

Amended by R.1991 d.359, effective July 15, 1991.

See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

Fire official to serve as the chief administrator of the local enforcing authority.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:71-2.4 Fire districts

(a) If a fire district designated as a local enforcing agency under this subchapter is dissolved, the fire department within the territorial area of the dissolved district shall have the option, within 30 days of the dissolution, to assume the local enforcing agency responsibilities. If the fire department does not exercise the option, it shall pass to another district within the municipality, and if not exercised by another district shall pass to the municipality itself. The district and municipality shall each have 15 days in which to decide the matter.

1. If the dissolved district has combined with another district or districts, the remaining district(s) shall have the option, within 30 days of the dissolution, to assume local enforcing agency responsibilities. If this option is not exercised, it shall pass to the fire department within the territorial area of the dissolved districts and, if not exercised, shall pass to the municipality. The department and municipality shall each have 15 days in which to decide the matter.

2. Exercise of the option shall be evidenced by a written notice signed by the party authorized to act on behalf of the entity. This notice shall be delivered to the municipal governing body which enacted the ordinance authorizing local enforcement. In addition, a copy shall immediately be forwarded to the Division.

3. The local enabling ordinance governing the local enforcing agency shall be modified if necessary and promptly filed with the Division. The new local enforcing agency shall promptly assume local enforcing agency responsibilities and notify the Division.

4. If, within 60 days of dissolution, the Division has not received proper written notice of the assumption of a dissolved district's obligations, the Division shall assume responsibility.

(b) Fire districts created after June 18, 1985, shall have 60 days from the date of the first meeting of the Board of Commissioners in which to request designation as a local enforcing agency in accordance with the provisions set forth in this subchapter. If such a request is made and a local enforcing agency exists, the district and such agency shall cooperate in transferring the local enforcing agency responsibilities.

Amended by R.1985 d.611, effective December 2, 1985.

See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

(c)4 deleted; (c)5 renumbered as (c)4.

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:71-2.5 State enforcing agency; establishment

The Division is constituted as the State enforcing agency for the purpose of administering and enforcing the Code in those areas where a local enforcing agency has not been established or designated for the inspection of life hazard uses and as provided in N.J.A.C. 5:70-2.2(b)3.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:71-2.6 Collection of and accounting for fees and penalties

##### (a) Collection of registration fees:

1. The Division shall annually bill for and take such steps as may be necessary to collect or provide for the collection of the annual registration fees provided for by the Code. No fee shall be assessed against premises owned by the agency enforcing the Code.

2. The Division shall remit 65 percent of the amount collected, unless indicated otherwise below, to the local enforcing agency established for the inspection of life hazard uses. This payment shall be disbursed by the end of the quarter next succeeding the one in which the fees were collected.

i. In those cases in which a fee has been reduced effective November 1, 1996, and that reduction would result in the loss of revenue to a local enforcing agency for life hazard uses registered prior to that date, the Division shall adjust upward from 65 percent the percentage remitted in order to eliminate or reduce that loss.

ii. In no case shall the percentage remitted exceed 100 percent of the amount collected.

3. The local share shall not be considered State funds but rather local funds held in trust by the State.

4. Where a local enforcing agency has been assigned a certificate of judgment in accordance with N.J.A.C. 5:70-2.6(g)1, it shall remit 35 percent of the net amount collected to the Division by the end of the quarter next succeeding the one in which the fees were collected unless, however, the fee collected is one where the Division has adjusted upward the percentage to be remitted, in which case the amount remitted to the Division shall be the difference between the adjusted percentage and 100 percent.

i. The local enforcing agency may deduct the costs of collection from the total amount collected provided an accounting of the costs is included with the remittance. Any such deduction shall be made prior to calculating the required remittance.

(b) Permit fees and other fees provided for or allowed by the Code or any local ordinance or any penalties shall be

collected and retained fully on behalf of the enforcement agency having jurisdiction. Penalties collected by the Division for failure to register or for late payment of fees shall be retained fully by the Division.

(c) All revenues collected by the Division shall be deposited in the Fire Safety Revolving Fund created by the Treasurer of the State of New Jersey. Expenditures may be made from the fund to carry out any of the responsibilities of the Division.

(d) All revenues generated pursuant to the Act or local implementing ordinance which are collected by or provided to a county or municipality shall be appropriated by the local governing body to the local enforcing agency for the purpose of enforcing the Code, operating the local enforcing agency and advancing local fire prevention interests.

(e) The Division shall have no obligation to a local enforcing agency in respect of fees due but not collected in any given quarter.

Amended by R.1985 d.611, effective December 2, 1985.

See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

(b) deleted; (c)-(e) renumbered (b)-(d).

Emergency amendment, R.1989 d.404, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2126(a).

In (a)2 and 3: changed "80 percent" to "70 percent".

Adopted concurrent proposal, R.1989 d.513, effective September 1, 1989.

See: 21 N.J.R. 2126(a), 21 N.J.R. 3084(a).

Provisions of emergency amendment R.1989 d.404 readopted without change.

Amended by R.1991 d.504, effective October 7, 1991.

See: 23 N.J.R. 2234(a), 23 N.J.R. 2999(a).

Local enforcing agency to receive 65% of fees.

Amended by R.1992 d.104, effective March 2, 1992.

