

CHAPTER 71

FIRE CODE ENFORCEMENT

Authority

N.J.S.A. 52:27D-198.

Source and Effective Date

R.2000 d.30, effective December 22, 1999.
See: 31 N.J.R. 3257(a), 32 N.J.R. 273(c).

Executive Order No. 66(1978) Expiration Date

Chapter 71, Fire Code Enforcement, expires on December 22, 2004.

Chapter Historical Note

Chapter 71, County Offices on Aging, was adopted as R.1975 d.192, effective July 1, 1975. See: 7 N.J.R. 247(e), 7 N.J.R. 355(a). Chapter 71 was repealed and a new Chapter 71 was adopted by R.1981 d.356, effective September 10, 1981. See: 13 N.J.R. 395(c), 13 N.J.R. 563(a). Pursuant to Executive Order No. 66(1978), Chapter 71 was readopted as R.1985 d.176, effective March 22, 1985. See: 17 N.J.R. 342(a), 17 N.J.R. 904(c). Pursuant to Executive Order No. 66(1978), Chapter 71 expired on March 1, 1990. Chapter 71, County Offices on Aging, was adopted as R.1990 d.282, effective June 4, 1990. See: 22 N.J.R. 1016(b), 22 N.J.R. 1720(c). Pursuant to Executive Order No. 66(1978), Chapter 71 was readopted as R.1995 d.341, effective June 2, 1995. See: 27 N.J.R. 1719(a), 27 N.J.R. 2579(a). Pursuant to Reorganization Plan No. 001-1996, Chapter 71, County Offices on Aging, was recodified to N.J.A.C. 8:88, effective October 15, 1997. See: 29 N.J.R. 4679(a).

Chapter 71, Fire Code Enforcement, was originally codified in Title 5 as Chapter 18A, Fire Code Enforcement. Chapter 18A was adopted as R.1985 d.66, effective February 19, 1985. See: 16 N.J.R. 3339(b), 17 N.J.R. 394(a).

Pursuant to Executive Order No. 66(1978), Chapter 18A was readopted as R.1990 d.72, effective January 4, 1990. See: 21 N.J.R. 3344(a), 22 N.J.R. 337(b).

Pursuant to Executive Order No. 66(1978), Chapter 18A was readopted as R.1995 d.58, effective January 3, 1995. See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Pursuant to Reorganization Plan 002-1998, Chapter 18A, Fire Code Enforcement, was recodified as N.J.A.C. 5:71, effective July 1, 1998. See: 30 N.J.R. 1347(a), 30 N.J.R. 2644(a).

Pursuant to Executive Order No. 66(1978), Chapter 71, Fire Code Enforcement, was readopted as R.2000 d.30, effective December 22, 1999. See: Source and Effective Date.

Cross References

Child care center physical facility requirements, see N.J.A.C. 10:122-5.1 et seq.

Children's group home physical facility requirements, see N.J.A.C. 10:128-4.1 et seq.

Children's shelter physical facility requirements, see N.J.A.C. 10:124-5.1 et seq.

Residential child care physical facility requirements, see N.J.A.C. 10:127-4.1.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 5:71-1.1 Title; scope; division into parts
- 5:71-1.2 Authority
- 5:71-1.3 Intent and purpose
- 5:71-1.4 Definitions
- 5:71-1.5 Effective date
- 5:71-1.6 Severability

SUBCHAPTER 2. ENFORCING AGENCIES;
ESTABLISHMENT AND RESPONSIBILITIES

- 5:71-2.1 Scope; intent
- 5:71-2.2 Matters covered; jurisdictions; exceptions
- 5:71-2.3 Local enforcing agencies; establishment
- 5:71-2.4 Fire districts
- 5:71-2.5 State enforcing agency; establishment
- 5:71-2.6 Collection of and accounting for fees and penalties
- 5:71-2.7 Registry of agencies
- 5:71-2.8 Amendments to the Code
- 5:71-2.9 Conflict of interest
- 5:71-2.10 Departmental monitoring
- 5:71-2.11 Right of appeal

SUBCHAPTER 3. ORGANIZATION, ADMINISTRATION
AND ENFORCEMENT

- 5:71-3.1 Applicability
- 5:71-3.2 Local enforcing agencies; organization
- 5:71-3.3 Duties of fire officials and fire inspectors
- 5:71-3.4 Records
- 5:71-3.5 Coordination with construction, fire subcode and other officials
- 5:71-3.6 Coordination for State licensed and regulated facilities

