

June 24, 2019

Office of the Commissioner
Department of Community Affairs
P.O. Box 800
Trenton, NJ 08625-0800

Re: Petition for Rulemaking – UCC Ordinary Maintenance/Minor Work

Dear Lt. Governor Oliver,

On behalf of the New Jersey State League of Municipalities, and New Jersey's six professional code official associations (collectively, "Petitioners") I write to petition your office, pursuant to N.J.S.A. 52:14B-4(f), N.J.A.C. 1:30-4.1 and N.J.A.C. 5:2-2 et seq., requesting to amend the existing rules at N.J.A.C. 5:23-1.4, 2.7, 2.14, and 2.17A regarding ordinary maintenance and minor work provisions of the Uniform Construction Code ("UCC").

1. Full Name and Address of Petitioners

Please address all correspondence to Frank Marshall, Staff Attorney, League of Municipalities, 222 W. State Street, Trenton, NJ 08608. He can be reached by phone at 609-695-3481 x.137 or via email at FMarshall@njlm.org. This Petition for Rulemaking is submitted on behalf of:

- a. New Jersey State League of Municipalities
222 W. State Street
Trenton, NJ. 08608
- b. New Jersey Building Officials Association, Inc.
35 Highwood Ave
Waldwick, NJ 07463
- c. Municipal Construction Code Officials of New Jersey
430 Park Ave.
Scotch Plains, NJ 07076
- d. New Jersey Fire Prevention & Protection Association
P.O. Box 123
Short Hills, NJ 07078
- e. New Jersey Plumbing Inspectors Associations, Inc.
133 Maypink Lane
Howell, NJ 07731
- f. New Jersey Municipal Electrical Inspector Association
171 Glendale Dr.
Freehold, NJ 07728

2. Substance and Nature of Rulemaking That is Requested

Petitioners seek changes to the Department of Community Affairs' ("DCA") regulations regarding the Uniform Construction Code. Generally speaking, the request for rulemaking is a request to further modify and clarify the rules first proposed at 49 N.J.R. 2327(a) and adopted at 50 N.J.R. 955(a), (PRN 2017-171), for reasons of both safety and clarity.

Specifically, Petitioners first seek to amend N.J.A.C. 5:23-2.7 to remove certain items from being considered ordinary maintenance or minor work and once again making them subject to permitting and inspection requirements, as appropriate and to clarify others that have caused confusion among local inspectors and the public.

Second, Petitioners seek to amend N.J.A.C. 5:23-2.17A to remove from the minor work category large and extensive projects which need prior review of plans and specifications in order for the Code to be efficiently enforced, and which by their nature do not benefit from the expedited minor work permitting procedure.

Third, Petitioners seek to amend N.J.A.C. 5:23-2.17A to allow for an enforcing agency up to 30 days from the date of a request to inspect minor work. This inspection period is both more practical and more consistent with the intent of the minor work provisions of the Code as expressed in the rules.

The full text of the rule being petitioned for including the required rule summary and required impact statements, ready for submission to the Office of Administrative Law is attached to this petition.

3. Reason for Petitioners' Request

Municipal officials are tasked with ensuring the health, safety and welfare of their residents. Permitting and inspections of construction work is one of the most fundamental ways municipal officials perform this task. The UCC, in essence, is a safety code which provides a uniform framework that all municipal officials across the State must follow. It provides uniform standards for how construction projects must be performed and perhaps more importantly it provides for inspections, when appropriate, by trained and knowledgeable officials for enforcement of these standards.

While the UCC was never meant as a means of consumer protection, it did function as such when contractors know that their work was to be inspected by someone knowledgeable in construction. And while it is true that even without a permit or inspection requirement, contractors are obligated to follow the UCC, without inspections the work of a contractor who has failed to uphold these standards would go undetected until tragedy strikes.

Last year, the DCA made substantial changes to the UCC which expanded the scope of work that it considered "ordinary maintenance", which eliminated the need for permits, inspections, and prior notice for such work.

Those changes included allowing any amount of "decoration" in any use group. Flammable decoration material installed without permits and inspection have resulted in a significant number of major multiple death fires with death tolls up to 100. They also would allow the re-installation of decks located on upper stories of tall buildings when the existing deck has

suffered catastrophic structural failure and fallen to ground, at times with serious injuries. Such work should not be done without a permit. The replacement of fire doors and valves required to be of a child anti-scald type are also allowed without permits. The changes also allow the replacement of non-structural “components” and, in a separate provision, non-structural “elements” without specifically defining either of these, causing confusion as to the meaning.

