

Violations unabated as of reinspection date were not deemed abated by subsequent action. Bureau of Housing Inspection v. 1000-58 Cincinnati Ave., Egg Harbor City, 92 N.J.A.R.2d (CAF) 51.

Penalty for failure to timely correct building code violations would not be reduced by prior repairs. N.J.S.A. 55:13A-19. 22 South Illinois Ave. v. Department of Community Affairs, 91 N.J.A.R.2d (CAF) 7.

Smoke detector compliance; penalty for failure to install in common areas; penalty policy unenforceable as not promulgated as a rule. Bureau of Housing Inspection v. Roger Gardens, Inc., 5 N.J.A.R. 120 (1983).

#### 5:10-1.4 Scope

(a) This chapter shall apply to the repair, demolition, removal, maintenance, occupancy and use of new and existing hotels and multiple dwellings in the State of New Jersey.

(b) A building section containing not more than four dwelling units shall not be considered to be a portion of a multiple dwelling if it:

1. Is held under a condominium or cooperative form of ownership or by a mutual housing corporation;
2. Is in a building that has no occupied dwelling units not occupied by unit owners, if a condominium, or by shareholders, if a cooperative or mutual housing corporation;
3. Has at least two exterior walls unattached to any adjoining building section; and
4. Is attached to any adjoining building sections exclusively by fire separation walls having a 1½ hour minimum fire resistant rating, in the case of buildings constructed prior to January 1, 1977, or as required by the State Uniform Construction Code, N.J.A.C. 5:23, at the time of construction.

Amended by R.1983 d.156, effective May 16, 1983.  
See: 15 N.J.R. 375(a), 15 N.J.R. 803(a).

Added (b).

Amended by R.1983 d.388, effective September 19, 1983.  
See: 15 N.J.R. 1054(b), 15 N.J.R. 1576(a).

Added "fire separation walls housing 1½ hour resistant rating" to (b)4.

Amended by R.1998 d.425, effective August 17, 1998.  
See: 30 N.J.R. 1462(b), 30 N.J.R. 3068(a).

In (b), substituted "four" for "two" preceding "dwelling" in the introductory paragraph, substituted "Is in a building that has no occupied" for "Has" at the beginning of 2, and rewrote 4.

#### Case Notes

Ordinance valid requiring certificate of substantial compliance accompany rent increase application. Orange Taxpayers Council, Inc. v. Orange, 83 N.J. 246, 416 A.2d 353 (1980).

Violation of maintenance regulation evidence of negligence in action against landlord for injuries. Trentacost v. Brussel, 82 N.J. 214, 412 A.2d 436 (1980).

#### 5:10-1.5 Interpretation

(a) This chapter shall be liberally interpreted to secure the beneficial purposes thereof.

(b) Any conflict or inconsistency between the requirements of these regulations and applicable local and Federal laws and regulations shall be resolved in favor of the more restrictive requirements.

(c) Whenever any standard or code is referred to in this chapter the most recent edition of such standard or code shall be deemed to be incorporated herein by reference, notwithstanding the fact that such edition may have been published subsequent to enactment of the regulation in which the reference to such standard or code is contained.

Administrative Correction to (b).

See: 22 N.J.R. 921(a).

#### 5:10-1.6 Maintenance requirements

(a) All buildings and all parts thereof shall be maintained as required by this chapter and by the Uniform Fire Code, N.J.A.C. 5:18.

(b) All service equipment, means of egress, devices, and safeguards that are required in a building by the provisions of these regulations, or that were required by the law when the building was erected, altered, or repaired, shall be maintained in good working order.

(c) The owner shall be responsible at all times for the safe maintenance of the building and its facilities as prescribed in this chapter.

(d) A nonprofit corporation owning or controlling buildings of three stories or less in a retirement community, which are excluded from the definition of "multiple dwelling" pursuant to P.L. 1983, c.154, shall maintain all such buildings in compliance with the Uniform Fire Code, N.J.A.C. 5:18.

(e) All buildings in compliance with the Uniform Fire Code shall be deemed to be in compliance with the Act insofar as issues of fire safety are concerned.

(f) Where not otherwise indicated, all rules in this chapter that are applicable to hotels shall be applicable to retreat lodging facilities except as follows:

1. N.J.A.C. 5:10-19.1(a)1 and 2; and
2. Any regulation that is not substantially related to the protection of the health, safety or welfare of the occupants of the facility or of the public generally.