See: 23 N.J.R. 3552(a), 24 N.J.R. 739(a).

Text on collection of judgements added at (a); stylistic changes.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Amended by R.1996 d.501, effective October 21, 1996.

See: 28 N.J.R. 3853(a), 28 N.J.R. 4578(a).

### 5:71-2.7 Registry of agencies

(a) Each municipality that passes an ordinance establishing a local enforcing agency shall file a copy of same with the Division within two weeks of final adoption. Each county that passes an ordinance or resolution establishing a county enforcing agency shall file a copy of same with the Division within two weeks of adoption.

1. Any municipality or county that later amends a resolution or an ordinance that established an enforcing agency shall file a copy of the amendments with the Division within two weeks of adoption.

2. A municipality or county that does not file an ordinance or resolution shall be deemed not to have passed one, in which case, the Division shall enforce the Code in that jurisdiction.

(b) The Division shall compile those ordinances and resolutions and shall issue quarterly a Registry of Enforcing Agencies. The Registry shall be made available to the general public and shall show what agency is responsible to enforce the Code and what agency is responsible to inspect life hazard uses in every area of the State.

(c) The status of any enforcing agency with respect to responsibility to enforce the Code or inspect life hazard uses shall change as of the deadline date for submission to the next applicable quarterly registry unless the Division assumes jurisdiction in accordance with these regulations. Submission deadline dates for the registry are as follows:

i. For the annual (first quarter) registry, December 31 of the previous year.

ii. For the second quarter registry, March 31; for the third quarter registry, June 30; and, for the fourth quarter registry, September 30.

(d) If the Commissioner returns jurisdiction to a local enforcing agency pursuant to N.J.A.C. 5:71-2.10, the effective date shall be the deadline date for submission of the next quarterly publication of the Registry of Enforcing Agencies following the Commissioner's decision.

(e) When the Division assumes responsibility pursuant to N.J.A.C. 5:71-4.3(c), then the effective date shall be the 61st day after the vacancy occurs unless the Division grants a 30 day extension as provided in N.J.A.C. 5:71-4.3(c).

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

### 5:71-2.8 Amendments to the Code

(a) Local amendments of the technical standards of N.J.A.C. 5:70-3 and 4 are permitted to be adopted by ordinance but no such amendment shall require a building which complies with the Uniform Construction Code to conform to a more restrictive standard.

(b) No amendment to N.J.A.C. 5:70-1 and 2 is permitted except for permit and certificate of smoke detector compliance fees in accordance with N.J.A.C. 5:70-2.7.

(c) Any amendments adopted shall be filed with the Division in accordance with N.J.A.C. 5:71-2.7(a).

(d) Whenever any person believes that a locally adopted amendment establishes a more restrictive requirement than that established for the same building or circumstance by the Uniform Construction Code, then that person may apply to the Commissioner for a determination pursuant to N.J.S.A. 52:14B-8.

1. Any such application shall be in writing and shall set forth the particular provision of the local amendment which is allegedly more restrictive and the reasons the person believes it to be so.

2. The Commissioner shall issue a preliminary ruling stating whether or not the amendment establishes a more restrictive requirement and shall notify the applicant and the local enforcing agency. Each party shall have 30 days in which to file exceptions to the preliminary ruling after which the Commissioner shall adopt it as originally set forth or as modified and make it a final ruling.

3. A final ruling which finds an amendment to the Code adopted by local ordinance to be more restrictive shall set forth each particular in which the ordinance is more restrictive. Those particulars shall be declared invalid and shall be of no further force or effect.

Amended by R.1993 d.628, effective December 6, 1993.  
See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).  
Amended by R.1995 d.58, effective March 6, 1995.  
See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:71-2.9 Conflict of interest

(a) No person employed by an enforcing agency as a fire official or fire inspector shall carry out any inspection or enforcement procedure with respect to any property or business in which he or she or a member of his or her immediate family has an economic interest.

1. Where an inspection or enforcement procedure is necessary or required in any such property or business, then the fire official shall arrange for the inspection or enforcement to be carried out by the county enforcing agency, the local enforcing agency of an adjoining jurisdiction or the Division of Fire Safety.

(b) No person employed by an enforcing agency as a fire official or fire inspector shall engage in, or otherwise be connected directly or indirectly for purposes of economic gain with, any business or employment furnishing labor, materials, products or services related in any way to fire safety within any municipality in which he or she is employed by an enforcing agency or in any municipality adjacent to any municipality in which he or she is thus employed.

(c) Persons subject to this section shall annually report any income or benefits received from any property or business subject to the Code, or from any business furnishing materials, products, labor or services for types of work subject to the Code, to the municipal governing body. This report shall include a list of all sources of income, but need not list the amount.

(d) No person employed by a municipal enforcing agency as a fire official or fire inspector shall be employed to appear before any construction board of appeals, or be involved in any court proceeding within the State, as a paid expert witness, or in any other compensated capacity, in any

proceeding involving the enforcement of the Uniform Fire Code except on behalf of another enforcing agency, or as a court-appointed witness.

1. This prohibition shall not apply to any litigation not involving enforcement of the Code, or to appearance as a fact witness; nor shall it apply to any activities unrelated to an action for, or an appeal of, enforcement of the Code.

