5:23-6 and, when referred to in subchapter 6 of this chapter, may be cited as this subchapter.
9. "Barrier Free Subcode" which may be cited throughout the regulations as [N.J.A.C. 5:23-7](#) and when referred to in subchapter 7 of this chapter may be cited as this subchapter.
10. "Asbestos Hazard Abatement Subcode" which may be cited throughout the regulations as [N.J.A.C. 5:23-8](#) and when referred to in subchapter 8 of this chapter may be cited as this subchapter.
11. "Code Interpretations" which may be cited throughout the regulations as N.J.A.C. 5:23-9 and when referred to in subchapter 9 of this chapter may be cited as this subchapter.
12. "Radon Hazard Subcode" which may be cited throughout the regulations as N.J.A.C. 5:23-10 and when referred to in subchapter 10 of this chapter may be cited as this subchapter.



## N.J.A.C. 5:23-1.1

13. "Playground safety subcode" which may be cited throughout this chapter as N.J.A.C. 5:23-11 and, when referred to in subchapter 11 of this chapter, may be cited as "this subchapter."

14. "Elevator Safety Subcode" which may be cited throughout the rules as N.J.A.C. 5:23-12 and when referred to in subchapter 12 of this chapter may be cited as this subchapter.

15. "Optional elevator inspection program" which may be cited throughout the rules as N.J.A.C. 5:23-12A and, when referred to in subchapter 12A of this chapter, may be cited as "this subchapter."

## History

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### HISTORY:

Amended by R.1978 d.350, eff. October 1, 1978.

See: 10 N.J.R. 378(a), 10 N.J.R. 469(f).

Amended by R.1987 d.509, effective December 7, 1987.

See: 19 N.J.R. 1264(a), 19 N.J.R. 2270(a).

(b) substantially amended.

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

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

Added 9 and 10 to (b).

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

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

Text added at (b)5.

Amended by R.1990 d.562, effective November 19, 1990.

See: 22 N.J.R. 2629(c), 22 N.J.R. 3482(d).

Added reference to [N.J.A.C. 7:14B](#).

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

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

Text on elevators added at (b).

Amended by R.1992 d.183, effective April 20, 1992.

See: 24 N.J.R. 167(a), 24 N.J.R. 1475(b).

Reference to Indoor Air Quality Subcode added at (b)12.

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.1997 d.409, effective October 6, 1997.

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

Deleted (b)14.

Amended by R.1998 d.28, effective January 5, 1998.

See: [29 N.J.R. 3603\(a\)](#), [30 N.J.R. 129\(a\)](#).

## N.J.A.C. 5:23-1.1

In (b)9, substituted "Rehabilitation Subcode" for "Tax Exemptions".

Amended by R.1998 d.480, effective September 21, 1998.

See: [30 N.J.R. 1119\(b\)](#), [30 N.J.R. 3461\(a\)](#).

In (b), added 16.

Amended by R.1999 d.351, effective October 18, 1999.

See: [31 N.J.R. 1838\(a\)](#), [31 N.J.R. 3082\(a\)](#).

Rewrote (b)14.

Amended by R.2008 d.213, effective August 4, 2008.

See: [39 N.J.R. 2411\(a\)](#), [40 N.J.R. 4523\(b\)](#).

Added new (b)8; and recodified former (b)8 through (b)16 as (b)9 through (b)17.

Amended by R.2019 d.083, effective August 5, 2019.

See: [51 N.J.R. 3\(a\)](#), [51 N.J.R. 1269\(a\)](#).

Deleted former (b)6 and (b)7, and recodified former (b)8 through (b)17 as (b)6 through (b)15.

Annotations

## Notes

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### [Chapter Notes](#)

## Case Notes

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Councilperson violated local ethics law; project manager for private construction company. Bleeker v. Local Finance Board, 94 N.J.A.R.2d (CAF) 122.

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## **N.J.A.C. 5:23-1.2**

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 16, August 16, 2021

***NJ - New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23.  
UNIFORM CONSTRUCTION CODE > SUBCHAPTER 1. GENERAL PROVISIONS***

### **§ 5:23-1.2 Authority**

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These regulations are promulgated by the Commissioner of the Department of Community Affairs pursuant to the authority of the "State Uniform Construction Code Act" (P.L. 1975, c.217, as amended).