SUBCHAPTER 4. CERTIFICATION OF FIRE
OFFICIALS

- 5:71-4.1 Scope; intent
- 5:71-4.2 Authority; hearings
- 5:71-4.3 Certification required
- 5:71-4.4 Requirements for certification
- 5:71-4.5 Renewal of certification
- 5:71-4.6 Revocation of certifications and alternative sanctions
- 5:71-4.7 Fees
- 5:71-4.8 Standards for educational programs
- 5:71-4.9 Organizational, administrative, and operational functions of the Fire Code enforcement educational programs
- 5:71-4.10 Procedure for applying for approval of educational programs

SUBCHAPTER 1. GENERAL PROVISIONS

5:71-1.1 Title; scope; division into parts

(a) These regulations shall be known as the "Regulations for Fire Code Enforcement".

(b) The regulations are divided into four subchapters:

1. N.J.A.C. 5:71-1, entitled "General Provisions";
2. N.J.A.C. 5:71-2, entitled "Enforcing Agencies, Establishment and Responsibilities";

3. N.J.A.C. 5:71-3, entitled "Organization, Administration and Enforcement"; and

4. N.J.A.C. 5:71-4, entitled "Certification of Fire Officials."

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

5:71-1.2 Authority

These regulations are promulgated by the Commissioner of the Department of Community Affairs pursuant to the authority conferred by the Uniform Fire Safety Act (P.L. 1983, c.383; N.J.S.A. 52:27D-192 et seq.).

5:71-1.3 Intent and purpose

(a) It is the intent and purpose of the regulations to ensure that:

1. All areas of the State are protected by the enforcement of a uniform minimum Fire Code which will protect the lives of the State's citizens;

2. Uniform, thorough, and adequately funded fire safety inspections are performed to protect the public wherever buildings and uses which pose a serious life safety hazard are found;

3. Penalties for violators are swiftly assessed and commensurate with the gravity of the offense;

4. Fire Code enforcement is efficient and coordinated to eliminate duplication of effort and confusion on the part of the public; and

5. The standards enforced on the State and local levels are interpreted consistently.

5:71-1.4 Definitions

(a) As used in this chapter

"Act" means the Uniform Fire Safety Act (P.L. 1983, c.383, N.J.S.A. 52:27D-192 et seq.).

"Board of Appeals" means the Construction Code Board of Appeals created by the State Uniform Construction Code Act (P.L. 1975, c.217, N.J.S.A. 52:27D-119 et seq.).

"Code" or "fire code" means the Uniform Fire Code adopted as N.J.A.C. 5:70.

"Commissioner" means the Commissioner of the Department of Community Affairs.

"County enforcing agency" means a county fire marshal designated by a board of chosen freeholders to enforce the Code.

"Department" means the Department of Community Affairs.

"Division" means the Division of Fire Safety of the Department of Community Affairs.

"Fire company" means a private volunteer organization established for the purpose of fighting fires.

"Fire department" means a paid, part paid or volunteer fire-fighting force, body or agency established by ordinance as a division of municipal government, or one or more volunteer fire companies that have contracted with a municipality to provide fire protection. A fire district shall be treated as a fire department for all purposes herein, but no fire fighting force, body or agency within the territorial jurisdiction of a fire district shall in any case be deemed to be a fire department.

"Fire district" means a district established pursuant to N.J.S.A. 40A:14-70.

"Fire Inspector" means a person working under the direction of the fire official who is certified by the Commissioner of the Department of Community Affairs and appointed or designated to enforce the Code by the appointing authority of a local enforcing agency.

"Fire Official" means a person certified by the Commissioner of the Department of Community Affairs and appointed or designated to direct the enforcement of the Code. This term shall also include "Fire Marshal" where the fire official has been appointed pursuant to N.J.A.C. 5:71-3.2.

"Fire subcode official" means the official appointed pursuant to the New Jersey Uniform Construction Code to enforce the Fire Protection Subcode.

