

# N.J. Admin. Code § 5:23-2.14

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

**(a)** It shall be unlawful to construct, enlarge, repair, renovate, alter, reconstruct or demolish a structure, or change the use of a building or structure, or portion thereof, or to install or alter any equipment for which provision is made or the installation of which is regulated by this chapter without first filing an application with the construction official, or the appropriate subcode official where the construction involves only one subcode, in writing and obtaining the required permit therefor.

1. Notwithstanding any provision of (b) below to the contrary, a permit shall be required for any work to abate violations cited in a Notice of Violation and Order to Terminate (F213) issued after a certificate of occupancy has been issued.

2. A permit is required when undertaking a project involving lead abatement for which a lead abatement clearance certificate is required pursuant to 5:23-2.23(p).

**(b)** The following are exceptions from (a) above:

1. Ordinary maintenance as defined in 5:23-2.7 shall not require a permit or notice to the enforcing agency;

2. Minor work as defined by 5:23-2.17A shall require a permit. However, work may proceed, upon notice to the enforcing agency, before the permit is issued;

3. Emergency work not involving lead abatement, except that notice shall be given as soon thereafter as is practicable, and a permit shall be applied for not later than 72 hours thereafter.

4. Exceptions to permit requirements for temporary structures, tents, tensioned membrane structures, canopies, and greenhouses are as follows:

i. Temporary structures: A construction permit is not required for the erection, operation or maintenance of any temporary structures (excluding tents, tensioned membrane structures, canopies, and greenhouses) covering an area less than 120 square feet, including all connecting areas or spaces with a common means of egress or entrance and which remain in place for less than 180 days;

ii. Tents, tensioned membrane structures, and canopies: A construction permit is not required for tents, tensioned membrane structures, and canopies that meet all of the criteria in (b)4ii(1) through (5) below. Tents, tensioned membrane structures, and canopies meeting the following criteria shall be subject to the permitting requirements of the Uniform Fire Code (5:70-2.7).

(1) The tent, tensioned membrane structure, or canopy is 140 feet or less in any dimension and 16,800 square feet or less in area whether it is one unit or is composed of multiple units;

- (2) The tent, tensioned membrane structure, or canopy remains in place or will remain in place for fewer than 180 days;
- (3) The tent, tensioned membrane structure, or canopy is used or occupied only between April 1 and November 30;
- (4) The tent, tensioned membrane structure, or canopy does not have a permanent anchoring system or foundation; and
- (5) The tent, tensioned membrane structure, or canopy does not contain platforms or bleachers greater than 11 feet in height.

iii. A temporary greenhouse, also called a "hoophouse" or "polyhouse," meeting the criteria stated in 5:23-3.2(d), shall not require a permit.

iv. Regardless of whether the tent, tensioned membrane structure, canopy, or greenhouse requires a permit, a permit shall be required for any electrical equipment, electrical wiring or mechanical equipment that would otherwise require a permit.

5. A gas utility company shall not be required to obtain a permit or give notice to the enforcing agency for the replacement of interior gas utility company-owned metering (meter and related appurtenances) with exterior gas utility company owned-metering provided that the work is performed by qualified employees of the gas utility company.

i. When the work is performed by a contractor hired by the gas utility, the following shall apply:

- (1) The contractor must be a licensed master plumber or a licensed heating, ventilation, air conditioning, and refrigeration contractor;
- (2) The utility company must have in place a quality control program, staffed by employees of the utility company, to oversee the work of the contractor. The quality control personnel will inspect and provide documentation for all work performed by the contractor;
- (3) The utility company must deliver, to the local enforcing agency, a list of all addresses where the work will be performed;
- (4) The local enforcing agency will randomly choose 10 percent of the addresses and issue permits and perform inspections of the completed work. Fees will be paid for these permits.
  - (A) If the rate of failed inspections is 20 percent or greater, the Department shall be notified and 50 percent of all of the utility company's work associated with this program must be inspected in accordance with this protocol until the failure rate is reduced to below 20 percent; and
- (5) Certificates of approval will be issued only for those addresses where construction permits were issued.