Annotations

### **Notes**

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#### [Chapter Notes](#)

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## **N.J.A.C. 5:23-1.3**

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**NJ - New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23.  
UNIFORM CONSTRUCTION CODE > SUBCHAPTER 1. GENERAL PROVISIONS**

### **§ 5:23-1.3 Intent and purpose**

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(a) It is the intent and purpose of the regulations:

1. To encourage innovation and economy in construction and to provide requirements for construction and construction materials consistent with nationally recognized standards.
2. To formulate such requirements, to the extent practicable, in terms of performance objectives, so as to make adequate performance for the use intended as the test of acceptability.
3. To permit to the fullest extent feasible the use of modern technical methods, devices and improvements, including premanufactured systems, consistent with reasonable requirements for the health, safety and welfare of occupants or users of buildings and structures.
4. To eliminate restrictive, obsolete, conflicting and unnecessary construction regulations that tend to unnecessarily increase construction costs or retard the use of new materials, products or methods of construction, or provide preferential treatment to types or classes of materials or products or methods of construction.
5. To insure adequate maintenance of buildings and structures throughout the State and to adequately protect the health, safety and welfare of the people.
6. To eliminate unnecessary duplication of effort and fees in the review of construction plans and the inspection of construction.

Annotations

### **Notes**

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#### [Chapter Notes](#)

### **Case Notes**

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Intent is elimination of construction regulations by local government units. [Home Builders League of South Jersey, Inc. v. Evesham Twp., 174 N.J. Super. 252, 416 A.2d 81 \(Law Div. 1980\).](#)

Uniform Construction Code codified in regulations. Bureau of Construction Code Enforcement v. Hasbrouck Heights, 4 N.J.A.R. 282 (1983).

N.J.A.C. 5:23-1.3

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## [N.J.A.C. 5:23-1.4](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 16, August 16, 2021

***NJ - New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23.  
UNIFORM CONSTRUCTION CODE > SUBCHAPTER 1. GENERAL PROVISIONS***

### **§ 5:23-1.4 Definitions**

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The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Alteration" means the rearrangement of any space by the construction of walls or partitions, the addition or elimination of any door or window, the extension or rearrangement of any system, the installation of any additional equipment or fixtures and any work which affects a primary structural component.

"Billboard" means any sign which exceeds 32 square feet in area on any face, except for signs which advertise or otherwise identify activities performed upon the property on which the sign is located.

"Building" means a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing shelter, enclosure and support of individuals, animals or property of any kind. When used herein, building and structure shall be interchangeable except where the context clearly indicates otherwise.

"Building subcode official" means a qualified person appointed by the municipal appointing authority or the commissioner pursuant to the act and the regulations to enforce the provisions of the building subcode within the jurisdiction of the enforcing agency.

"Business day" means any day of the year, exclusive of Saturdays, Sundays, and legal holidays.

"Certificate of approval" means a certificate issued pursuant to N.J.A.C. 5:23-2 upon completion of work that requires a construction permit but not a certificate of occupancy.

"Certificate of compliance" means the certificate provided for in N.J.A.C. 5:23-2 and 12, indicating that potentially hazardous equipment is being maintained in accordance with the Act and this chapter.

"Certificate of continued occupancy" means the certificate provided for in N.J.A.C. 5:23-2, indicating that as a result of a general inspection of the visible parts of the building, no violations of [N.J.A.C. 5:23-2.14](#) have been determined to have occurred and no unsafe conditions violative of [N.J.A.C. 5:23-2.32](#) have been found, and that the existing use of the building has heretofore lawfully existed.

"Certificate of occupancy" means the certificate provided for in N.J.A.C. 5:23-2, indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the act and the regulations.

"Change of use" means a change from one use to another use in a building or tenancy or portion thereof.

"Class 1 structure" means a structure not listed in [N.J.A.C. 5:23-4.3A\(d\)](#)1i through vi or 2ii through xxii.