Recodified April 9, 1981 from N.J.A.C. 5:10-1.22.

Amended by R.1983 d.388, effective September 19, 1983.  
See: 15 N.J.R. 1054(b), 15 N.J.R. 1576(a).

Added (d).

Amended by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989).

See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Added text to (a) and (d) "and by the Uniform Fire Code, N.J.A.C. 5:18"; added (e).

Amended by R.1990 d.230, effective May 7, 1990.

See: 22 N.J.R. 275(b), 22 N.J.R. 1354(a).

Application of rules extended to cover retreat lodging facilities.

Amended by R.1993 d.464, effective September 20, 1993.

See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

### 5:10-1.7 Force and effect of regulations

This chapter shall have the force and effect of law until revised, repealed, or amended by the Commissioner of the Department of Community Affairs and shall be enforced by the Commissioner pursuant to the provisions of N.J.S.A. 55:13A-1 et seq.

#### Case Notes

Regulations have full force and effect of law pursuant to statute. Trentacost v. Brussel, 82 N.J. 214, 412 A.2d 436 (1980).

### 5:10-1.8 Matters covered

(a) The provisions of this chapter shall cover all matters affecting or relating to buildings, as set forth in N.J.A.C. 5:10-1.4, and shall extend to all hotels and multiple dwellings and their appurtenant constructions, together with all surface and subsurface construction.

(b) Any matter or requirement essential for the fire or structural safety of a new or existing building or essential for the safety or health of the occupants or users thereof or the public, and which is not covered by the provisions of this chapter shall be the subject of determination by the Bureau of Housing Inspection in specific cases.

Administrative Correction to (b).

See: 22 N.J.R. 921(a).

### 5:10-1.9 Continuation of lawful existing use

The lawful occupancy and use of any building may be continued unless a change is specifically required by the provisions of this chapter.

### 5:10-1.10 Bureau inspections

(a) The Bureau of Housing Inspection or an authorized representative in the discharge of their duties shall have authority to enter upon and examine and inspect at all reasonable times any building, enclosure, or premises, or any part thereof or service equipment attached thereto or contained therein for the purpose of determining compliance with the provisions of this chapter. Officers and employees of the Bureau of Housing Inspection in the discharge of their duties, shall identify themselves by exhibiting their authority in writing signed by the Commissioner.

(b) The Bureau of Housing Inspection shall cause inspections to be made periodically of completed buildings. Each multiple dwelling and each hotel shall be inspected once in every five years.

(c) All inspection reports submitted to the Bureau shall be in writing and signed by the inspector making the inspection and a record of all inspections shall be kept by the Bureau of Housing Inspection.

(d) Inspection of private living quarters shall require the consent of the occupant of the premises, except as hereunder described:

1. In case of emergencies where facts known to Bureau of Housing Inspection personnel or statements of persons having personal knowledge thereof indicate that conditions exist on any premises subject to the jurisdiction of the Bureau which are either an immediate threat to the safety or health of persons using or in near proximity to the premises or of such a nature that the delay necessary to secure a warrant would render the inspection of no value in confirming the existence of the suspected violation, an inspection may be demanded and, if possible without the use of force, made to determine whether or not a violation of the law or regulations in fact exists.

2. Where access to any premises where inspection is desired to implement the policy of the Bureau of Housing Inspection and the Department of Community Affairs and such access has been refused, then such refusal shall be reported to the Bureau and a search warrant shall be obtained upon one or more the following grounds:

- i. An inspection is required as part of the procedures authorized by law and implemented by regulations.

- ii. There is evidence of or indication of a violation of the law or this chapter requiring an examination to determine whether the violation in fact exists.

- iii. The inspection is part of an area wide inspection to upgrade properties in a given area.

- iv. The inspection is part of a systematic inspection of buildings falling into a particular class or category composed in order to provide adequate protection to the public health, safety and welfare.

(e) It shall be the duty of every owner or managing agent of a hotel or multiple dwelling, upon receipt of notice from the Bureau that his property is scheduled to be inspected, to notify each occupant, other than a hotel guest having a permanent residence elsewhere, of the time of such scheduled inspection and to request that each such occupant either admit the inspector representing the Bureau to his dwelling unit or authorize the owner or managing agent to do so. Any occupant who has been so notified, has allowed the owner or managing agent to retain a key to his dwelling unit and has not expressed any objection in writing to the inspector's entering his dwelling unit either to the Bureau or its representative or to the owner or managing agent shall be deemed to have consented to the inspection of his dwelling unit by the Bureau. Any occupant consenting to an inspection who is unable to be present or to have a representative present at the time of such inspection shall, upon notice from either the Bureau or the owner, or the representative of either one of them, give a key to the dwelling unit to the owner or managing agent. Such key shall be returned to the occupant within 24 hours after the inspection. It shall be the further duty of the owner and of any managing agent to provide such assistance as may be reasonable and necessary to enable the inspector to gain access to all areas of the property being inspected and, upon request of the Bureau or the inspector, to accompany the inspector during his inspection of the exterior and common areas and of all units the occupants of which are not present at the time of the inspection.