(e) This section shall not apply to:

1. The ownership of stock or other investment instrument of any corporation listed on any national stock exchange;

2. Any business or employment outside the State;

3. Dual employment by two or more enforcing agencies;

4. Any business or employment that is not subject to the Code; or

5. Service as an instructor in a code enforcement training program.

(f) Nothing herein shall prohibit a county or a municipality from establishing, by ordinance or resolution, more restrictive provisions regarding conflict of interest.

Amended by R.1992 d.243, effective July 6, 1992.  
See: 24 N.J.R. 678(a), 24 N.J.R. 2422(a).

Conflict of interest provisions added at (b), (c) and (d); exception added at (e); redesignated existing (e) as (f).  
Amended by R.1993 d.628, effective December 6, 1993.  
See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).  
Amended by R.1995 d.58, effective March 6, 1995.  
See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:71-2.10 Departmental monitoring

(a) The Division of Fire Safety shall institute a regular program of monitoring local enforcing agencies to ensure that the Code is being properly enforced. This monitoring program shall provide for a regular schedule of random field visits, as well as monitoring visits in response to complaints.

(b) When making a monitoring visit, the Division shall determine:

1. Whether the fire official and any inspectors are certified in accordance with the requirements of these regulations;

2. Whether all fees are being received and properly accounted for and whether required collection procedures are being implemented in the case of delinquent fees;

3. Whether all required periodic inspections of life hazard uses are being carried out when required by law;

4. Whether all inspections required in conjunction with required permits are being carried out;

5. Whether records are being maintained for all inspections;

6. Whether enforcement action as required by the Code is being taken when violations are found or when the owner fails to correct them;

7. Whether the local enforcing agency has an effective program to discover unregistered life hazard uses or activities which require a permit which do not have them;

8. Whether the local enforcing agency has an adequate number of inspectors and other staff for its workload;

9. Whether the local enforcing agency is in violation of any requirement of these regulations.

(c) If the Division determines that a local enforcing agency has failed to enforce the Code properly, then the Division shall notify the local enforcing agency of this determination and direct corrective action as needed.

(d) The local enforcing agency shall have 15 days in which to contest the Division's findings by filing exceptions in writing with the Division. The Division shall consider any such exceptions and issue a final finding.

(e) Where the local enforcing agency shall fail to take corrective action, where the failure to enforce the Code is pervasive and substantial, or if the agency is improperly constituted then the Division shall notify the local enforcing agency of its determination or final finding and shall thereafter assume responsibility for all inspection and enforcement with respect to life hazard uses within the jurisdiction of the local enforcing agency. All fees and penalties associated with the enforcement in life hazard uses shall from that date forward be paid to the Division.

(f) Where the Division has assumed responsibility the local agency may petition the Commissioner to return jurisdiction. The petition shall set forth the corrective action the local enforcing agency has taken, or will take, to ensure proper enforcement of the Code. The Commissioner may return jurisdiction if he or she finds that the Code will be properly and fully enforced.

Amended by R.1993 d.628, effective December 6, 1993.  
See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).  
Amended by R.1995 d.58, effective March 6, 1995.  
See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

### 5:71-2.11 Right of appeal

In accordance with N.J.S.A. 52:27D-206, any person or agency aggrieved by a notice, order, action or decision of the Division pursuant to this subchapter shall be entitled to a hearing before the Office of Administrative Law pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1, provided that a request for a hearing is submitted to the Hearing Coordinator, Department of Community Affairs, PO Box 802, Trenton, New Jersey 08625-0802 within 15 days of the person or agency's receipt of the notice or order complained of.

Amended by R.1993 d.628, effective December 6, 1993.  
See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).  
Amended by R.1995 d.58, effective March 6, 1995.  
See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

## SUBCHAPTER 3. ORGANIZATION, ADMINISTRATION AND ENFORCEMENT

### 5:71-3.1 Applicability

The provision of this subchapter shall apply to all local and county enforcing agencies. The term local enforcing agency shall mean and include county enforcing agencies whenever the term is used in this subchapter.

Amended by R.1995 d.58, effective March 6, 1995.  
See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

### 5:71-3.2 Local enforcing agencies; organization

(a) The fire official shall be appointed in the manner provided for in the ordinance establishing the local enforcing agency. He or she shall serve as the chief administrator of the agency. He or she shall establish the day-to-day operating routines of the agency and shall coordinate the activities of any inspectors or other staff. He or she shall be certified in accordance with N.J.A.C. 5:71-4.

(b) The municipality, fire district and the fire department shall ensure that the enforcing agency has an adequate number of inspectors to complete all necessary inspections and review all permit applications and act on them in a timely manner as well as sufficient staff to ensure that enforcement actions are taken in a timely manner when violations are found and not corrected. Any inspectors engaged in the inspection of life hazard uses shall be certified as specified in N.J.A.C. 5:71-4.

(c) The local enforcing agency shall be subject to direction from the appointing authority and such subordinate officers as may be designated in the adopting ordinance.

(d) The municipality or fire district shall specifically appoint legal counsel to assist and represent the local enforcing agency in all matters related to the Code. Such legal counsel shall advise the agency and undertake such actions at law as the fire official shall deem necessary.