"Class 2 structure" means a structure listed in [N.J.A.C. 5:23-4.3A\(d\)](#)2ii through xxii.

"Class 3 structure" means a structure listed in [N.J.A.C. 5:23-4.3A\(d\)](#)1i through vi.

"Commissioner" means the Commissioner of the Department of Community Affairs.

"Construction Board of Appeals" means the board provided for in [N.J.A.C. 5:23A](#).



## N.J.A.C. 5:23-1.4

"Construction official" means a qualified person appointed by the municipal appointing authority or the commissioner pursuant to the act and the regulations to enforce and administer the regulations within the jurisdiction of the enforcing agency.

"Construction permit" means an authorization to begin work subject to the conditions established in subchapter 2 of this chapter.

"Department" means the Department of Community Affairs.

"Effective date" means, in the case of a new rule, amendment or repeal, the date of promulgation in the New Jersey Register. The effective date of a readoption is the date of filing with the Office of Administrative Law.

"Electrical subcode official" means a qualified person appointed by the municipal appointing authority or the commissioner pursuant to the act and the regulations to enforce and provisions of the electrical subcode within the jurisdiction of the enforcing agency.

"Elevator" or "elevator device" means a hoisting and lowering device equipped with a car or platform which moves in guides for the transportation of individuals or freight in a substantially vertical direction through successive floors or levels of a building or structure; or a power driven, inclined, continuous stairway used for raising or lowering passengers; or a type of passenger carrying device on which passengers stand or walk, and in which the passenger carrying surface remains parallel to its direction of motion and is uninterrupted. This includes, but it is not limited to, elevators, escalators, moving walks, dumbwaiters, wheelchair lifts, manlifts, stairway chairlifts and any device within the scope of ASME A17.1 (Safety Code for Elevators and Escalators) or ASME A90.1 (Safety Standards for Belt Manlifts).

"Elevator subcode official" means a qualified person appointed by the municipal appointing authority or the Commissioner, pursuant to the Act and this chapter, to enforce the provisions of any subcode specifically designated for such enforcement in N.J.A.C. 5:23-3, within the jurisdiction of the enforcing agency.

"Enforcing agency" means the municipal or State administrative entity charged with the administration and enforcement of the regulations consisting of the construction official, subcode officials and assistants thereto appointed in accordance with [N.J.S.A. 52:27D-126](#) of the act and the regulations.

"Equipment" means plumbing, heating, electrical, ventilating, air conditioning, refrigerating and fire prevention equipment, and elevators, dumb waiters, escalators, boilers, pressure vessels and other mechanical facilities or installations, which are related to building services and shall not include manufacturing, production or process equipment, but which shall include connections from building service to process equipment.

"Facility" for the purpose of applying for an annual permit means exclusive of a hotel/casino, a building or group of buildings under common ownership or control and whose maintenance work is performed under the direct supervision of a maintenance supervisor.

"Fire protection subcode official" means a qualified person appointed by the appropriate appointing authority or the commissioner pursuant to the act and the regulations to enforce those portions of any subcode, specifically designated for such enforcement in N.J.A.C. 5:23-3, within the jurisdiction of the enforcing agency.

"Ground sign" means a sign mounted on the ground or on multiple pole supports with its lower edge less than 15 feet above grade measured at the longest pole.

"Group" means the classification of an occupancy (also see "Use Group").

"Health care facility" means the facility or institution, whether public or private, engaged principally in providing services for health maintenance organizations, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including but not limited to a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, home for the sheltered care of adult persons, and bioanalytical laboratory or central services



## N.J.A.C. 5:23-1.4

facility serving one or more such institutions, but excluding institutions that provide healing solely by prayer.

1.This definition shall not be deemed to include nurses, doctors, or other staff housing not attached in accordance with minimum fire separation standards in the building subcode; administrative offices not attached in accordance with minimum fire separation standards in the building subcode; parking garages, or other such facilities for which the Federal government does not impose standards as a condition of funding.

"Hearing examiner" means a person appointed by the commissioner to conduct hearings, summarize evidence and make findings of fact.