Similarly, the rule changes made last year also expanded the scope of work categorized as “minor work.” Under the UCC, construction work that is defined as “minor work” allows the contractor to begin performing work after notice is given to the enforcement agency but before a permit is issued. Examples included constructing a finished basement, complete renovation of major multi-story buildings, and the replacement of high pressure boilers. While minor work jobs are inspected they do not involve the prior submission of any plans or material specifications. Although errors will be caught upon inspection, these inspections are very difficult to perform properly without plans and, more importantly, may result in the need to remove work already done. This, in turn, will cause residents and commercial property owners to experience an overall increase in the cost of construction when the work is not properly designed beforehand.

4. Petitioners’ Interest in the Request

a. New Jersey State League of Municipalities

Operating since 1915, the New Jersey State League of Municipalities is a voluntary non-profit association created to assist New Jersey’s local governments through the pooling of information resources and brain power. In addition, the League acts as the collective voice for New Jersey’s municipal government and, when necessary, advocates on their behalf at both the state and federal level. Over 560 mayors and 13,000 elected and appointed officials of member municipalities are entitled to all of the services and privileges of the League.

This is an issue of great concern for elected and appointed local officials across our state, who are tasked with ensuring and preserving the health, safety, and welfare of their communities. To that end, League Conference Resolution 2018-19 was adopted at the League’s annual conference calling for action on the matter. A copy of this Resolution is enclosed for your reference.

b. New Jersey Building Officials Association, Inc.

The New Jersey Building Officials Association is a not-for-profit organization devoted to protecting the health, welfare, and safety of the public by promoting professionalism, education, and ethics in the field of building.

This is an issue of great concern to all members of the NJ Building Officials association, who seek to ensure that the proper tools are given to all building officials so that the health, welfare, and safety of the State’s residents are preserved.

c. Municipal Construction Code Officials of New Jersey

The Municipal Construction Code Officials of New Jersey’s mission is to provide an informal forum whereby member construction officials exchange experience and ideas to enhance their professional development and better-serve their communities. Members exchange information and ideas with other construction officials concerning the administration of the NJ Uniform

Construction Code, construction board of appeal decisions, court decisions, and other information on current events that may be of particular interest to other licensed officials.

Municipal construction code officials have an interest in ensuring that safety standards found within the Uniform Construction Code are maintained so as to provide the necessary protection for New Jersey's residents. Without adequate provisions in the UCC requiring oversight from code officials New Jersey's residents are put in harm's way.

d. New Jersey Fire Prevention & Protection Association, Inc.

Established in 1962, the NJ Fire Prevention & Protection Association serves as a state level organization addressing fire safety issues. Members include fire marshal, fire inspectors, construction officials and inspectors, and fire safety educators, amongst others. The main objective of the Association is to provide information on fire safety and fire protection to all interested parties.

The Association has a clear interest in this matter to see that the UCC maintains specific standards that promote the safety and welfare of all New Jersey residents. Without proper inspection and oversight the lives and property of New Jersey's residents are put at a great risk. It is the interest of the Association to ensure proper fire prevention and protection measures be taken.

e. New Jersey Plumbing Inspectors Associations

The New Jersey Plumbing Inspectors Association was created to unite plumbing inspectors across the state for their mutual benefit. Members include active, licensed or formerly active plumbing inspectors. The purpose of the Association is to combat the causes and conditions that create a perpetuate disease or discomfort that arise from improper or faulty plumbing, and to work to create greater uniformity in enforcement of the Uniform Construction Code, with the underlying goal always being to achieve a highly proficient plan of public health protection.

The changes requested herein seek to undue recent amendments made to the Uniform Construction Code that seriously undermine the safety of the State's citizenry. Our members see many code violations daily and without the proposed changes sought by this application the problems will only be exacerbated.

f. New Jersey Municipal Electrical Inspector Association

The New Jersey Municipal Electrical Inspector Association was formed to cooperate in the formulation of standards for the safe installation of all electrical materials, equipment and utilization equipment. The Association works to promote statewide uniformity in code enforcement and understanding through educational seminars and programs with the goal to cultivate the advancement of the electrical inspection profession to better ensure the health, safety, and welfare of the State's citizens.

The changes requested within this petition are of a great concern for the Association. As professionals who serve to protect the public by ensuring compliance with safety standards, we must be granted the ability to inspect work as it is performed. The changes proposed in this petition for rulemaking allow for efficient and effective inspections.