(f) Upon reasonable request of the Bureau, the owner of any hotel or multiple dwelling in which any major structural deficiency constituting a violation of this chapter has been found to exist, and the correction of which would require the issuance of a building permit by the construction official having jurisdiction, shall provide to the Bureau, at the sole cost and expense of such owner, an analysis and report, prepared by a licensed professional engineer or registered architect, which specifies the work necessary to correct such violation and the manner in which it should be accomplished, and certification by a licensed professional engineer or registered architect that such violation has been properly corrected and that any hazard that may have been created by such violation has been eliminated.

(g) If, in the course of inspecting any hotel or multiple dwelling, any inspector performing inspections for the Bureau shall find a condition which is, or appears to be, in violation of the Uniform Fire Code, N.J.A.C. 5:18, the inspector shall give prompt notice of that condition to the Bureau, which shall promptly notify the Division of Fire Safety.

(h) The Bureau shall waive the inspection fee for any unit that has been thoroughly inspected within the previous 12-month period under a municipal ordinance requiring inspection upon change of occupancy in accordance with the maintenance standards established herein if the unit has had

a municipal certificate of occupancy issued as a result of that inspection.

1. The owner shall provide the Bureau with a copy of each municipal certificate of occupancy issued within 15 days after the date of the start of the inspection required under this chapter.

2. If requested to do so by the Bureau, the owner shall, within 10 business days of the owner's receipt of the Bureau's request therefor, provide the Bureau with a copy of the municipal maintenance code used for the certificate of occupancy inspection. If the owner does not provide a copy of the municipal maintenance code within this period of time, the fee for the unit for which a municipal certificate of occupancy has been issued shall not be waived.

3. Upon a finding that the requirements of the municipal maintenance code are substantially identical to the requirements of this chapter, and that the inspection occurred within the previous 12 months, the owner shall be notified of the reduced fee.

4. Upon a finding that the requirements of the municipal maintenance code or ordinance are not substantially identical to the requirements of this chapter, the owner shall be so notified, and the fee in the amount originally assessed shall be due and payable.

(i) Upon a finding by the Bureau that a building has been thoroughly inspected prior to resale since the most recent inspection made in accordance with this chapter, that the inspection was conducted by the municipality in accordance with the maintenance standards established in this chapter and that a municipal certificate of occupancy has been issued, the Bureau shall accept that inspection in lieu of a current inspection and shall not conduct another cyclical inspection of the building until five years shall have elapsed since the date of that municipal inspection.

1. The owner shall provide the Bureau with a copy of the municipal certificate of occupancy not less than 90 days prior to the fifth anniversary of the date on which the last cyclical inspection was performed. If the copy of the municipal certificate of occupancy is not submitted, or is submitted later than the date 90 days prior to the fifth anniversary of the date on which the last cyclical inspection was performed, the municipal inspection prior to resale shall not be accepted in lieu of a current inspection.

2. If requested to do so by the Bureau, the owner shall, within 10 business days of the owner's receipt of the Bureau's request therefor, provide the Bureau with a copy of the municipal maintenance code used for the certificate of occupancy inspection. If a copy of the municipal maintenance code is not provided within this period of time, the resale inspection shall not be accepted in lieu of a current inspection.

3. Upon a finding that the requirements of the municipal maintenance code are substantially identical to the

requirements of this chapter, the inspection prior to sale shall be accepted in lieu of the current inspection.

(j) In order to facilitate administration of subsections (h) and (i) above, the Bureau shall maintain a current file of municipal ordinances establishing certificate of occupancy and maintenance code requirements applicable to hotels and/or multiple dwellings and shall review all such ordinances and maintain a list of ordinances reviewed, indicating whether each maintenance code is or is not substantially identical in its requirements to the maintenance standards set forth in this chapter. The Bureau shall request those municipalities that have adopted codes substantially identical to the maintenance standards of this chapter to notify the Bureau whenever those codes are amended or are no longer in effect. Copies of this list shall be made available upon request, without charge, to owners of hotels and multiple dwellings and other interested persons.