"Lead abatement" means a process designed either to mitigate or to eliminate permanently lead-based paint hazards on a premises and includes, but is not limited to: the removal of lead-based paint and lead-contaminated dust; the containment or encapsulation of lead-based paint; the replacement of lead-painted surfaces or fixtures; the removal or covering of lead-contaminated soil; and all preparation, cleanup, disposal and post-abatement clearance testing activities associated with such measures. "Lead abatement" shall not include painting, woodworking, structural renovation or other indoor or outdoor contracting services that may result in the disturbance of paint, unless it is evident from the statements and/or actions of a person or persons authorizing or performing such services that an objective of the work is the mitigation or permanent elimination of a lead-based paint hazard.

"Lead evaluation" means a surface-by-surface investigation to determine the presence and condition of lead-based paint and the provision of a report explaining the results of the investigation, including, but not limited to, hazards and recommendations for abatement.

"Maintenance" means the replacement or mending of existing work with equivalent materials or the provision of additional work or material for the purpose of the safety, healthfulness and upkeep of the structure and the adherence to such other standards of upkeep as are required in the interest of public safety, health and welfare.

"Manufactured home" means a structure with respect to which the manufacturer has filed a certification required by the Secretary of the United States Department of Housing and Urban Development and which complies with the standards established under [42 U.S.C. §§ 5401](#), et seq.

"Manufacturing, production, and process equipment" means all equipment employed in a system of operations for the explicit purpose of the production of a product. Manufacturing, production, and process equipment shall include, but is not limited to, the following:

- 1.Electrical generation equipment, such as turbines, condensers, generators, and the like;
- 2.Electrical transmission equipment such as transformers, capacitors, regulators, switchgears, and the like;
- 3.Air pollution equipment, such as scrubbers;
- 4.Metal working equipment, such as castings, screen machines, grinders, lathes, presses, drills, welders, and the like;
- 5.Material handling equipment, such as rollers, control belts, and the like;
- 6.Packaging equipment, such as bottling machines;
- 7.Process drying equipment, such as ovens, kettles, fans, and the like;
- 8.Finishing equipment, used for such purposes as heat treatment, plating, painting, and the like;
- 9.Petrochemical refinery/plant equipment used for distillation, conversion, treatment, and blending;
- 10.Electric, steam, pneumatic- or hydraulic-actuated equipment, such as motors, pumps, compressors, and the like;
- 11.Tanks which constitute part of a controlled industrial process, including those tanks containing flammable and combustible liquids, together with the dikes surrounding the tanks;



## N.J.A.C. 5:23-1.4

12. All piping used to transport products to and between industrial processes; any piping connected to the potable water supply downstream of an appropriate backflow prevention device; and any piping located upstream of the first joint at the outlet of the equipment or upstream of the indirect connection to the sanitary or storm sewer;

13. Pipe racks, hangers, and the like that support the process piping and the storage racks for the raw materials and finished products. Building structural systems supporting the racks, hangers, storage loads, and the like are excluded from the definition of process equipment, except that pipe support units that include a foundation and support steel shall be included as process equipment when they do not transfer loads to structures whose main function is other than supporting process pipe;

14. Boilers, pressure vessels, furnaces, and the like used exclusively for industrial process;

15. Pre-wired and/or pre-engineered (bearing name plate) electro-mechanical equipment or machinery used exclusively for an industrial process; and

16. Electrical work which forms a part of the power or control system of industrial process equipment, up to the point where that work connects to the plant electrical distribution system. Such a point shall be considered a suitable junction box, panel board, disconnect switch, or a terminal box which constitutes the final connection to the factory-installed equipment wiring. Where these items are not supplied as a part of the equipment, they shall be subject to local enforcing agency jurisdiction.

"Minor work" means construction work undertaken in existing structures, requiring no plan review, not altering in any way the structural members of a building and meeting the definition set forth in [N.J.A.C. 5:23-2.17A](#).

"Municipality" means any city, borough, town, township or village.

"Municipal Procedures Manual" means the book established by the Commissioner, effective January 1, 1984, and any subsequent revisions, detailing the steps to be followed in completing, processing and filing the standards forms, logs and reports required for administration and enforcement of the State Uniform Construction Code.