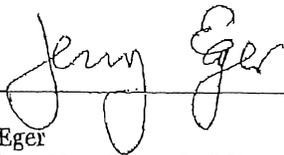
5. Statutory Authority Under Which the Department May Take the Requested Action

Under N.J.S.A. 52:27D-124 et seq., the New Jersey Legislature provided the Commissioner of the Department of Community Affairs the authority to adopt, amend, and repeal rules and regulations implementing the State Uniform Construction Code.

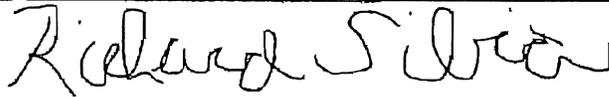
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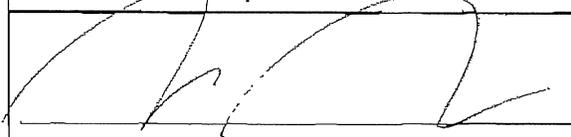
Hon. Colleen Mahr
President, NJ League of Municipalities



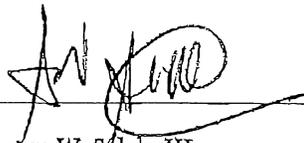
Jerry Eger
President, New Jersey Building Officials Association, Inc.
Chairman, Municipal Construction Code Officials of New Jersey



Richard Silva
President, New Jersey Fire Prevention & Protection Association



Mark Bocchino
President, New Jersey Plumbing Inspectors Associations, Inc.



George W. Selah, III
President, New Jersey Municipal Electrical Inspector Association

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Proposed Amendments: N.J.A.C. 5:23-1.4, 2.7, and 2.17A

Summary

This petition proposes amendments to the Uniform Construction Code (UCC) provisions governing ordinary maintenance (N.J.A.C. 5:23-2.7) and minor work (N.J.A.C. 5:23-2.17A). The ordinary maintenance provisions provide clarity regarding the types of work generally regarded to be maintenance work rather than construction work and which, therefore, do not require a construction permit. The minor work provisions of the Code provide an expedited permitting procedure for construction work of a minor nature. Minor work involves small jobs that do not require plan review, prior submission of specification information, or require construction to remain open and uncovered until an inspection is performed and where the nature of the work is such that a safety hazard is not created by placing the work in service before an inspection is performed. Minor work jobs are (or should be) small and many times can be completed in less time than it takes to obtain a permit.

The rules affected by this petition were first adopted on March 05, 2018, having been proposed on August 7, 2017. This petition seeks to further modify and clarify the rules as they were adopted at 50 N.J.R. 955(a) (PRN 2017-171). Approximately 40 specific changes were proposed and adopted through that rulemaking. This petition seeks to revise, clarify or modify 25 of them. As will be more specifically explained below the changes in question are unwise and create substantial public safety hazards; are unclear, inconsistent and contradictory; or inconsistent with law.

Adoption of the rules proposed by this petition will make New Jersey's citizens and visitors safer, will simplify the administration of the Code at the local enforcing agency level, ensure consistency in the application of the Code across the several municipalities; and enhance the wellbeing of property owners by preventing non-code compliant work by unscrupulous and/or unqualified contractors; all core purposes of the Uniform Construction Code Act.

1. At N.J.A.C. 5:23-1.4, Definitions, the words "prior approval" would be restored to the definition of minor work so that work which requires prior approvals could not be considered minor work even if it is otherwise defined as such. The March 05, 2018 rule adoption which removed the prior approval qualification in the minor work definition is bad public policy and not in accordance with black letter law. The current provision allows work which is not permitted by other laws such as zoning or environmental restrictions to be permitted and completed under the supervision of the municipal Construction Official, even where that official knows that the work may be prohibited by other related construction or development laws. The completed work would then have to be removed. This troublesome "left hand/right hand" situation is bad public policy – so bad, in fact, that it is prohibited by the Uniform Construction Code Act which provides that, "If the (permit) application conforms to this Act, the Code and the requirements of other applicable laws and ordinances, the enforcing agency shall issue a construction permit" (N.J.S.A. 52:27D-131(a)) (emphasis added). Since the minor work procedure contemplates that work may be started prior to submission of a permit application, it cannot be used where it will circumvent the requirement of law that all prior approvals must be obtained prior to the commencement of work. The law requires that the former language be reinstated.