**6.** A permit shall not be required for a sign that meets all of the following conditions; provided, however, that the construction official shall have authority to require the removal of any sign that creates an unsafe condition or otherwise to require correction of any such condition:

- i.** It is supported by uprights or braces in or upon the ground surface;
- ii.** It is not served by an electrical circuit directly connected to the sign;
- iii.** It is not greater than 25 square feet in surface area (one side); and
- iv.** It is not more than six feet above the ground (mounted height).

**7.** Lead abatement work performed on a steel structure or other superstructure or in a commercial building.

**8.** A construction permit for building work shall not be required for garden-type utility sheds and similar structures that are 200 square feet or less in area, 10 feet or less in height, and accessory to buildings of Group R-2, R-3, R-4, or R-5 and which do not contain a water, gas, oil, or sewer connection. A construction permit for electrical work shall be required, when applicable.

**9.** A permit shall not be required for fences six feet or less in height. This exception does not apply to barriers surrounding public or private swimming pools.

**10.** A construction permit is not required for an outdoor maze, unless it is six feet or greater in height or contains any electrical equipment. Outdoor mazes that do not require a permit are subject to the permitting requirements of the Uniform Fire Code (5:70-2.7).

- i.** For the purposes of applying this requirement, an outdoor maze is an attraction that lacks a roof and is designed to disorient patrons, reduce vision, present barriers, or otherwise impede the flow of traffic and does not consist solely of living rooted plants such as corn stalks or trees, but includes mazes created from plants that have been cut and attached to an object to support them.

**(c)** An annual construction permit may be issued by the construction official to educational, industrial, institutional, mercantile, business and government facilities based upon submission of the following in duplicate:

- 1.** Identification of the facility and the buildings covered by the application for the annual permit.
- 2.** Identification of the location within the facility where the annual permit records will be maintained.
- 3.** A listing of the names, titles and trade specialties of the facility's full-time maintenance staff.
- 4.** The name of the person responsible for the maintenance logs, job assignments and quality control.

5. A statement from the management of the facility attesting that the maintenance staff performing work under the annual permit are under the direct supervision of a qualified individual, as set forth under 5:23-2.14(e)1, or are individually qualified in their respective trades.
  - i. Evidence of qualification shall be journeyman status, civil service status, trade experience, trade school certification, college degree, State licensure pursuant to law or other appropriate evidence of competence.
  - ii. No person employed on the maintenance staff of a facility shall be deemed to be qualified to engage in lead abatement unless he or she has been certified by the New Jersey Department of Health pursuant to section 3 of P.L. 1993, c.288 (N.J.S.A. 26:20-3 ) (see N.J.A.C. 8:62).
6. A statement from the management explaining their procedures for providing training at Department seminars on construction codes on a regular basis for at least one, but not more than three, individuals per subcode.
7. A statement from the management explaining the procedures of the applicant to ensure proper quality control of the work performed under the annual permit.
8. Receipt of the required annual permit fee and training registration fee.

(d) The Construction Official, upon review of the application, may issue or deny an annual construction permit in whole or in part. The construction permit (Form F-170) shall state that the permit is an annual permit and indicate the technical subcodes in which the facility is approved to do work under the annual permit. A copy of the annual permit shall be forwarded by the Construction Official to the Department of Community Affairs Training Section along with the appropriate training registration fee.

(e) Conditions of the annual permit are as follows:

1. The "annual permit" may be issued for building/fire protection, electrical, mechanical or plumbing work or any combination of those classifications of work, providing that the individual responsible for work done under the annual permit possesses knowledge as evidenced in accordance with 5:23-2.14(c)5, in the technical work classification for which the annual permit is sought.
  - i. An approved copy of the annual permit application shall be kept at a facility's maintenance office within the municipality having jurisdiction for review by the Construction Official and appropriate subcode official. The Construction Official shall be notified of the location of the facilities maintenance office.
2. The life of the annual construction permit shall be limited to one year;
3. The facility shall maintain a construction log of all work performed. The construction log shall contain the date, a brief description and estimated or actual cost of the project. This log shall be subject to a quarterly inspection by the construction official or his authorized representative. Any business record showing when and where work was done and the extent of such work shall be deemed to be a construction log: Applications for the renewal of the "annual permit" shall be filed with the Construction Official at least 60

days prior to the expiration of the current annual permit. The facility application shall make current the information previously submitted to the Construction Official. The application for renewal shall be accompanied by the established fee.