"Operative date" means the date upon which the Department and local enforcing agencies shall enforce, and all parties shall comply with, an effective rule. Unless otherwise provided in the notice of adoption published in the New Jersey Register, the effective date is the operative date.

"Ordinary maintenance" means restoration or improvement of a routine or usual nature which is done by replacing a part of, or putting together, something that is worn or broken in a building, electrical, plumbing, heating, ventilation or air conditioning system and meeting the definition set forth in [N.J.A.C. 5:23-2.7](#).

"Owner" means the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person, firm or corporation, directly or indirectly in control of a building, structure or real property and shall include any subdivision thereof of the State.

"Plans and specifications" means and includes all of the written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of the project controlled by these rules and necessary for obtaining a permit. They shall be drawn to an appropriate scale. Where the plans and specifications show, describe or document features of the project not controlled by these rules, the portion(s) of the plans and specifications showing features not controlled by these rules shall not be considered to be "plans and specifications" within the meaning of this definition.

"Plumbing subcode official" means a qualified person appointed by the municipal appointing authority or the commissioner pursuant to the act and the regulations to enforce the provisions of the plumbing subcode within the jurisdiction of the enforcing agency.



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"Premanufactured system" or "premanufactured construction" means an assembly of materials or products that is intended to comprise all or part of a building or structure and that is assembled off-site by a repetitive process under circumstances intended to insure uniformity of quality and material content. The term shall include, but not be limited to, manufactured homes and industrialized/modular buildings.

"Primary function space" means a room or space housing a major activity for which the building or tenancy is intended, including, but not limited to, office area, auditorium, assembly space, dining room, bar or lounge, warehouse, factory, dwelling, care, confinement, retail, and educational spaces, but not including kitchens, bathrooms, storage rooms or other spaces supporting a primary function space. A building or tenancy may contain more than one primary function space.

"Prior approvals" means the necessary certifications or approvals issued or authorized by any Federal or State agency, or any political subdivision of the State, which are not inconsistent with this chapter and which are conditions precedent to the issuance of a construction permit or a certificate of occupancy or approval, as the case may be. Prior approvals shall include, but not be limited to, the following:

- 1.Zoning;
- 2.Soil erosion and sediment control;
- 3.Highway curb cuts;
- 4.Water and sewer treatment works approvals;
- 5.Coastal areas facilities review;
- 6.Compliance of underground storage tank systems with [N.J.A.C. 7:14B](#);
  - i.An approval granted by the Department of Environmental Protection or the construction official by authority of [N.J.A.C. 7:14B](#) shall be deemed to be a prior approval;
- 7.Educational adequacy review of public school facilities under [N.J.A.C. 6A:26](#);
- 8.Pinelands review; and
- 9.Compliance of abandoned wells with N.J.A.C. 7:9-9.
  - i.Compliance with N.J.A.C. 7:9-9.1 shall be evidenced by a certification issued by a well driller licensed by the Department of Environmental Protection.

"Private inplant inspection agency", or "evaluation and inspection agency", means a business entity authorized pursuant to [N.J.A.C. 5:23-4](#) or 4A to approve premanufactured construction.

"Private on-site inspection and plan review agencies" means a business entity authorized pursuant to [N.J.A.C. 5:23-4](#) to act in lieu of a subcode official.

"Public school facility" means any building or part thereof used by a local, regional or consolidated board of education as a primary or secondary school.

"Pylon sign" means an elevated sign supported either by a monopole or by multiple pole supports and having its bottom edge 15 feet or more above ground level, measured at the base of the longest pole if there is more than one, or an elevated sign mounted on the roof of another structure.

"Reconstruction" means any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied. Reconstruction may include repair, renovation, alteration or any combination thereof. Reconstruction shall not include projects comprised only of floor finish replacement, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

"Rehabilitation" means the repair, renovation, alteration or reconstruction of any building or structure.



## N.J.A.C. 5:23-1.4

"Renovation" means the removal and replacement or covering of existing interior or exterior finish, trim, doors, windows, or other materials with new materials that serve the same purpose and do not change the configuration of space. Renovation shall include the replacement of equipment or fixtures.