2. At N.J.A.C. 5:23-2.7(c)1.ii. The provisions of the section, as amended by the adoption of March 5, 2018 conflates wall construction materials such as plaster and drywall with wall finishes such

as paint, wallpaper, vinyl wall coverings and ceramic tile. As a result it can be construed as allowing the installation of 25% of the wall construction of a single family dwelling. Whether this includes installation of entirely new structures is not clear. To call that maintenance does violence to Websters. This petition seeks to clarify the rule back to its original intent of allowing substantial repair of drywall and plaster without a permit in single family dwellings. While drywall and plaster are sometimes referred to as finishes, they are, under the code, wall construction materials. This change will clarify a portion of the recent rule which has caused considerable confusion. The petition also seeks to amend N.J.A.C. 5:23-2.7(c)1.iii below to clarify the rule with regard to real finishes.

3. At N.J.A.C. 5:23-2.7(c)1.iii the provisions of the Code with regard to true finishes is amended to make clear that any amount of finishes may be installed, removed, replaced or repaired at any location, in any amount and in any use group without a construction permit.

4. At N.J.A.C. 5:23-2.7(c)1.v. The petition amends the code to exclude fire doors from the general rule that doors and windows may be replaced in the same opening without a construction permit. The proper installation and operation of fire doors is a critical life safety feature of buildings. Inspections of replacements is essential to safety. The petition also amends the same section to require that replacement of means of egress doors and emergency escape windows must not reduce the existing opening or the dimensions of the clear egress opening. The current rule provides that the replacement door or window “may” do that but does not require it.

5. At N.J.A.C. 5:23-2.7(c)1.vi. Changes are proposed that, when combined with proposed changes to N.J.A.C. 5:23-2.7(c)1.vii will clarify those kinds of building parts and appurtenances that may be repaired, replaced or installed without a construction permit. The existing rule, as amended by the March 5, 2018 adoption, exempts from permit requirements non-structural “building components” (N.J.A.C. 5:23-2.7 (c)1.v) – and “building elements” (N.J.A.C. 5:23-2.7(c)vi.) These are not terms of art and they are not defined, leading to wholesale confusion on the part of local code officials and permit applicants. The proposed change clarifies what sort of construction work in an existing dwelling does not require a permit because it is essentially maintenance.

6. At N.J.A.C 5:23-2.7(c)1.vii the petition provides a companion change to the one in N.J.A.C. 5:23-2.7(c)1.vi., immediately preceding. This change would specify the types of building equipment and accessories which may be installed without a permit; what the March 5, 2018 adoption attempted to do but without clarity.

7. At N.J.A.C. 5:23-2.7(c) 1.viii the petition proposes to delete “decorations” from the list of items that may be installed in any building without a permit. This provision exempting any quantity of “decorations” in any use group from permit requirements was added to the Code by the March 5, 2018 adoption. It is extremely unwise and this proposal seeks to remove it. Combustible or flammable decorations installed without permits have been responsible for numerous multiple death fires including a recent one where 100 people lost their lives. Decorations in a home are one thing, decorations in buildings used by the public are another. The proposal also seeks to limit the amount and kind of trim and moldings allowed to be installed without a permit in accordance with long standing code provisions.

8. At N.J.A.C. 5:23-2.7(c)1.ix allowed the repair, replacement or installation of new flooring material without a permit. This petition provides that such flooring material may not be installed without a permit on walls or ceilings where the fire hazard posed by the materials may be severe.

9. At N.J.A.C. 5:23-2.7(c)1.x. the petition seeks to restore the 25% limit on the amount of new roofing that may be installed without a permit. 25% is more than adequate to allow any conceivable repairs without a permit. An entirely new roof should be inspected to ensure that substrate is sound, the supporting structure is not overstressed, existing attic ventilation is not compromised and that shingles are nailed properly so that they will remain in place in high winds. Full replacement should be minor work and this proposal so provides.

10. At N.J.A.C. 5:23-2.7(c)1.xiii. the petition amends the code to exclude the repair or replacement of the structural supports of a deck without a permit. The Code, before the March 5, 2018 adoption, limited this provision to porches and stoops – simple structures close to the ground. The adoption extended the provision to decks and provided no limits as to height above the ground. The replacement of the primary structure of a deck which is 12 feet or 600 feet above the ground is not trivial and should not be done without a permit. The proposal corrects that problem by largely reverting to the pre-March 5, 2018 language.

11. N.J.A.C. 5:23-2.7(c)2.vii is proposed to be amended to require permits for a shower and combination bath/shower valves. The March 5, 2018 adoption extended the valve replacement exception to permit requirements from single family homes to all use groups. The code requires special scald prevention valves. Non-compliant valves have led to severe scald injuries, especially among small children. These valves should be inspected whenever they are installed. This proposal restores this requirement in educational and residential occupancies.