"Local enforcing agency" means a municipal agency, fire department, fire district, or county fire marshal authorized by municipal ordinance to enforce the act within a specific local jurisdiction; or where such authorization has not been granted by local ordinance, it means the Department of Community Affairs. "Local enforcing agency" shall also mean and include a county fire marshal authorized by ordinance or resolution of the board of chosen freeholders to enforce the act in county facilities. With regard to enforcement of the act in premises owned or maintained by the State of New Jersey or any of its boards, commissions, agencies or authorities, "local enforcing agency" shall mean the Division.

"Life hazard use" means any life hazard use designated by the Code as defined in N.J.A.C. 5:70-1.5.

"Owner" means a person who owns, purports to own, manages, rents, leases, or exercises control over a building, structure, premises or use or any portion thereof.

Amended by R.1991 d.359, effective July 15, 1991.
See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

Definition of fire inspector added.
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).
Emergency amendment, R.2000 d.402, effective September 8, 2000 (to
expire November 7, 2000).
See: 32 N.J.R. 3647(a)
In "Local enforcing agency", inserted last sentence.

Adopted concurrent proposal, R.2000 d.486, effective November 6,
2000.
See: 32 N.J.R. 3647(a), 32 N.J.R. 4310(a).
Readopted provisions of R.2000 d.402 without change.

5:71-1.5 Effective date

These regulations shall take effect immediately upon pro-
mulgation.

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.

(f) In addition to inspecting life hazard uses, a local enforcing agency may, by giving notice to the Division, accept responsibility for cyclical inspection and enforcement of the Uniform Fire Code in hotels and multiple dwellings that are not life hazard uses. A local enforcing agency that accepts this responsibility shall inspect each multiple dwelling that is not a life hazard use and each hotel that is not a life hazard use at a frequency not less than that currently provided for in the rules for the Maintenance of Hotels and Multiple Dwellings, N.J.A.C. 5:10.

1. A local enforcing agency may, by ordinance, establish reasonable fees to cover the cost of such inspections, in accordance with N.J.A.C. 5:71-2.3(b).

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 4. CERTIFICATION OF FIRE OFFICIALS

5:71-4.1 Scope; intent

(a) This subchapter shall control all matters relating to qualifications for the certification of all fire officials and inspectors engaged in or to be engaged in the administration and enforcement of the New Jersey Uniform Fire Code, including procedures for application, issuance, denial and revocation of certifications; approval of training and/or educational programs offered to meet the requirements for certification of fire officials, application fees for a certification, and enforcement of penalties for violations of this subchapter.

(b) Unless otherwise specifically provided, all references to article or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such article, section or provision of this subchapter.

(c) The New Jersey Uniform Fire Code has been adopted to ensure public safety and welfare. In order for the Code to be enforced adequately and effectively, fire officials will need to have sufficient knowledge and competence to administer and interpret the Code's standards. This can best be achieved through the creation of an education and training program and the development of certification requirements.

1. It is the purpose of this subchapter to establish standards and procedures for the certification of fire officials, including but not limited to fire officials and inspectors, and to require all persons performing duties with respect to the inspection for compliance with the New Jersey Uniform Fire Code in any political subdivision within this State, to be certified as provided in this subchapter.

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

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

Old (a) deleted; (c) renumbered (a); (d) renumbered (c).

5:71-4.2 Authority; hearings

(a) The following rules concern Office of Training and Certification:

1. There is hereby established in the Division, an Office of Training and Certification. The Office shall consist of such employees of the Department of Community Affairs as may be required for the efficient implementation of this subchapter.

2. The responsibilities of the Office, in addition to all others provided in this subchapter, are as follows:

i. To issue such certification as may be called for herein when warranted and to affix the seal of the Commissioner thereon;

ii. To keep accurate records of all applications for a certification and official action thereon, and to make such records available for inspection by the public at all reasonable times; and

iii. To suspend or revoke a certification provided for herein upon the establishment of cause as set forth in N.J.A.C. 5:71-4.6.

(b) The following rules concern hearings:

1. Any person aggrieved by any notice, action, ruling or order of the Division, with respect to this subchapter, may have a right to a hearing before the Office of Administrative Law, conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 et seq. The final decision in any such case shall be issued by the Commissioner.