Amended by R.1985 d.611, effective December 2, 1985.  
See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).  
(c) substantially amended.  
Amended by R.1995 d.58, effective March 6, 1995.  
See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

### 5:71-3.3 Duties of fire officials and fire inspectors

(a) The fire official shall enforce the code and the regulations and shall:

1. Maintain certification with the Division pursuant to N.J.A.C. 5:71-4;

2. Ensure that notices of violations are served whenever inspections reveal violations;
3. Provide that permit applications are available and assist the public on preparing them when necessary;
4. Review all permit applications for completeness as to form;
5. Ensure that the inspection required for the issuance of a permit is performed in a timely manner;
6. Ensure that no activity or use which requires a permit is carried out without one;
7. Ensure that all life hazard uses are registered;
8. Assist the Division, when requested, with any registration application;
9. Coordinate with the fire subcode official where work to be done to comply with the Fire Code requires a construction permit;
10. Collect all fees and penalties due the local enforcing agency and ensure that they are properly accounted for;
11. Ensure that all requests for variances are properly prepared, documented and approved or denied in a timely manner;
12. Ensure that all persons seeking to appeal are promptly referred to the Construction Code Board of Appeals;
13. Record all notices of violation and determine the amount of all penalties for non-compliance;
14. Ensure that a report of every inspection is completed and properly filed;
15. Take reasonable measures to determine when imminent hazards exist and enforce the law as provided for by the Code;
16. File such reports as the Division may from time to time require;
17. Supervise the work of any assigned inspectors or enforcement personnel to ensure compliance with the Code, completeness and accuracy;
18. Ensure that any agency staff members requiring certification have been certified;
19. Ensure that the procedures of the local enforcing agency conform to the requirements of the Code and the regulations;
20. Prepare and obtain reports required by the regulations;
21. Attend meetings and hearings as required by the Code and the regulations;
22. Coordinate the activities of the local enforcing agency with other Code enforcement agencies and State agencies having a related interest or responsibility;

23. Carry out such other functions as are necessary and appropriate to the position of fire officials including coordinating transition to a successor fire official;

24. Respond to and cause to be investigated any complaints brought under the Code;

25. Investigate, or cause to be investigated, every reported fire or explosion occurring within the jurisdiction that involves the loss of life or serious injury or causes destruction or damage to property. Such investigation shall be initiated immediately upon the occurrence of such fire or explosion; and if it appears that such an occurrence is of a suspicious nature, the fire official shall take charge immediately of the physical evidence, and in order to preserve any physical evidence relating to the cause or origin of such fire or explosion, take means to prevent access by any person or persons to such building, structure or premises until such persons designated by law to pursue investigations into such matters become involved and shall further cooperate with such authorities in the collection of evidence and prosecution of the case.

(b) Whenever a fire death occurs within the jurisdiction of a local enforcing agency, the fire official shall notify the Division of Fire Safety via telephone within 48 hours of the death. A Fire Incident and Casualty report shall be forwarded to the Bureau of Fire Safety within 30 days.

(c) The fire inspector shall enforce the Code and the regulations under the direction of the fire official and shall:

1. Maintain certification with the Division pursuant to N.J.A.C. 5:71-4;
2. Conduct field surveys to identify and register life hazard uses;
3. Conduct fire inspections to ensure compliance with the Code;
4. Where authorized to do so by the fire official, prepare violation notices and orders to abate and serve to the public;
5. Witness the testing of installed detection and protection systems as required by the Code;
6. Read, interpret and apply codes, standards and regulations, including issuing permits;
7. Meet with owner and occupants to explain violations and hazards; and
8. Carry out such other functions as are necessary and appropriate to the position of fire inspector.

Amended by R.1985 d.611, effective December 2, 1985.

See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

(a)25 added.

Amended by R.1989 d.556, effective November 6, 1989.

See: 21 N.J.R. 2431(a), 21 N.J.R. 3453(a).

Death reporting requirements established at new (b).

Amended by R.1991 d.359, effective July 15, 1991.

See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

Duties of fire inspector specified.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.



See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:71-3.4 Records

(a) The local enforcing agency shall maintain a central file system for each property, building or use that requires a periodic inspection or a permit.

1. The files shall contain all information, including inspection reports, correspondence, notices and orders, and so forth, relevant to each property, building or use.

2. The files shall contain, or indicate the storage location of, all plans and reports too bulky for inclusion in the central file.

3. The files and records of the local enforcing agency shall be open to Division review and audit and public inspection at reasonable times.

4. File copies of all documents shall be retained in the official records as provided by law.

(b) Any record required by law to be kept confidential, including, but not limited to, records of trade secrets related to hazardous or potentially hazardous substances, shall not be open to public inspection.

(c) The fire official shall keep a record of all reported fires in life hazard uses and all facts concerning the same, including investigative findings and information as to the cause, origin and the extent of such fires and the deaths, injuries, and damage caused thereby.

Amended by R.1985 d.611, effective December 2, 1985.  
See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

(c) added.

Amended by R.1993 d.628, effective December 6, 1993.  
See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

#### 5:71-3.5 Coordination with construction, fire subcode and other officials

(a) The fire official shall ensure that the construction official and fire subcode official are notified when a notice of violation directs work which will require construction permit. He shall assist the fire subcode official to determine whether the work for which a permit is applied will correct the violation.