12. N.J.A.C. 5:23-2.7(c)2.ix. restores the requirement for permits and inspections on replacement “grease traps”. The Code has long excepted other replacement traps from permit requirements but specialized grease traps are important to the proper function of sewer and sewerage treatment plants. Inspections are needed to ensure that they are properly replaced.

13. N.J.A.C. 5:23-2.7(c)2.x. restores the requirement that mass replacement of fixtures in other than single family homes requires a permit. The replacement of single defective fixtures would still be considered to be an ordinary repair but the wholesale replacement of fixtures in large residential buildings and non-residential buildings would still require a permit.

14. N.J.A.C.5:23-2.7(c)3.i. restores permit requirements for certain lighting fixtures which pose a significant hazard. Prior to the March 5, 2018 adoption, the exemption from permit requirements was limited to fixtures of less than 20 amps and less than 150 volts to ground. The adoption eliminated all limits in all uses. Now the lights at Met Life Stadium, high school gymnasiums, hazardous industrial uses and other similar locations can be replaced with anything without permits or inspections. The hazards of this policy are manifest. This petition revises that policy in the interest of safety by limiting such fixtures to 240 volts, the highest voltage normally found in a one or two family dwelling.

15. N.J.A.C. 5:23-2.7(c)3.v. This proposed amendment seeks to restore the requirement that replacement of kitchen range hoods in large buildings that vent to an internal building shaft require permits and inspections. Such installations are not trivial and may require special fans and fire dampers. Incorrectly done installations can compromise the safety of an entire high rise building.

16. N.J.A.C. 5:23-2.7(c)5.vi. This provision governing ordinary mechanical repairs is identical in language and purpose to the provisions of N.J.A.C.(c)3.v. governing electrical ordinary maintenance.

This petition restores certain limitations regarding the replacement of range hoods in a manner identical to the electrical provisions cited above.

17. N.J.A.C. 5:23-2.7(c)5.ix This petition proposes to treat bathroom exhaust fans in the same way as kitchen exhaust fans and limit treatment as ordinary repairs to those which do not vent to interior building shafts.

18. N.J.A.C. 5:23-17A(b).1 is amended to require sufficient information be included in the telephone or electronic notice of work to enable the enforcing agency to schedule inspections. This is very necessary due to the types of work now permitted as minor work by the March 5, 2018 adoption. A provision regarding consent to enter and inspect is also added.

19. N.J.A.C. 5:23-17A(b).2. is amended to delete the March 5, 2018 adoption's provision that no permit shall be issued if the fee is not paid. While fee payment is a legitimate concern, the solution defeats the entire UCC enforcement system. The enforcing agencies right to enter and inspect is gained through the issuance of a permit. This petition provides a more effective remedy for the circumstance in which a person provides notice but does not follow through with an application and fee. Work must stop and penalties be assessed for work without a permit beginning on the sixth day. The properly filed notice of work provides a limited five day license to proceed and does not authorize work beyond those five days.

20. N.J.A.C. 5:23-17A(c)1.ii is proposed to be amended to delete alteration work from the types or work permitted as minor work in existing one and two family dwellings. Alteration work, by definition, rearranges and creates space and may require egress improvements. Jobs such as finishing an unfinished basement with new bedrooms or living spaces require plan review and prior approval to prevent the unnecessary cost of removing work done not in accordance with code. Such jobs should not be under the minor work procedure.

21. N.J.A.C.5:23-17A(c)1.iii. is proposed to be amended to add additional examples of the types of replacement work that may be undertaken under the minor work procedure and a provision that the replacement work is identical to that replaced. If it is not, then plan review is required to prevent the installation and subsequent removal of non-Code compliant work. The existing provision is too vague and causes confusion by being subject to too many varying interpretations.

22. N.J.A.C. 5:23-17A(c)1.iv. is proposed to be deleted. This over broad provision seems to have been based on the incorrect assumption that renovation work is, by definition, minor. Nothing could be further from the truth. Renovation is a defined term in the Code that was created in order to classify work under the Rehabilitation Subcode so that different code requirements would be applied and different types of work (i.e. renovation, alteration, reconstruction, etc). Some renovation jobs are minor. Others are massive. The gut rehab of a twenty story building could be renovation. Such a job is not minor work and should be subject to the full permitting and inspection procedure. The provision is subject to a wide range of interpretations and has proven confusing. The carefully targeted and considered provisions of the rest of the minor work and ordinary repair provisions of the code, as amended by this petition, will provide much better clarity, precision and uniformity of application and will provide relief from full permitting requirements for jobs where it is most necessary and comprises an unnecessary regulatory burden. The overbroad provision proposed for deletion can lead to all sorts of mischief, hazards and unintended consequences by using an existing defined term which was created for an entirely different purpose (classification of work in order to impose only necessary requirements)

and use it, instead, to define those jobs which are small (minor). Minor work should refer to the scale of work, not just the type.