**4.** The annual permit covers all work subject to this chapter done by the facility's full-time maintenance staff, but shall not include work performed by outside contract even if the contractor is hired by the facility and is working under direct supervision of the facility's maintenance staff. Work performed by outside contract shall be subject to applicable UCC regulations and State Licensure Law.

**5.** A permanent work log, approved by the construction official, of all work done under the "annual permit" must be maintained at a facilities maintenance office on site or must be available at the time of the inspection upon 24 hours notice of such inspection. The log must contain the date, a brief description of the work, photographs for any work which was not inspected prior to closing as set forth in (e)8 below, and the name of the person supervising the work. The log shall be retained for three years.

**6.** Architectural or engineering drawings, as required by law for work done under the annual permit, shall be prepared by a registered architect or licensed engineer as defined by the statutory requirements of the professional registration laws of this State and shall be kept permanently on file and be made available to the Construction Official and appropriate subcode official, for review upon request.

**7.** The appropriate subcode official, at least two (2) times a year, shall perform inspections of the facility for which an annual permit has been issued. The maximum time between inspections shall be a six month period.

**8.** Work that is normally inspected prior to closing shall be ordered to be reopened by the facility upon written notice from the Construction Official or appropriate subcode official if he has reason to believe that a violation is present. A photograph shall be taken of any work intended to be enclosed without inspection.

**9.** Any work that is done under the supervision of the facilities maintenance staff and under a regular construction permit shall be entered into the annual permit log. The construction permit number shall be listed as a part of the entry.

**10.** Training for annual permits shall be provided at the seminars for code officials.

**i.** The facility shall provide a list of at least one, but not more than three, individuals per subcode who are required to complete five hours of continuing education per year.

**ii.** The Department shall maintain the training records for each annual permit. The annual permit shall not be renewed unless the facility completes the training for each issued subcode.

**iii.** The Department shall notify the construction official who issued the permit if the training has not been completed.

- 11.** Any changes to the annual construction permit application shall be forwarded to the Construction Official within 30 days of the change.
- 12.** The following work is not permitted under an annual permit:
  - i.** Any work done on a facility that would result in a change of use of a building or part of a building;
  - ii.** New buildings and additions regardless of size;
  - iii.** Renovation, alteration or reconstruction work completed between inspection periods in an area in excess of 5,000 square feet per building;
  - iv.** Any work done on a facility that would result in an increase to the area of a building;
  - v.** The installation or alteration of a sprinkler system;
  - vi.** Any work that affects the required means of egress;
  - vii.** Any modification work, other than routine maintenance, that affects life safety systems, such as, but not limited to:
    - (1)** Emergency lighting systems;
    - (2)** Smoke and heat detection systems;
    - (3)** Stand-by generator systems;
    - (4)** Emergency smoke evacuation systems.
  - viii.** Any work which would disturb asbestos and require a permit to perform.
- (f)** Construction requirements for commercial farm buildings shall be as set forth in 5:23-3.2(d).
- (g)** No person shall construct, enlarge, alter, reconstruct, or demolish a retaining wall or series of retaining walls having a total height four feet or greater, or a retaining wall less than four feet having a negative impact on a foundation, without first obtaining a construction permit. The height of a retaining wall shall be the sum of the heights of all retaining walls on the same slope and shall be measured from the bottom of the footing to the top of the wall.
  - 1.** Exceptions: This requirement shall not apply to any retaining wall that is intended to be dedicated to the municipality and is subject to regulation, inspection, and the issuance of bonds under Article 6. Subdivision and Site Plan Review and Approval, of the Municipal Land Use Law, P.L. 1975, c. 291 (40:55D-37et seq.) nor shall it apply to any retaining wall subject to review and approval by a county engineer or by the State Department of Transportation.

*N.J. Admin. Code § 5:23-2.14*

Amended by 48 N.J.R. 1908(a), effective September 19, 2016

Amended by 50 N.J.R. 303(a), effective January 16, 2018

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