(b) The fire official shall ensure that a permit was obtained and any work done was approved by the construction official and fire subcode official before a violation is abated.

(c) Whenever, in the enforcement of the fire code and other codes and ordinances, it becomes necessary to subject a given building to multiple inspections in the same general time frame, it shall be the duty of all involved inspectors to coordinate their inspections and administrative orders as much as possible so that the owners and occupants of the structure shall not be subjected to inspections more numerous than necessary, nor to multiple conflicting orders. Whenever an inspector observes a violation of some law, ordinance or code of the jurisdiction that is not within the inspector's authority to enforce, the inspector shall report the findings to the official having jurisdiction in order that such official may institute the necessary corrective measures.

Amended by R.1995 d.58, effective March 6, 1995.  
See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:71-3.6 Coordination for State licensed and regulated facilities

(a) The provisions of this section shall apply to the following types of facilities which are licensed or regulated by State agencies:

1. Department of Human Services:

i. Day care centers;

ii. Day nurseries;

iii. Community residences for the developmentally disabled.

2. Department of Health and Senior Services:

i. Health care facilities.

3. Department of Community Affairs:

i. Rooming houses;

ii. Boarding homes.

iii. Hotels;

iv. Multiple dwellings.

(b) The fire official shall ensure that State agencies are notified when one or more violations of the Fire Code are found in such facilities.

(c) Any State licensing agency shall notify the fire official having jurisdiction of any inspection in order that the fire official might take part. When this is not possible or practical then the agency shall notify the fire official of any Fire Code violations found. Any such State agency shall send a list of the facilities it licenses to the fire official.

(d) Any State agency that enforces the Fire Code as a part of any licensing standard and any fire official shall consult with the other before any variance to the Fire Code is granted.

1. The concurrence of both shall be required before the variance shall be granted.

2. A copy of any variance granted shall be filed with the Division.

(e) Wherever a difference in interpretation of the Code arises between the fire official and a State agency having licensing jurisdiction, then the official, the agency or the owner may apply to the Division for a final interpretation and ruling, which shall be requested and furnished in writing.

Deleted old (b)2 and renumbered (b)3.-4. as (b)2.-3.

Amended by R.1991 d.359, effective July 15, 1991.

See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

Issuance of fire inspector and fire official certification specified.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1997 d.123, effective March 17, 1997.

See: 28 N.J.R. 5124(a), 29 N.J.R. 869(a).

Inserted (b)1 and (c)1.

Amended by R.2001 d.57, effective February 20, 2001.

See: 32 N.J.R. 3253(a), 33 N.J.R. 692(b).

Inserted (c)2 and (c)3.

#### 5:71-4.5 Renewal of certification

(a) Every three years, any certification already issued shall be renewed upon submission of an application, payment of the required fee, and verification by the Office of Training and Certification that the applicant has met such continuing educational requirements as may be established by the Commissioner. The Division shall renew, for a term of three years, the certification previously issued. The expiration date of the certification shall be April 30 or October 31.

(b) The Division shall issue, upon application, a duplicate certification of the appropriate type and specialty upon a finding that the certification has been issued and the applicant is entitled to such certification to replace the one that has been lost, destroyed, or mutilated. Payment of a fee as may be established by the Commissioner shall be required.

(c) Continuing education requirements, as follows, must be met for renewal of certification. The requirements are based upon the type of certification held and not upon employment position held. Continuing education units (CEU's) shall be approved by the Division for technical and administrative courses (one CEU equals 10 contact hours).

1. Fire inspector certification—2.0 CEU's (technical), including one Code Update program of instruction for any fire inspector who is employed by a local enforcing agency. No more than 1.0 CEU's (technical) for attendance at Division-approved meeting shall be credited toward recertification.

2. Fire official certification—3.0 CEU's (2.0 technical and 1.0 administrative), including one Code Update program of instruction for any fire official who is employed by a local enforcing agency. No more than 1.5 CEU's (1.0 technical and 0.5 administrative) for attendance at Division-approved meetings shall be credited toward recertification.

(d) Where the holder of a certification has allowed the certification to lapse by failing to renew the certification as provided for in (a) above, a new application and certification shall be required.

1. If such application is made within six months of the certification having lapsed, then application may be made in the same manner as a renewal, but the application shall be accompanied by the fee for a new application.

2. Upon a finding that a certification was previously held and that any applicable continuing education requirements have been satisfied the certification shall be issued.

3. Where the former certification has lapsed for a period exceeding six months, a new application shall be required in accordance with N.J.A.C. 5:71-4.4.

(e) After revocation of a certification upon any of the grounds set forth in N.J.A.C. 5:71-4.6, the Division may not renew or reinstate such certification; however, a person may file a new application for a certification with the Division. When it can be shown that all loss caused by the act or omission for which the certification was revoked has been fully satisfied, that the applicant has been legally rehabilitated and that all conditions imposed by the decision of revocation have been complied with, the Division may issue a new certification. No new certification shall be issued if the cause for revocation was conviction of a crime of any degree which crime was in connection with Fire Code enforcement.

Amended by R.1991 d.359, effective July 15, 1991.

See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

CEUs added as requirement for renewal.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Amended by R.1997 d.123, effective March 17, 1997.

See: 28 N.J.R. 5124(a), 29 N.J.R. 869(a).