Amended by R.1971 d.60, effective April 23, 1971.

See: 3 N.J.R. 77(a).

Amended by R.1978 d.289, effective August 17, 1978.

See: 10 N.J.R. 222(a), 10 N.J.R. 378(b).

Recodified April 9, 1981 from N.J.A.C. 5:10-1.26.

Amended by R.1988 d.572, effective December 19, 1988.

See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Added (g).

Administrative Correction to (d)1.

See: 22 N.J.R. 921(a).

Amended by R.1993 d.464, effective September 20, 1993.

See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

Amended by R.1995 d.279, effective June 5, 1995.

See: 27 N.J.R. 1345(a), 27 N.J.R. 2181(a).

Added (h) to (j).

#### Case Notes

Building superintendent's receipt of building inspection notice legally sufficient. *Ten-Forty-Six Ellington v. Bureau of Housing Inspection*, 97 N.J.A.R.2d (CAF) 11.

Out of 47 original violations, failure to correct three of the violations justified the imposition of fine of \$8,200, including penalty for life-threatening violations. *Bonafield v. Department of Community Affairs*, 93 N.J.A.R.2d (CAF) 31.

Fine imposed by the Bureau of Housing Inspection was reduced to \$750 after the property owner corrected the violations. *Bajjnath v. Department of Community Affairs*, 93 N.J.A.R.2d (CAF) 30.

#### 5:10-1.11 Certificate of registration

(a) The owner of each hotel, retreat lodging facility or multiple dwelling shall file with the Bureau of Housing Inspection, upon forms provided by the Bureau, a certificate of registration.

(b) Each such certificate shall be accompanied by a fee of \$10.00.

(c) Each certificate shall state:

1. The name, address and telephone number of said owner;

2. Such description of each hotel, retreat lodging facility or multiple dwelling, by street number or otherwise, as will enable the Bureau easily to locate the same;

3. The name, address and telephone number of the agent appointed by said owner pursuant to (f) below for the purpose of receiving service of process and other orders or notices;

4. The name, address and telephone number of the person, association or corporation, if any, which manages or operates such hotel, retreat lodging facility or multiple dwelling for or on behalf of said owner;

5. The name and address of any mortgage holder of record;

6. Whether or not the property is being registered for the first time and, if not, the date of transfer to the present owner;

7. Whether the owner is a corporation, partnership, individual(s), or some other entity;

8. Whether the building is a hotel, a retreat lodging facility or a multiple dwelling;

9. The construction class;

10. The number of dwelling units in the building;

11. The number of stories;

12. The year, or approximate year, of construction;

13. The municipality and county in which the property is located;

14. The name and address of any person other than the record owner of the property who controls the property pursuant to a net lease or otherwise;

15. If the record owner is a corporation, the name and address of the registered agent and of each corporate officer;

16. If the record owner is a partnership, the name and address of each partner who is not exclusively a limited partner;

17. The name and address of a person who resides or has an office in the county in which the property is located who is authorized to accept notices from tenants and to issue receipts therefor and to accept service of process on behalf of the record owner;

18. The name and address, including the dwelling unit, apartment or room number, of any person employed by the owner or managing agent to provide regular maintenance service;

19. The name, address and telephone number of an individual representative of the owner or managing agent who may be contacted at any time and who has authority to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith; and

20. The name and address of the fuel oil supplier, if any, and the grade of fuel oil used.

(d) Upon the receipt of said certificate and fee, the Bureau shall forthwith issue to the owner of such hotel, retreat lodging facility or multiple dwelling a validated copy of the certificate of registration, which validated copy of the certificate of registration shall be kept posted by the owner of such hotel, retreat lodging facility or multiple dwelling in a conspicuous location therein.

(e) The certificate of registration shall be in such form as may be prescribed by the Bureau of Housing Inspection.

(f) The owner of each hotel, retreat lodging facility or multiple dwelling shall appoint an agent for the purpose of receiving service of process and such orders or notices as may be issued by the Bureau of Housing Inspection pursuant to the Act. Each such agent so appointed shall be a resident of the county in which the hotel or multiple dwell-

ing is located or shall have an office in the county. If the agent is a corporation, it shall be licensed to do business in this State.

