

1 10A NCAC 14J .0103 is proposed for readoption with substantive changes as follows:

2
3 **10A NCAC 14J .0103 APPLICABILITY – CONSTRUCTION**

4 ~~(a) North Carolina State Building Code—Jails must meet the requirements of the North Carolina State Building Code~~
5 ~~in effect at the time of construction, additions, alterations or repairs. A new jail or an addition or alteration to an~~
6 ~~existing jail I and II shall meet the requirements of the North Carolina State Building Codes.~~

7 ~~(b) New Jails—The construction standards established in Section .1200 shall apply to all jail construction for which~~
8 ~~the final working drawings are approved by the Section after the effective date of this Rule. An existing jail I and II~~
9 ~~shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition,~~
10 ~~alteration, or repair.~~

11 ~~(c) Existing Jails—Existing jails shall continue to be governed by the existing construction standards which are now~~
12 ~~in Section .1500, and the same standards shall apply to new jails which have had final working drawings approved by~~
13 ~~the Section prior to the effective date of this Rule. Existing jails or new jails which have had final working drawings~~
14 ~~approved by the Section prior to the effective date of this Rule may choose to comply with any of the new construction~~
15 ~~standards in Section .1200 as a substitute for existing standards on the same subject in Section .3700. New jail~~
16 ~~construction or any additions or alterations to an existing jail I and II that have construction documents approved by~~
17 ~~the Construction Section on or after the readopted effective date of this Rule shall meet the requirements of this Rule~~
18 ~~and the rules of Section .1200 of this Subchapter.~~

19 ~~(d) Additions—The construction standards established in Section .1200 shall apply to any construction that adds~~
20 ~~square footage to the building and for which the final working drawings are approved after the effective date of this~~
21 ~~Rule. Existing jail I construction that has construction documents approved by the Construction Section prior to June~~
22 ~~1, 1990 shall meet the requirements of this Rule and the rules of Section .1500 of this Subchapter.~~

23 ~~(e) Alterations or Repairs—When alterations or repairs are made to an existing jail building which affect its structural~~
24 ~~strength, exits, fire hazards, electrical systems, mechanical systems, or sanitary conditions, such alterations or repairs~~
25 ~~shall comply with the standards for new construction established in Section .1200. Unaltered portions of the building~~
26 ~~shall only be required to comply with the new construction standards indicated in Section .1200 under the~~
27 ~~circumstances specified in Paragraphs (f)–(h) of this Rule. Existing jail II construction that has construction documents~~
28 ~~approved by the Construction Section on or after June 1, 1990 and prior to the readopted effective date of this Rule~~
29 ~~shall meet the requirements of:~~

30 (1) this Rule; and

31 (2) Rules .1202 through .1226 of this Subchapter that were in effect at the time the construction
32 documents were approved by the Construction Section.

33 (f) Previous versions of the rules of Section .1200 of this Subchapter can be accessed online at
34 <https://www2.ncdhhs.gov/dhsr/jail/index.html>.

35 ~~(f) (g) Extensive Annual Alterations or Repairs—If, within any 12 month period, alterations or repairs costing in excess~~
36 ~~of 50 percent of the then physical value of the building are made to an existing jail, the entire jail shall conform to the~~
37 ~~construction standards for new jails established in Section .1200. A jail that is closed and later reopened shall meet~~

1 the requirements of Paragraph (c) of this Rule. A jail is not closed if within the same twelve month period of time the
 2 jail has either:

3 (1) housed inmates; or

4 (2) been inspected by the Construction Section as required by G.S. 153A-222.

5 ~~(g) (h) Reconstruction After Damage—If an existing jail is damaged by fire or otherwise in excess of 50 percent of~~
 6 ~~the then physical value of the building at the time of damage, the jail shall be reconstructed in conformance with the~~
 7 ~~construction standards for new jails established in Section .1200. Any existing building converted from another use to~~
 8 ~~a new jail shall meet the requirements of Paragraph (c) of this Rule.~~

9 ~~(h) (i) Physical Value—For the purpose of this Rule, the physical value of the jail building shall be determined by the~~
 10 ~~local building inspection department. Prior to changing a jail's total design capacity by the addition or removal of~~
 11 ~~bunks, the alterations of rooms, or a change in use of space, the governing body shall submit a written request of the~~
 12 ~~change to the Construction Section and obtain a written approval of the change from the Construction Section. For a~~
 13 ~~new jail or an existing jail I, changes to their total design capacity shall comply with the requirements for a new jail~~
 14 ~~as set forth in Paragraph (c) of this Rule. For an existing jail II, changes to its total design capacity shall comply with~~
 15 ~~the requirements of Paragraph (e) of this Rule.~~

16 (j) This Rule and the rules contained in Sections .1200, .1500, .1600, and .1700 of this Subchapter are minimum
 17 requirements and are not intended to prohibit jail construction, systems, or operational conditions that exceed these
 18 minimum requirements.

19 (k) The Division may grant an equivalency to allow an alternate design or functional variation from the requirements
 20 of this Rule and the rules contained in Sections .1200, .1500, .1600, and .1700 of this Subchapter. The equivalency
 21 may be granted by the Division when a governing body submits a written equivalency request to the Division that
 22 indicates the following:

23 (1) the rule citation and the rule requirement that will not be met;

24 (2) the justification for the equivalency;

25 (3) how the proposed equivalency meets the intent of the corresponding rule requirement; and

26 (4) a statement by the governing body that the equivalency request will not reduce the safety and
 27 operational effectiveness of the jail design and layout.

28 The governing body shall maintain a copy of the approved equivalence issued by the Division.

29 (l) If the rules, codes, or standards contained in this Subchapter conflict, the most restrictive requirement shall apply.

31 *History Note: Authority G.S. 153A-221;*

32 *Eff. June 1, 1990-1990;*

33 *Readopted Eff. December 1, 2018.*