"Repair" means the restoration to a good or sound condition of materials, systems and/or components that are worn, deteriorated or broken using materials or components identical to or closely similar to the existing.

"State sponsored code change proposal" means any proposed amendment or code change adopted by the commissioner in accordance with subsection c. of section 6 of the act as amended for the purpose of presenting such proposed amendment or code change at any of the periodic code change hearings held by the National Model Code adoption agencies, the codes of which have been adopted as subcodes under the Act. For purposes of this definition a State sponsored code change proposal may also oppose any code change under consideration by a model code agency.

"Stop construction order" means the order provided for in [N.J.S.A. 52:27D-132](#) of the act and N.J.A.C. 5:23-2.

"Structure" means a combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above, or below the surface of a parcel of land; provided, the word "structure" shall be construed when used herein as though followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning.

"Subcode" means any of the national model codes, parts thereof or other codes or standards as adopted by reference in N.J.A.C. 5:23-3 or as set forth in [N.J.A.C. 5:23-7](#), 8, 10 and 12.

"Tenancy" means an entire building, or that portion of a building or story, which is or is intended to be under the control of a single owner or tenant.

"The Code in effect at the time of permit application" means either the Code in effect on the date of submission of a complete permit application or the Code under which the original plans were reviewed and released pursuant to [N.J.A.C. 5:23-1.6](#).

"Use" means that portion of a building or tenancy which is devoted to a single use group or special use or occupancy, as defined in the building subcode, or as established by the provisions of any other subcode for the purpose of specifying special requirements applicable to that portion of a building or tenancy.

"Use Group" means the classification of an occupancy (also see "Group").

"Wall sign" means a sign mounted on the wall of another structure in a manner such that it is exposed to wind loads from one side only.

"Work area" means any entire use, primary function space or tenancy comprising all or part of a reconstruction project as delineated on the approved permit application and/or plans.

## History

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### HISTORY:

As amended, R.1977 d.256, effective August 1, 1977.

See: 9 N.J.R. 164(a), 9 N.J.R. 358(a).

As amended, R.1978 d.162, effective June 1, 1978.

See: 10 N.J.R. 141(a), 10 N.J.R. 225(a).

As amended, R.1981 d.133, effective May 7, 1981.

See: 13 N.J.R. 119(a), 13 N.J.R. 258(c).

"Certificate of continued occupancy" and "prior approvals" recodified.

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As amended, R.1982 d.7, effective February 1, 1982.

See: 13 N.J.R. 717(a), 14 N.J.R. 142(a).

"Manufactured home" was "mobile home", and definition substantially amended. Added "or premanufactured construction" to "premanufactured system", and added "The terms ... homes".

As amended, R.1983 d.611, eff. January 3, 1984.

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

Added definitions of "major work", "minor work", "municipal procedures manual", "ordinary repair" and "small job".

As amended, R.1984 d.120, effective April 16, 1984.

See: 16 N.J.R. 179(a), 16 N.J.R. 873(a).

"Certificate of occupancy" added "[N.J.A.C. 5:23-1.4](#) have ... been found" to definitions.

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

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

Definition for "Facility" added.

Amended by R.1990 d.57, effective February 5, 1990.

See: 21 N.J.R. 3345(b), 22 N.J.R. 350(b).

Reference to compliance with N.J. Underground Storage of Hazardous Substances Act, and deletion of language excluding "public school buildings" from definitions of "building" and "structure".

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

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

Industrialized/modular buildings added to definition of premanufactured system.

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

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

Definitions of certificate of approval, elevator and elevator subcode official added.

Amended by R.1992 d.244, effective June 15, 1992.

See: 24 N.J.R. 1147(a), 24 N.J.R. 2243(a).

Definitions added for Class I, II and III structures.

Amended by R.1993 d.420, effective September 7, 1993.

See: 25 N.J.R. 2158(a), 25 N.J.R. 4072(a).

Amended by R.1993 d.580, effective November 15, 1993.

See: 25 N.J.R. 3692(a), 25 N.J.R. 5145(c).