(g) In the case of any transfer of the ownership of any hotel, retreat lodging facility or multiple dwelling, whether by sale, assignment, gift, intestate succession, testate devolution, reorganization, receivership, foreclosure or execution process, it shall be the duty of the new owner thereof to file with the Bureau of Housing Inspection, within 20 days of said transfer, an application for a certificate of registration pursuant to (a) above and to appoint an agent for the service of process pursuant to (f) above. The transferrer shall, within 30 days of such transfer, return to the Bureau of Housing Inspection his validated copy of the certificate of registration, indicating thereon the name and address of the new owner.

(h) In the event that the number of dwelling units in a registered hotel, retreat lodging facility, or multiple dwelling, or any other information required to be set forth in a certificate of registration, is changed, the owner of the said hotel, retreat lodging facility or multiple dwelling shall file an amended certificate of registration within 30 days of such change. No fee shall be charged for the filing of such amended certificate.

“Repair” means the replacement of existing work with equivalent materials for the purpose of its maintenance, but not including additional work that would affect safety, or affect required exit facilities, or a vital element of an elevator, plumbing, gas piping, wiring, ventilating, or heating installation, or any work that would be in violation of a provision of this code or any other law governing building construction.

“Required” means required by the provisions of these regulations.

“Retreat lodging facility” means a building or structure, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, owned by a nonprofit corporation or association which has tax-exempt charitable status under the Federal Internal Revenue Code and which has sleeping facilities used exclusively on a transient basis by persons participating in programs of a religious, cultural or educational nature, conducted under the sole auspices or one or more corporations or associations having tax-exempt charitable status under the Federal Internal Revenue Code, which are made available without any mandatory charge to such participants. (See N.J.S.A. 55:13A-3(s).)

“Roof” means the topmost slab or deck of a building, either flat or sloping with its supporting members, not including vertical supports.

“Rooming unit” means a unit of dwelling space located within a multiple dwelling or a hotel, forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

“Rubbish” means nonputrescible solid waste consisting of both combustible and noncombustible waste, such as paper, wrappings, cigarettes, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

“Sanitary system” means either the public system for disposal of sewage from the premises or, in the absence of such system, any private system available to the premises for the disposal of sewage.

“Self-closing”, as applied to an opening protective, means a door, window, damper, or other device and its assembly that is normally kept in a closed position and that is equipped with an approved device to insure immediate closing after having been opened for use.

“Sewage” means any liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

“Shaft” means a vertical, inclined or offset passage, duct or hoistway, penetrating through two or more floors of a building or through a floor and roof, for the transmission of

light, air, materials or persons, or the passage of pipes or other mechanical facilities.

“Shall”, as used in this chapter, is always to be construed as mandatory.

“Sink” means a plumbing fixture located in a kitchen area and used exclusively for food preparation operations.

“Story” means that portion of a building that is between a floor level and the next higher level or roof above.

“Street” means a thoroughfare dedicated or devoted to public use by legal mapping or other lawful means.

“Structure” means an assembly of materials forming a construction for occupancy or use, including among others: buildings, stadia, tents, reviewing stands, platforms, stagings, observation towers, radio towers, tanks, trestles, open sheds, coal pockets, shelters, fences and display signs.

“Transient,” as applied to occupancy, means occupancy for not more than 90 days by a person having a principal residence elsewhere.

“Unemancipated minor” means any person under the age of 18 who is not an “emancipated minor” as defined herein.

“Unit of dwelling space”, see “Dwelling unit” of this section. (See N.J.S.A. 55:13A-3(h).)

“Use (used)” means the purpose for which a building, structure, or space is occupied or utilized, unless otherwise indicated by the text. Use (used) shall be construed as if followed by the words “or is intended, arranged, or designed to be used”.

“Useable floor area” means that part of the floor area within a unit of dwelling space that can be considered useable for general living purposes, excluding areas devoted to built-in equipment, such as, wardrobes, cabinets, closets, kitchen units, and equipment or fixtures which are not readily available for use as floor area.

“Ventilation” means the supply and removal of air to and from any space by natural or mechanical means. (See also N.J.A.C. 5:10-2.2, definitions of “Mechanical ventilation” and “Natural ventilation”.)

“Water distribution piping” means the pipes in a building or premises that convey water from the water service pipe to the plumbing fixtures and other water outlets.

“Water service pipe” means the pipe from the water (street) main or other source of water supply to the building served.

“Water (street) main” means a water supply pipe for public or community use controlled by public authority.