In (c)1 and (c)2, inserted text "including one Code Update ... local enforcing agency".

Amended by R.2001 d.57, effective February 20, 2001.

See: 32 N.J.R. 3253(a), 33 N.J.R. 692(b).

In (a), substituted "April 30 or October 31" for "January 31 or July 31"; and in (c)1 and (c)2, added the last sentence.

#### 5:71-4.6 Revocation of certifications and alternative sanctions

(a) The following shall be deemed a violation of the Uniform Fire Safety Act subject to a penalty of not more than \$500.00 for each offense:

1. To carry out inspections or issue notices or orders pursuant to the Act in connection with life hazard uses if not certified;

i. This shall not preclude notifying the owner of a life hazard use of a perceived violation observed by a firefighter during the course of any normal fire service activity, such as routine inservice inspections. A copy of such notification shall be transmitted to the fire official for appropriate action.

2. To appoint or employ a person who is not certified to carry out the responsibilities of fire official in connection with life hazard uses; or

3. To fail to notify the Division concerning a vacancy as required by N.J.A.C. 5:71-4.3.

(b) The Division may suspend and/or revoke a certification, and/or assess a civil penalty of not more than \$500.00, if the Department determines that the holder:

1. Has violated any of the provisions of the Uniform Fire Code regulations;
2. Has obtained a certification by fraud or misrepresentation, or the person named in the certificate has obtained it by fraud or misrepresentation;
3. Has aided or abetted in practice as a certified enforcement official or inspector any person not authorized to practice as a certified Fire Code enforcement official or inspector under the provisions of these regulations;
4. Has fraudulently or deceitfully practiced as a certified Fire Code enforcement official or inspector;
5. Has been grossly negligent or has engaged in misconduct in the performance of any of his duties;
6. Has failed, over a period of time, to maintain a minimally acceptable level of competence;
7. Has been found to have failed to report an offer or bribe or other favor in a proceeding under the Act or other appropriate law of this or any other state or jurisdiction;
8. Has failed to comply with any order issued by the Department;
9. Has made a false or misleading written statement, or has made a material omission in any submission to the Department;
10. Has failed to enforce the Uniform Fire Code; or
11. Has violated any provision of this chapter or of N.J.A.C. 5:70.

(c) The Division, in addition, or as an alternative, to revoking or suspending a certification, or assessing a penalty, may issue a letter of warning, reprimand, or censure with regard to any conduct that, in the judgment of the Division, warrants a letter of warning, reprimand, or censure. Such letter, in addition to any other filing requirements, shall be made a part of the certification file of the individual.

(d) The Commissioner shall appoint a review committee to advise the Department concerning the appropriateness of sanctions that the Department proposes to take against persons holding certifications who are alleged to have done any act or omission proscribed by (b) above. The Department shall provide necessary staff for the review committee.

1. The review committee shall consist of three persons certified and currently employed by municipalities as fire officials, at least one of whom shall not be employed by any one enforcing agency for a total of more than 20 hours per week.

2. Members of the review committee shall be appointed by the Commissioner and shall serve for terms of three years; except that, of those members first appointed, one shall serve for one year, one shall serve for two years, and one shall serve for three years. No person may be a member of the review committee for more than two consecutive terms. The Commissioner shall also appoint two alternate members of the committee, who shall be persons certified and currently employed by municipalities as fire officials, at least one of whom shall not be employed by any one enforcing agency for a total of more than 20 hours per week. Alternates shall serve for two years, except that, of the alternates first appointed to each review committee, one shall serve for two years and one shall serve for one year.

- i. The Commissioner shall give the Fire Safety Commission an opportunity to comment on persons proposed to serve as members of the review committee prior to their appointment.

3. The review committee shall not hear any case or issue any recommendations without three members, who may be either regular or alternate members, being present.

4. In any case in which the Department makes a preliminary finding that a person holding certification has done any act or omission proscribed under (b) above, it shall have the case reviewed by the review committee prior to the issuance of any order revoking or suspending the certification or assessing a civil penalty.

5. The Department shall present whatever evidence it may have to the review committee. The person holding certification shall be given notice of the meeting of the review committee and may appear before the review committee to present his or her position, but there shall be no cross-examination of either the person holding certification or any representative of the Department. Nothing said by the person holding certification or by any person at the meeting of the review committee shall be used in any way, nor shall any member of the review committee be required to testify concerning proceedings before the review committee, in any subsequent proceeding.

6. The review committee shall submit its recommendations as to the sanctions, if any, that ought to be imposed, to the Deputy Director, Division of Fire Safety within 20 business days following the meeting. No sanctions shall then be imposed without the express approval of the Deputy Director. Failure of the review committee to submit a timely recommendation shall be deemed to be in concurrence with the action proposed to be taken by the Department. Notice of the review committee's recommendation, or failure to issue a recommendation, shall be given to the person holding certification.



7. A meeting of the review committee shall not be deemed to be a hearing or an adversarial proceeding and the findings of the review committee shall be deemed to be only a recommendation that is not binding on the Department.

(e) Conviction of a crime, or an offense in connection with exercising the duties of a certified fire official or inspector, shall result in revocation of certification.

(f) Any sanctions imposed by the Construction Code Enforcement Element, pursuant to N.J.S.A. 52:27D-119 et seq., shall constitute grounds for imposition of sanctions under this section.