2. The aggrieved person must request a hearing. The request must be made within 15 days after receipt of the action or ruling being contested. The request shall be mailed to the Hearing Coordinator, Department of Community Affairs, PO Box 802, Trenton, New Jersey 08625-0802. The request for hearing shall raise all issues that will be set forth at the hearing.

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).

5:71-4.3 Certification required

(a) No person shall carry out the duties of fire official or fire inspector unless that person is certified pursuant to this subchapter. The term "carry out the duties" shall mean and include representing oneself as authorized to carry out inspection of life hazard uses on behalf of the Commissioner, issuing orders pursuant to the Act, and assessing or imposing any of the penalties provided for by the Act.

(b) No local enforcing agency shall employ any person to enforce the provisions of the Uniform Fire Code at a life hazard use, unless that person shall be certified in accordance with the provisions of this subchapter.

(c) When a local enforcing agency that enforces the Code in life hazard uses has a vacancy that leaves the agency without a certified fire official, then the appointing authority shall appoint a certified person to the position within 45 days of the vacancy having occurred. The appointing authority may request an extension of 30 days in which to make the appointment. Such requests shall be made within the initial 45 day period, by the appointing authority or designee, to the Division, Attention: LEA Supervisor, shall set forth the reasons why additional time is necessary and shall indicate if any inspection or enforcement matters require Division assistance in the interest of public health, safety or welfare. Within seven business days from receipt of an extension request, the Division shall send a written determination either granting or denying the request.

1. Fire officials appointed to fill vacancies shall so notify the Division in writing, on the local enforcing agency letterhead, within five days of the appointment.

2. Fire officials shall undertake duties within 10 days of being appointed.

3. The appointing authority or designee shall notify the Division, Attention: LEA Supervisor, in writing within five days of the date that the fire official vacates the office.

4. The Division shall be notified in writing by either the appointing authority or the fire official at least 10 days in advance of any leaves of absence by the fire official in excess of 30 days, which notification shall include the provisions that have been made to enforce the Code during the period of absence.

5. If no fire official is appointed within the applicable time, the Division shall assume responsibility for enforcement and modify the Registry accordingly. Registration fees collected for the period during which the Division is responsible, as well as for the preceding period of the fire official's vacancy, shall enure to the Division.

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

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

"1985" changed to "1986".

Amended by R.1987 d.247, effective June 15, 1987.

See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).

(c) amended.

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

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

July 1, 1986 deleted from (a) and (b).

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).

5:71-4.4 Requirements for certification

(a) Any candidate for certification in Fire Code enforcement pursuant to this subchapter shall submit an application to the Office of Fire Code Enforcement Certification in the Division of Fire Safety, accompanied by the required fee established at N.J.A.C. 5:71-4.7. The application shall include such information and documentation as the Division may require.

(b) Certification as a "fire inspector" shall be issued to any applicant who has successfully completed an educational program approved by the Division pursuant to N.J.A.C. 5:71-4.9.

1. Only an educational program completed within the three years prior to, or at the time of, application shall be accepted toward fulfilling the requirements for certification.

(c) Certification as a "fire official" shall be issued to any applicant who holds a valid certification as a fire inspector issued by the Division pursuant to this section and has successfully completed an educational program approved by the Division pursuant to N.J.A.C. 5:71-4.9.

1. Only an educational program completed within the three years prior to, or at the time of, application shall be accepted toward fulfilling the requirements for certification.

2. The applicant shall provide documentation indicating the successful completion of an examination as required by N.J.A.C. 5:71-4.10.

3. Only test results passed within three years prior to, or at the time of, application shall be accepted toward fulfilling the requirements for the certification sought.

(d) The Division shall determine, by examination of the application and review of any supporting documents, including any evidence of experience, training and/or education submitted, whether an applicant is qualified for the certification for which the application has been made.

1. If the application is satisfactory, the Division shall issue a certification to the applicant upon payment of the required fee.

2. This certification shall show that the person has met the established requirements and is entitled to be employed in the State in accordance with the provisions of this subchapter.

3. The Division may deny, or refuse to issue, a certification to an applicant upon proof that there has been any act or omission that would constitute grounds for revocation under N.J.A.C. 5:71-4.6.

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

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

(b) amended, 5/10/83 and 5/10/84 changed to 2/19/84 and 2/19/85.

Amended by R.1987 d.247, effective June 15, 1987.

See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).