"Water supply system" means the water service pipe, the water distribution piping, and all of the necessary connecting pipes, fittings, control valves, and appurtenances used for conveying water in the plumbing system.

"Window guard" see "Child-protection window guard."

Amended by R.1971 d.101, effective June 29, 1971.

See: 1 N.J.R. 28(a), 3 N.J.R. 147(e).

Amended by R.1973 d.310, effective October 26, 1973.

See: 5 N.J.R. 259(c), 5 N.J.R. 369(a).

Amended by R.1973 d.357, effective December 18, 1973.

See: 5 N.J.R. 217(a), 6 N.J.R. 5(b).

Amended by R.1976 d.160, effective July 1, 1976.

See: 8 N.J.R. 9(d), 8 N.J.R. 272(a).

Amended by R.1977 d.305, effective September 1, 1977.

See: 9 N.J.R. 257(a), 9 N.J.R. 414(a).

Amended by R.1978 d.289, effective August 17, 1978.

See: 10 N.J.R. 222(a), 10 N.J.R. 378(b).

Amended by R.1981 d.363, effective October 8, 1981.

See: 13 N.J.R. 387(b), 13 N.J.R. 704(a).

"Common area" and "Fire wall" redefined.

Amended by R.1982 d.253, effective August 16, 1982.

See: 14 N.J.R. 119(a), 14 N.J.R. 910(a).

Added definition of "attic" and "crawl space". Amended definition of "common area", "occupiable room" and "tag".

Amended by R.1990 d.230, effective May 7, 1990.

See: 22 N.J.R. 275(b), 22 N.J.R. 1354(a).

Definition of retreat lodging facility added.

Amended by R.1993 d.464, effective September 20, 1993.

See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

Amended by R.1995 d.586, effective November 20, 1995.

See: 27 N.J.R. 3149(a), 27 N.J.R. 4695(b).

#### Case Notes

Guests who resided at hotel for three years with no present intention of seeking other accommodations were "tenants"; protection from lockout by Anti-Eviction Act, even though motel was not registered or regulated by state as rooming or boarding house. *McNeill v. Estate of Lachmann*, 285 N.J.Super. 212, 666 A.2d 996 (A.D.1995).

Citation to building definition. *Bunting v. Sheehan*, 156 N.J.Super. 14, 383 A.2d 429 (App.Div.1976).

Premises a multiple dwelling despite lack of kitchen facilities and former tax assessment as two buildings. *Bunting v. Sheehan*, 156 N.J.Super. 14, 383 A.2d 429 (App.Div.1976).

School dormitories subject to registry and inspection under former definition of hotel. *Blair Academy v. Sheehan*, 149 N.J.Super. 113, 373 A.2d 418 (App.Div.1977).

Clubhouse with dwelling units is multiple dwelling. *Rumson Country Club v. Commissioner of Community Affairs*, 134 N.J.Super. 54 (App.Div.1975) certification denied 68 N.J. 482, 338 A.2d 219.

Citation to building and structure definitions. 43-45 Forrest Street, North Arlington v. Dept. of Community Affairs, 3 N.J.A.R. 291 (1981).

### SUBCHAPTER 3. HOTEL AND MULTIPLE DWELLING HEALTH AND SAFETY BOARD

#### 5:10-3.1 Organizational meetings; officers

(a) The organizational meeting of the Board shall be held on the second Tuesday of June in each year at 10:00 A.M. in the building in which the office of the Director is located.

(b) A majority of the members of the Board shall constitute a quorum. However, even in the absence of a quorum, a majority of the members of the Board who are present, shall have the power to adjourn the meeting until a specified future time.

(c) The Board shall, at its organizational meeting, elect a Chairman, a Vice-Chairman, a Secretary and such other officers as it may deem appropriate. All officers shall serve until the next organizational meeting or until their successors shall have qualified.

(d) All officers other than the Secretary shall be elected from among the members of the Board. The Secretary may be either a member of the Board or an employee of the Division. If an employee of the Division, he shall not enter upon the office of Secretary without the consent of the Director and shall serve at the pleasure of the Director.

(e) A vacancy in any office shall be filled by the Board for the remaining unexpired term. If any member of the Board who is an officer ceases to be a member of the Board, his office shall forthwith be deemed vacant.

#### 5:10-3.2 Special meetings

(a) A special meeting of the Board may be called at any time by the Commissioner, the Director, the Chairman of the Board or by petition of any three members of the Board.