(g) Any person aggrieved by any action of the Department pursuant to this chapter shall be entitled to a hearing before the Office of Administrative Law in accordance with the Administrative Procedure Act, as provided in N.J.A.C. 5:71-4.2.

1. A person holding certification shall be entitled to contest any order imposing sanctions in an administrative hearing, regardless of whether he or she has exercised the option of appearing before the review committee.

Amended by R.1991 d.359, effective July 15, 1991.

See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

References to license changed to certification.

Amended by R.1992 d.243, effective July 6, 1992.

See: 24 N.J.R. 678(a), 24 N.J.R. 2422(a).

Stylistic revisions in (d).

Amended by R.1993 d.197, effective May 3, 1993.

See: 25 N.J.R. 393(a), 25 N.J.R. 1874(a).

Added new subsection (c).

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:71-4.7 Fees

(a) No application for a certification shall be acted upon unless the application is accompanied by a fee as follows:

1. The initial application fee shall be \$45.00.

2. The three-year renewal application fee shall be \$45.00.

Amended by R.1991 d.359, effective July 15, 1991.

See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

Fees raised to \$30.00.

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:71-4.8 Standards for educational programs

To carry out their responsibilities, Code enforcement officials must be fully knowledgeable about Fire Code standards and be adequately prepared to administer and enforce them properly. Fire Code enforcement education programs must meet certain standards to ensure Code enforcement officials have the necessary technical and administrative training to effectively enforce the Uniform Fire Code at the local level. This section and N.J.A.C. 5:71-4.9 adopts standards for Fire Code enforcement official education programs. Procedures governing the approval of such educational programs are set forth in N.J.A.C. 5:71-4.10.

#### 5:71-4.9 Organizational, administrative, and operational functions of the Fire Code enforcement educational programs

(a) Programs for the effective education of Code enforcement officials are expected to operate with appropriate purposes and objectives. An institution or organization seeking initial and continuing approval of educational programs shall include in its application clearly defined statements of such purposes and objectives.

(b) Sound educational programs can be operated effectively only when supported by adequate institutional arrangements. Accordingly, only programs offered by or under the auspices of institutions of higher education, licensed by the New Jersey Department of Higher Education, fire

schools, or fire training academies operated by Federal, State, county or local government, or non-profit organizations organized for purposes which include the training of fire fighting and Fire Code enforcement personnel, can be considered for approval.

1. Provision shall be made within the organization or institution for orderly methods of obtaining and filing information relative to candidates applying for admission to Code enforcement official education programs.

(c) An organization or institution shall have evaluation procedures to assess the quality of its students when they complete programs and as a minimum establish and apply pass/fail criteria.

(d) An organization or institution shall assure that:

1. Each student shall be advised where to secure guidance and who is officially responsible for his program. Attention must be given to a plan for maintaining desirable student-faculty relationships.

2. It is the responsibility of the institution to maintain an adequate system of student personnel accounting, including a permanent cumulative record of each student enrolled. To facilitate ready interpretation by the Division, the graduate is entitled to an intelligible and adequate transcript of record, including a statement of the course title.

(e) Faculty members shall be competent in the field and have contacts with Fire Code enforcement environments and other sources so their teaching and research are current and relevant.

1. The quality of the faculty is one of the more important factors in judging the effectiveness of an institution. Appraisal of the faculty shall be made in terms of its competence to provide the program for which approval is being sought. Each faculty member shall have a high degree of competency in this area. The faculty consists of those instructors who teach the curricula and all personnel who direct students in all types of activities included as part of the curriculum. Those who teach courses shall be familiar with practices in Fire Code enforcement and/or fire protection technology generally.

2. The institution, recognizing that an appropriate faculty is one of the major determinants of the quality of its education program, shall make provision for the use of the part-timer or adjunct faculty.

i. No individual who has ever had a license suspended for a period of six months or more or has ever had a license or certification revoked for any reason set forth in N.J.A.C. 5:23-5.11 or N.J.A.C. 5:71-4.6 shall be eligible to instruct Fire Code enforcement educational programs.

3. Faculty certification (reserved).

4. Each organization or institution shall undertake a continuing program of faculty and instructor evaluation in order to assure that instruction is adequate and shall take such remedial actions as may be necessary where it is not.

(f) The course of study for fire inspector certification shall consist of a planned pattern of instruction and experiences designed to meet the following standards. The course shall provide at least 45 contact hours of instruction not including examination and support time and it shall ensure by examination technical competence in the following subject areas:

1. The theory of fire code enforcement;
2. Enforcement of fire codes;
3. The life safety systems of buildings and uses including but not limited to means of egress, fire suppression systems, fire alarm systems, and methods for limiting the flame spread, flammability or combustibility of materials;
4. The safe use and maintenance of facilities, buildings and uses which are subject to the New Jersey Uniform Fire Code including but not limited to:
  - i. Airports, heliports and helistops;
  - ii. Application of flammable finishes;
  - iii. Bowling alleys;
  - iv. Dry cleaning plants;
  - v. Dust explosion hazards;
  - vi. Fruit ripening processes;
  - vii. Lumber yards and woodworking plants;
  - viii. Oil burning equipment;
  - ix. Ovens and furnaces;
  - x. Places of assembly;
  - xi. Service stations and garages;
  - xii. Tents and air supported structures;
  - xiii. Welding or cutting;
  - xiv. Places of amusement; and
  - xv. High level alarms.
5. The safe handling of materials which pose a fire hazard, including but not limited to:
  - i. Cellulose nitrate products;
  - ii. Combustible fibers;
  - iii. Compressed gases;
  - iv. Cryogenic liquids;
  - v. Explosives, ammunition and blasting agents;
  - vi. Fireworks;
  - vii. Flammable and combustible liquids;

viii. Hazardous materials and chemicals such as oxidizing materials, radioactive materials, unstable (reactive) chemicals, and poisonous gases;

ix. Liquified petroleum gases and liquified natural gases;

x. Magnesium;

xi. Matches; and

xii. Organic coatings.

(g) The course of study for fire official certification shall consist of a planned pattern of instruction and experiences designed to meet the following standards. The course shall provide at least 30 contact hours of instruction not including examination and support time. The course shall also ensure, by examination, technical competence in the following subject areas:

1. Administration: Fire Code administration, purpose, place in local government structure and relation to Fire Code administration programs at other levels of government; basic principles of supervision, and personnel management including personnel records, budgeting and disciplinary actions; the preparation of records, reports, local enforcing agency budget, recordkeeping requirements as contained in the Uniform Fire Code, including permits, appeals, variances, applications, and violation files and records; and the method of establishing and maintaining proper review and approval procedures for permit applications to ensure compliance with the Fire code and applicable laws and ordinances;

2. Legal methods of code enforcement: Purpose and fundamentals of notices of violation, notices of penalties and court action; powers and procedures available to deal with hazardous conditions and emergency situations; preparation of case records; situations requiring a search warrant and the process of obtaining and issuing the warrant; the administrative hearing process under the State Uniform Fire Code Act; and legal responsibilities of inspection personnel, including legal processes and rules of evidence;

3. Legal rights of landlords and tenants under Federal, State and local laws, and Relationship of Fire Code maintenance provisions as required by State and local agencies; and

4. Local enforcing agency organization and duties of the fire official; and coordination with construction officials, fire subcode officials and other Federal, state, county or local agencies.

Administrative Correction to (d)1.

See: 21 N.J.R. 3085(a).

Amended by R.1991 d.359, effective July 15, 1991.

See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

Fire inspector course hours raised to 45; fire official certification course standards added at (g).

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

**5:71-4.10 Procedure for applying for approval of educational programs**

(a) Any eligible institution or organization may submit any course for approval as an educational program required by N.J.A.C. 5:71-4.8. The application shall be in letter form, be submitted at least 60 days prior to the first class session of the course and contain all the information specified below.

1. A course that provides content and contact hours required by N.J.A.C. 5:71-4.9(f) or (g) will be acceptable even if it is part of a longer course of study that covers additional material.

(b) Each application shall be submitted in the name of the institution or organization by a person authorized to do so. It shall contain, at a minimum, the following information:

1. The name of the course or program;
2. A description of the length of each session, the frequency of the sessions and the total number of sessions;
3. An outline showing the course or program content by session;
4. A description of any text or materials to be used. The description shall identify whether the text or materials will be mandatory or suggested;
5. A description of the institution's or organization's standard for faculty members who will be employed to instruct the course or program;
6. An estimate of the number of times the course will be offered;
7. A statement that the institution or organization shall notify the Division if the program is withdrawn or changed at any time;
8. A statement that the institution or organization will conduct the course or program in accordance with N.J.A.C. 5:71-4.8 herein and will maintain such records as are therein required; and
9. A statement of the charges the institution has established for the course or program.

(c) The Division shall have the right to undertake such reviews as may be necessary to verify the accuracy of an

application or its conformity with this subchapter. The institution, by submitting an application, expressly agrees to cooperate in such reviews.

(d) Upon verification that the program or course will satisfy the educational program requirements, the Division shall:

1. Issue a letter of approval to the institution or organization which letter shall contain any terms or conditions of such approval;

2. Place the name of the institution and the course on the Division's list of approved courses. That list shall be made available to the public.

i. Any approval shall be limited in that it is effective only as long as the course conforms to the application submitted and approved.

(e) Whenever a course or program has been approved by the Division, the institution or organization offering the course may include the statement "This course is approved for credit toward a certification issued by the Department of Community Affairs pursuant to the Uniform Fire Safety Act" in any catalog, bulletin or informational circulars. Whenever such a statement is included, however, the catalog, bulletin or circular shall also contain a statement describing precisely the nature and extent of the approval.

(f) The Division may revoke its approval, after notice and the opportunity to be heard, whenever it ascertains that a course has lapsed or is no longer in conformity with the requirements of this subchapter and/or the terms of the Division's approval. Whenever approval has been revoked or a course has been withdrawn by an institution or organization, a new application and approval shall be required before the course may again be offered as providing credit toward a certification.

(g) Any institution or organization may submit an application for approval for a course administered after January 1, 1978 so that certification applications may receive credit for it. Any such application shall be judged against the standards for programs established at N.J.A.C. 5:71-4.8.

Amended by R.1991 d.359, effective July 15, 1991.

See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

Minimum contact hours deleted at (a)1.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).