23. N.J.A.C. 5:23-17A.2. is proposed to be amended to delete replacement of high pressure boilers from the list of jobs which are minor work. The replacement of high pressure boilers had never been minor work until the March 5, 2018 adoption. In the rule proposal that led to that adoption the Department explained that this was proposed because “jurisdiction for high pressure boilers lies with the Department of Labor and Workforce Development.” This is flat out incorrect. The jurisdiction of the Department of Labor over high pressure boilers used for building services was terminated by operation of law on January 1, 1977, in accordance with the general repealer clause of the Uniform Construction Code Act. This was recognized by both DCA and the Department of Labor in a 1976 understanding that remains in effect to this day. The replacement of high pressure boilers entails very substantial safety issues that necessitate the full permitting procedures including review of plans and specifications. It is not minor work. This petition corrects the mistake of law included in the March 5, 20018 adoption and again requires permits for the replacement of high pressure boilers.

24. N.J.A.C. 5:23-17A(c)5.ii. is proposed to be amended to require permits for radon mitigation systems which penetrate floor/ceiling assemblies in multifamily residential buildings. Such assemblies are frequently required to be fire rated. Improper penetration of such assemblies creates fire safety hazards. Prior plan review is required to identify the location of such fire rated assemblies and to determine and approve a code compliant method of penetration

25. N.J.A.C. 5:23-17A(c)5.iii. is proposed to be amended for clarity. No change of requirement is proposed

26. N.J.A.C. 5:23-17A(d) is proposed to be amended to restore the 30 day requirement for inspection of minor work. The March 5, 2018 adoption changed this to three days which has long been the standard for progress inspections of ongoing work that is not permitted to be covered until the inspection is performed. Minor work is not of that nature. The minor work provision, originally and as amended by this petition, includes only those types of work that can be inspected and safely so up to 30 days later. The current provision, as adopted on March 5, 2018 places extremely difficult and unnecessary burdens on local enforcing agencies and necessitates additional staffing in already overstretched local building departments. This petition will restore reason to the procedure.

Social Impact

The amendments to N.J.A.C. 5:23-1.4, 2.7, 2.14 and 2.17A would have a positive social impact by reinstating permit requirements necessary for public health and safety for some work recently designated as ordinary maintenance and by clarifying ordinary maintenance and minor work designations. Clarity of requirements results in uniformity of enforcement, which is a benefit to all code users and to code enforcement officials.

Economic Impact

The amendments are expected to have a positive economic impact. Some work is being reclassified so that permits will be required and inspections will be performed. This will prevent the unnecessary expense of removing non-code compliant work because its nature was not clearly specified

and understood before work began. The additional clarity of designating work as ordinary maintenance or minor work will improve uniformity of understanding by all code users and consistency of enforcement among all code enforcement officials.

Federal Standards Statement

No Federal standards analysis is required because the amendments are not being proposed under the authority or, or in order to implement, comply with, or participate in, any program established under Federal law or any State statute that incorporates or refers to any Federal law, standards, or requirements.

Jobs Impact

These amendments are not expected to have an impact on jobs. Because the work being categorized is ordinary maintenance and minor work, it is not anticipated that jobs will be either generated or lost. The work addressed by this rule are, generally speaking, work projects that homeowners may perform themselves or are small projects that would not generate jobs.

Agriculture Industry Impact

These amendments are not expected to have an impact on the agriculture industry

Regulatory Flexibility Analysis

The proposed amendments address accountability standards related to construction. Some construction companies and many contractors are “small businesses” as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These amendments do not impose reporting or recordkeeping, nor do the proposed amendments create a need for other professional services. The amendments may affect compliance requirements, as discussed in the Summary above

Housing Affordability Impact Analysis

These rules, which address ordinary maintenance and minor work in existing buildings, are not expected to affect the affordability of housing or evoke a change in the average costs of housing.

Smart Growth Development Impact Analysis

These rules, which address ordinary maintenance and minor work in existing buildings, apply to small projects only and would not be likely to have any impact upon housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

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

SUBCHAPTER 1. GENERAL PROVISIONS

5:23-1.4 Definitions

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

.....

“Minor work” means construction work undertaken in existing structures, requiring **no prior approvals and** 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.

SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT: PROCESS

5:23-2.7 Ordinary Maintenance

(a)-(b) (No change)

(c) The following items are ordinary maintenance and shall be treated as such by every enforcing agency. No permit for, inspections of, or notice to the enforcing agency of ordinary maintenance shall be required. This is not an all-inclusive listing of ordinary maintenance.

1. Ordinary building maintenance shall include:

i. (No change.)

ii. [Installation,] R[r]epair or **partial** replacement of **deteriorated** interior [finishes] **wall materials such as plaster and drywall** of [less than] 25 percent **or less** of the wall **or ceiling** area **of any room of** a one- or two-family dwelling. [This shall include plastering and drywall installation];

[(1)Vinyl wall covering of any amount is ordinary maintenance;]

(1)[(2)] Paneling shall not be considered ordinary maintenance;

iii. **Installation, replacement or repair of w[W]all paper[ing], vinyl wall covering, ceramic tile, and painting in any amount at any location[;] in any use group;**

iv. (No change.)

v. The replacement of any window or door, including garage doors, **but excluding fire doors**, in the same opening without altering the dimensions or framing of the original opening. This shall include storm windows and storm doors. The replacement of means of egress and emergency escape windows and doors [may] **shall** be made in the same opening without altering the dimensions or framing of the original opening, and shall not reduce the required height, width, or net clear opening of the previous window or door assembly;

vi. The repair or replacement of any non-structural components, such as [a partition]**non-load bearing partitions and railings** in one and two-family dwellings; **any such replacements shall be identical in construction and location as those replaced;**

vii. The repair, replacement, or installation of any [non-structural] **built in or attached furnishing, bookcases, equipment or accessories [elements] , such as cabinets, medicine cabinets, benches or seats and bathroom accessories;**

viii. The repair, replacement, or installation of any interior or exterior trim, [decoration,] or moldings; **new installations of trim or molding shall be of solid wood or non-combustible material and shall not exceed 10% of the wall or ceiling surface to which they are applied;**

ix. The repair, replacement, or installation of any flooring material with a new material; **provided such flooring shall not be installed on walls or ceiling without a construction permit;**

x. The repair or replacement of **less than 25% of** existing roof covering on detached one- and two-family dwellings;

xi. The repair or replacement of existing siding on one- and two-family dwellings.

(1) Exception: The repair or replacement of polypropylene siding shall not be ordinary maintenance;

xii. The repair or replacement of existing siding with like material not exceeding 25 percent of the total building exterior wall area in other than one- and two-family dwellings.

(1) Exception: The repair or replacement of polypropylene siding shall not be ordinary maintenance;

xiii. The repair or replacement of any part of a deck, porch, or stoop that does not provide structural support for any roof or **other** portion of a building[;], **and is not more than 30 inches above the adjoining grade;**

xiv. – xvii (No change.)

2. Ordinary plumbing maintenance shall include:

i. – vi. (No change.)

vii. Replacement of valves[(including), **except** shower or combination bath/shower valves[;]] **in schools and residential occupancies;**

viii. (No change.)

ix. Replacement of traps[;], **except for traps on culinary sinks in restaurants and other food handling establishments;**

x. Replacement of **individual defective** fixtures in any use group or **the replacement of any fixtures in a single family home** with a similar fixture provided that no change in the piping arrangement is made; and

xi. (No change)

3. Ordinary electrical maintenance shall include;

i. The replacement of any receptacle, switch, or lighting fixture **of less than 240 volts to ground**, or part thereof, not containing emergency battery packs with a like or similar item. Receptacles in locations where ground-fault circuit interrupter protection, damp/wet, or tamper-resistant are required shall comply with Section 406.4(D) of the electrical subcode;

ii. – iv. (No change.)

v. Replacement of kitchen range hoods in dwelling units, provided that the replacement hood exhaust rate does not exceed the exhaust rate of the existing hood or the exhaust rate of the replacement hood does not exceed 400 cubic feet per minute (cfm)[;], **and provided that the hood is of a recirculating type or vents direct to the exterior and not to a building shaft;**

vi. – vii. (No change.)