(b) The person or persons calling the special meeting shall give written notice to the Secretary stating the purpose of the meeting and the time and place at which it is to be held. No meeting shall be held in any place other than the building in which the office of the Director is located without the consent of either the Commissioner or the Director.

(c) The Secretary shall give written notice of the time and place of the special meeting to all members of the Board, the Commissioner, the Director and the Chief of the Bureau at least 10 days prior to such a meeting.

#### 5:10-3.3 Rules of procedure

All business of the Board shall be conducted in accordance with the current edition of Robert's Rules of Order (Revised), except insofar as such rules may conflict with provisions of the Act or of this chapter. Officers shall have the duties prescribed in said rules.

#### 5:10-3.4 Transmittal and consideration of proposed regulations

(a) Proposed regulations required pursuant to the Act to be transmitted to the Board shall be transmitted by the Director to all members of the Board.

(b) The Director may call a special meeting of the Board to consider proposed regulations transmitted to the Board but shall have discretion not to do so.

**5:10-10.2 Elimination of infestation**

(a) Every owner shall be responsible for the eradication of any insects, rats or other pests when the infestation exists in two or more units of dwelling space or in common areas. All buildings subject to this chapter shall be made ratproof and shall be maintained in a condition free from infestation. Such ratproofing and pest extermination shall include but is not limited to the following:

1. Prevention of entrance by blocking off or stopping up at passages by which rats may secure entry from the exterior with rat impervious material;
2. Prevention of interior infestation by elimination of sources of food and access thereto;
3. Prevention of any vertical travel of vermin through pipe chases or other similar methods of travel.

(b) All hotels and multiple dwellings shall be subject to periodic procedures for the prevention and elimination of infestation by persons qualified to conduct such procedures no less frequently than once annually and more frequently where there is recurring evidence of infestation.

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**SUBCHAPTER 11. MANAGERIAL AND MAINTENANCE PERSONNEL**

**5:10-11.1 Duties of owner**

(a) The owner shall have the positive responsibility of providing, either by his own direct efforts or by hiring others qualified to so serve, a person or persons qualified by training or experience to discharge the duties and responsibilities outlined for owners under these regulations.

(b) Any managing agent, in charge of the leasing or renting of space and the general management and operation of the premises, shall be competent to provide supervision of the management and operation of the building in accordance with this chapter.

(c) In a multiple dwelling of nine or more dwelling units, the owner shall either perform the janitorial services himself, if he is a resident owner, or provide a janitor, or provide janitorial services to be performed, on a 24-hour a day basis in a manner approved by the bureau.

(d) Unless either the owner or the janitor resides on the premises, the owner of a multiple dwelling or his managing agent in control shall post and maintain in such dwelling a legible sign, conspicuously displayed, containing the janitor's name, address (including apartment number) and telephone number. A new identification sign shall be posted and maintained within five days following a change of janitor.

(e) The person who performs janitorial services for a multiple dwelling of nine or more dwelling units (other than

where janitorial services are performed on a 24-hour a day basis under (c) above) shall reside in or within a distance of one block or 200 feet from the dwelling, whichever is greater, unless the owner resides in the multiple dwelling.

(f) Where necessary to assure compliance with this chapter and other provisions of law affecting multiple dwellings and hotels, there shall be a full-time person or employee responsible for providing janitorial services as defined herein. The owner shall provide additional personnel as may be required to assure proper maintenance and compliance with this chapter.

(g) All personnel responsible for enabling the owner to meet the requirements of this chapter shall be by reason of training or experience competent to perform the duties entrusted to him, familiar with the requirements contained herein and not unable or unwilling to discharge the said duties by reason of any physical or mental incapacity or disability or personal habits inconsistent with such duties.

(h) The following shall serve as a guide to adequacy of personnel for maintenance of a typical multiple dwelling not having any unusual or special labor-saving features:

| Units of Dwelling Space                 | Full-Time Personnel or Equivalent                                       |
|---|---|
| 70-100                                  | one   |
| 101-150                                 | two   |
| 151-225                                 | three   |
| 226-325 (and each additional 100 units) | four, plus one for each 100 additional units of dwelling space over 325 |

Correction: The word "basis" added to the phrase ... 24-hour a day basis ... at (c).

See: 21 N.J.R. 1123(a).

**5:10-11.2 Duties of manager and superintendent**

(a) Without relieving the owner of any responsibility placed by these regulations on the owner, any person undertaking for and in behalf of the owner any responsibilities for the operation and maintenance of the premises shall thereby assume concurrently with the owner, responsibilities for the premises and be subject to penalty for failure to comply with any regulation or order relating to any item or matter within the responsibilities so assumed.