Administrative correction.

See: 26 N.J.R. 2779(c).

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.544, effective October 16, 1995.

See: [27 N.J.R. 2827\(a\)](#), [27 N.J.R. 3933\(a\)](#).



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Amended by R.1996 d.190, effective April 15, 1996.

See: [28 N.J.R. 320\(a\)](#), [28 N.J.R. 1981\(a\)](#).

Added "construction documents".

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.1996 d.323, effective July 15, 1996 (operative January 1, 1997).

See: [28 N.J.R. 2112\(a\)](#), [28 N.J.R. 3549\(a\)](#).

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

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

Amended "Prior approvals" and "Subcode".

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

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

Amended "Prior approvals" and "Public school facility".

Amended by R.1998 d.28, effective January 5, 1998.

See: [29 N.J.R. 3603\(a\)](#), [30 N.J.R. 129\(a\)](#).

In list of definitions, added "Alteration", "Change of use", "Primary function space", "Reconstruction", "Rehabilitation", "Renovation", "Repair", "Tenancy", "Use", "Work area".

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

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

Changed "Ordinary repair" definition to "Ordinary maintenance".

Administrative change.

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

Amended by R.2003 d.216, effective May 19, 2003.

See: [35 N.J.R. 16\(a\)](#), [35 N.J.R. 2203\(a\)](#).

Deleted "Construction documents"; added "Plans and specifications".

Amended by R.2003 d.473, effective December 15, 2003.

See: [35 N.J.R. 2421\(a\)](#), [35 N.J.R. 5543\(a\)](#).

Deleted "Major work".

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

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

Added "Billboard", "Ground sign", "Pylon sign" and "Wall sign".

Amended by R.2004 d.393, effective October 18, 2004.

See: [36 N.J.R. 3003\(a\)](#), [36 N.J.R. 4814\(a\)](#).

Added "Group" and "Use Group".

Administrative Correction.

See: [38 N.J.R. 3024\(a\)](#).

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

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

Added definition "The Code in effect at the time of permit application".

Administrative correction.

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

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

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

In definition "Class I structure", substituted "vi" for "vii" and "xxii" for "xxi"; in definition "Class II structure", substituted "xxii" for "xxi"; and in definition "Class III structure", substituted "vi" for "vii".

Amended by R.2008 d.213, effective August 4, 2008.

See: [39 N.J.R. 2411\(a\)](#), [40 N.J.R. 4523\(b\)](#).

Rewrote definition "Manufactured home".

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

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

Substituted definition "Class 1 structure" for definition "Class I structure", definition "Class 2 structure" for definition "Class II structure", and definition "Class 3 structure" for definition "Class III structure"; and added definition "Manufacturing, production, and process equipment".

Amended by R.2018 d.090, effective March 5, 2018.

See: [49 N.J.R. 2327\(a\)](#), [50 N.J.R. 955\(a\)](#).

In definition "Minor work," deleted "no prior approvals and" following "requiring".

Amended by R.2020 d.130, effective December 7, 2020.

See: [52 N.J.R. 835\(a\)](#), [52 N.J.R. 2097\(a\)](#).

Deleted definition "Small job".

Annotations

## Notes

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### [Chapter Notes](#)

## Case Notes

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## N.J.A.C. 5:23-1.4

Citation to definitions of construction permit and certificate of occupancy. [Home Builders League of South Jersey, Inc. v. Evesham Twp., 174 N.J.Super. 252, 416 A.2d 81 \(Law Div.1980\).](#)

Citation to mobile home definition in former regulation (similar to present manufactured home definition); mobile homes acceptable form of moderate cost housing. [Southern Burlington County N.A.A.C.P. v. Twp. of Mt. Laurel, 161 N.J.Super. 317, 391 A.2d 935 \(Law Div.1978\)](#) affirmed in part, reversed in part [92 N.J. 158, 456 A.2d 390](#), on remand [207 N.J.Super 169, 504 A.2d 66.](#)

Because there was sufficient credible evidence in the record that repairs to an apartment unit that was damaged by Superstorm Sandy were completed by July 25, 2013, which was the date on which the owner applied for the Landlord Rental Repair Program (LRRP), the owner was eligible to participate in LRRP notwithstanding the fact that the contractor did not obtain a "certificate of approval" until [March 24, 2015. Nycir v. Dep't of Community Affairs, Sandy Recovery Div., OAL DKT. NO. CAF 16761-14, 2015 N.J. AGEN LEXIS 680](#), Initial Decision (August 11, 2015).

Applicant for construction permit must provide assurances that necessary prior approvals obtained. Riggins v. Pinelands Commission, 8 N.J.A.R. 441 (1985).

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## **N.J.A.C. 5:23-1.5**

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 16, August 16, 2021

**NJ - New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23.  
UNIFORM CONSTRUCTION CODE > SUBCHAPTER 1. GENERAL PROVISIONS**

### **§ 5:23-1.5 Effective date**

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(a)The provisions of the regulations shall take effect on January 1, 1977. All construction regulations incorporated in any act of the State of New Jersey, or of any municipality presently in effect, or validly promulgated or enacted by any board, department, commission or agency thereof, shall continue in effect until January 1, 1977, and shall thereafter be superseded and of no further force and effect. Any law or regulation addressing areas for which the commissioner shall not have promulgated a subcode may continue in effect until such time as a subcode therefor is adopted.

(b)Exceptions include:

- 1.This section shall not apply to those aspects of the act which were capable of taking effect on the effective date of the act.
- 2.This section shall not apply to those parts of [N.J.A.C. 5:23-4](#) which require the adoption of a resolution or other action prior to the effective date. Such section shall take effect upon adoption.
- 3.This section shall not apply to laws or regulations specifically saved by the act or the regulations.

Annotations

### **Notes**

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#### Chapter Notes

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## **N.J.A.C. 5:23-1.6**

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 16, August 16, 2021

**NJ - New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23.  
UNIFORM CONSTRUCTION CODE > SUBCHAPTER 1. GENERAL PROVISIONS**

### **§ 5:23-1.6 Grace period**

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(a) For a period of six months following the operative date of a subcode revision, applicants may submit a complete permit application, including all prior approvals, to be reviewed under the code in force immediately preceding the subcode revision. Provided that the application is complete, the construction official and applicable subcode officials shall perform the plan review and issue construction permit(s) based on the code in force immediately prior to the operative date of the subcode revision. This grace period shall apply only to revisions of subcodes.

(b) In the case of a project under review for which a permit has not been issued on the operative date of any subcode revision, review shall continue and permits shall be issued based on the code in force immediately prior to the operative date of the subcode revision.

### **History**

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#### **HISTORY:**

As amended, R. 1978 d.350, eff. October 1, 1978.

See: 10 N.J.R. 378(a), 10 N.J.R. 469(f).

As amended, R.1984 d.267, eff. June 14, 1984 to expire August 13, 1984.

See: 16 N.J.R. 1812(a).

New (c) added.

Readoption: R.1984 d.382, eff. August 13, 1984, to expire April 1, 1988.

See: 16 N.J.R. 1812(a), 16 N.J.R. 2356(d).

Administrative Correction to (b): Changed "receive" to "received".

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

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.1995 d.544, effective October 16, 1995.

See: [27 N.J.R. 2827\(a\)](#), [27 N.J.R. 3933\(a\)](#).

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

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

Amended section name; rewrote (a); and substantially amended (b).

Annotations

## Notes

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## **N.J.A.C. 5:23-1.7**

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***NJ - New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 23.  
UNIFORM CONSTRUCTION CODE > SUBCHAPTER 1. GENERAL PROVISIONS***

### **§ 5:23-1.7 Validity**

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(a) If any provision of the regulations or the application thereof to any person or circumstances is held invalid, the invalidity shall not effect other provisions or applications of the regulations which can be given effect, and to this end the provisions of the regulations are severable.

(b) Nothing contained in the act or the regulations shall be deemed to affect, repeal, or invalidate local zoning ordinances or the regulation or licensing of any trade or profession engaged in construction work.

Annotations

### **Notes**

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#### [Chapter Notes](#)

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