4. (No change)

5. Ordinary heating, ventilation, and air-conditioning maintenance shall include:

i. – v. (No change)

vi. Replacement of kitchen range hoods in dwelling units, provided that the replacement hood exhaust rate does not exceed the exhaust rate of the existing hood or the exhaust rate of the replacement hood does not exceed 400 cfm[;], **and provided that the hood is of a recirculating type or vents direct to the exterior and not to a building shaft;**

vii. – viii. (No change)

ix. The replacement of bathroom exhaust fans in dwelling units [; and], **provided that the fan vents direct to the exterior and not to a building shaft, and**

x. (No change)

6. (No Change)

5:23-2.17A Minor Work

(a) (No change)

(b) Notice of work; application:

1. Notice of minor work shall be oral or written and submitted in person or electronically to local enforcement agency and shall be given before work commences; **the notice shall include a brief summary of the work, the location of the work and the dates and times that work will be taking place. Such notice shall be consent for the enforcing agency to enter and inspect in the same manner as a permit application is consent.**

2. In addition to the notice, the owner or his or her agent shall be required to file a permit application. The completed permit application shall be delivered in person or by mail to the enforcing agency, within five business days from the date of the notice. The fee shall be paid prior to the issuance of the construction permit. **If the application and fee are not so**

delivered, all work must cease . The construction official shall issue a stop work order and assess the penalty provided by this code for work without a permit. If work does not cease, then each day that it proceeds shall be considered a separate and distinct violation.

(c) Minor Work:

1. Minor work shall mean and include:

i. (No change)

ii. Renovation [or alteration] work in an existing one or two-family dwelling, provided that no primary structural members are altered in any way, and further provided that the work does not constitute reconstruction; and

iii. Repair or replacement with no reconfiguration of space of any non-structural component such as a partitions, **rails, windows, doors and further provided that any such replacements are identical to the components replaced** in structures other than one- and two-family dwellings; or

[iv. Repair and/or renovation work in a Group B, Group F, Group M or Group S occupancy performed in accordance with N.J.A.C. 5:23-6, but shall not include work categorized as ordinary maintenance pursuant to N.J.A.C. 5:23-2.7.]

iv. Replacement of more than 25% of the roofing material in one- or two-family dwellings.

2. (No change.)

3. Minor work shall also mean and include the replacement of existing **low pressure** boilers, warm air furnaces, air conditioning units, and air conditioning condensing units with new appliances of like capacity.

4. (No change)

5. Minor work shall also mean and include the following:

i. (No change.)

ii. The installation of a radon mitigation system **in single family dwellings**, provided no new electrical work is required[;], **and in other residential buildings when the system is vented direct to the exterior and does not pass through upper floor ceiling assemblies;**

iii. The installation of a burglar alarm, security system or doorbell in structures other than one- and two-family dwellings[.], **except those which control delay or sensor release egress doors.**

[(1)Exception: Controlled, delayed or sensor released egress doors;]

iv. –v. (No change)

6.-7. (No change)

(d) Inspection of minor work:

1. Inspections shall be required for minor work and the enforcing agency shall inspect any such work within [three business] **30** days of the request for inspection.

i. (No change)

2.(No change)

New Jersey State League of Municipalities Conference Resolution No. 2018-19

Regarding Recent Amendments to the Uniform Construction Code

WHEREAS, the State of New Jersey has adopted a Uniform Construction Code (“UCC”) with the purpose to provide for uniform construction standards to insure healthy, safe, and sanitary construction but also less expensive construction for the citizens of the State; and

WHEREAS, the Department of Community Affairs (“DCA”) has been granted authority to amend or alter provisions of the UCC to insure the intent and purposes of the UCC continue to be fulfilled; and

WHEREAS, municipal construction officials act as the enforcing agency tasked with administering and enforcing all provisions of UCC for construction within municipal boundaries; and

WHEREAS, permits and inspections form the foundation for the safe building environment; and

WHEREAS, the Department of Community Affairs made amendments to N.J.A.C. 5:23-1.4, 2.7, 2.14, & 2.17A, commonly referred to as the “Minor Work” and “Ordinary Maintenance” provisions of the UCC that took effect on March 5, 2018, which undermine the UCC’s intent and purpose; and

WHEREAS, unless these amendments are retracted or further remedial amendments are made to the UCC, the health, safety, and welfare of the citizens of the State will be jeopardized and residents could see overall construction expenses increase if work is not properly performed.

NOW, THEREFORE, BE IT RESOLVED, that the New Jersey State League of Municipalities hereby requests that administrative and/or legislative action be taken to minimize the negative impact associated with the recent amendments made to the UCC, in order to provide local officials with the tools necessary to insure healthy, safe, and sanitary construction and in turn protect the health, welfare, and safety of the citizens of our State; and

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to the Governor and Lieutenant Governor of New Jersey, the Commissioner of the New Jersey Department of Community Affairs, Division of Codes and Standards, and all members of the New Jersey State Legislature.

Sponsors:

The Hon. Paul Medany
Mayor, Deptford, NJ

The Hon. Nora Radest
Mayor, City of Summit, NJ