(b) Where the owner has vested any other person with active management or control of the property and the owner either by his physical absence or unavailability to the premises has left such person in charge thereof, or by reason of any other arrangement with such person the owner does not actively engage in the day-to-day conduct or operation of the premises, then such person assuming management shall be responsible as the agent of the owner for compliance thereto.

(c) Where there is present on the premises or available to the premises a person whose duties and authority do not comprise overall control of the management of the premises, but such person is designated by the owner as the person

responsible for the day-to-day physical upkeep and maintenance of the premises, then such person shall be liable concurrently and jointly with the owner and any managing agent for such matters as shall constitute routine maintenance and upkeep of the premises, for any other matters pertaining to the maintenance of the premises entrusted to such person by the owner or management, and for apprising the owner or managing agent promptly of any other and further matters such as major repairs, structural improvements and capital investments which are beyond such person's authority and competence to undertake, and which, if not done, constitute violations of this chapter or hazards to the health, safety or well-being of occupants.

#### Case Notes

Owner failing to permit access to building for reinspection liable for second reinspection fee. Bureau of Housing Inspection v. Fishman, 97 N.J.A.R.2d (CAF) 23.

### 5:10-11.3 Janitorial services required

(a) The person in regular attendance on the premises and responsible for providing janitorial or maintenance duties as required by this subchapter shall provide the following services:

1. Setting out and returning waste disposal receptacles and avoiding leaving receptacles on days when there is no pickup;
2. Providing regular daily care for all common areas including removal of garbage, litter or other accumulations;
3. Attending to sidewalks, pedestrian walkways, parking areas and driveways and, in case of snow or ice, to permit safe passage in and out of the premises for vehicles and pedestrians;
4. Operating of the equipment designed to provide heat as required under these regulations; and
5. Such other and further routine operational and maintenance service as is required of the owner to comply with this chapter.

#### Case Notes

Violation of former N.J.A.C. 5:10-9.4 is jury question in negligence action; regulation valid. Terrey v. Sheridan Gardens, Inc., 163 N.J.Super. 404, 394 A.2d 1247 (App.Div.1978).

## SUBCHAPTER 12. ELEVATORS

### 5:10-12.1 Standard of maintenance

(a) All elevators shall be so maintained as to meet the standards established and set forth in N.J.A.C. 5:23-12.1 et seq. The elevator doors, flooring, safety devices and operating mechanisms shall be maintained in good working order and free of hazards.

(b) The owner or the agent of the owner of a building containing one or more elevators shall have, and shall provide for inspection by the Bureau's representative, a current certificate of compliance, issued pursuant to N.J.A.C. 5:23-2.23(j), for each such elevator.

Amended by R.1993 d.464, effective September 20, 1993.  
See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

### 5:10-12.2 Preventive maintenance

All elevators and elevator equipment and accessory devices shall be provided with preventive maintenance and inspections as required by N.J.A.C. 5:23-12.1 et seq.

Amended by R.1993 d.464, effective September 20, 1993.  
See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

### 5:10-12.3 Suspension of service

Elevator service shall not be suspended except where unavoidable or where necessary to provide servicing or repairs and then only for the minimum period of time necessary to effectuate such servicing or repairs. Where the owner has knowledge in advance of such suspension, he shall post a notice of the same advising all occupants of the time and duration of any such suspension and the reason therefor.

#### Case Notes

Statute governing injuries from unsafe condition of improvement to real property applied to installation of real property. Hall v. Luby Corp., 232 N.J.Super. 337, 556 A.2d 1317 (L.1989).

### 5:10-12.4 Mirrors

In all hotels and multiple dwellings in which there are one or more self-service elevators, there shall be affixed and maintained in each elevator a mirror that will enable persons, prior to entering into such elevator, to view the inside thereof to determine whether any person is in such elevator.

Amended by R.1993 d.464, effective September 20, 1993.  
See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

## SUBCHAPTER 13. ELECTRICAL SERVICE AND LIGHTING

### 5:10-13.1 Electrical service

(a) There shall be maintained in good operational condition in every multiple dwelling and hotel, electrical service which shall comply with the electrical requirements in effect at the time the structure first became a multiple dwelling or hotel.

(b) The following electrical installations shall be provided and hereafter properly maintained in all hotels and multiple dwellings: