

## CHAPTER 10

### MAINTENANCE OF HOTELS AND MULTIPLE DWELLINGS

#### Authority

N.J.S.A. 55:13A-6(e), 55:13A-7.1 et seq., and 55:13A-13a.

#### Source and Effective Date

Effective: March 2, 2016.  
See: 48 N.J.R. 590(a).

#### Chapter Expiration Date

Subchapters 1, 1A, 1B, 2, and 4 through 28 expire on March 2, 2023.

Subchapter 3, Hotel and Multiple Dwelling Health and Safety Board, expires on June 16, 2016. See: 43 N.J.R. 1203(a).

#### Chapter Historical Note

Chapter 10, Maintenance of Hotels and Multiple Dwellings, became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 10, Maintenance of Hotels and Multiple Dwellings, was readopted as R.1983 d.629, effective December 23, 1983. See: 15 N.J.R. 727(a), 16 N.J.R. 128(b).

Pursuant to Executive Order No. 66(1978), Chapter 10, Maintenance of Hotels and Multiple Dwellings, was readopted as R.1988 d.572, effective November 17, 1988. See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Subchapter 25, Fire Protection, was repealed by R.1988 d.572, effective December 19, 1988, operative June 16, 1989.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).

Subchapter 25, Methods, Devices and Systems for Indirect Apportionment of Heating Costs in Multiple Dwellings, was adopted as R.1992 d.390, effective October 5, 1992. See: 24 N.J.R. 1844(a), 24 N.J.R. 3515(b).

Pursuant to Executive Order No. 66(1978), Chapter 10, Maintenance of Hotels and Multiple Dwellings, was readopted as R.1993 d.464, effective August 26, 1993. See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

Subchapter 27, Child-Protection Window Guards, was adopted as new rules by R.1995 d.586, effective November 20, 1995. See: 27 N.J.R. 3149(a), 27 N.J.R. 4695(b).

Pursuant to Executive Order No. 66(1978), Chapter 10, Maintenance of Hotels and Multiple Dwellings, was readopted as R.1998 d.425, effective July 24, 1998. See: 30 N.J.R. 1462(b), 30 N.J.R. 3068(a).

Subchapter 28, Carbon Monoxide Alarms, was adopted as R.1999 d.259, effective August 16, 1999. See: 31 N.J.R. 825(a), 31 N.J.R. 2330(a).

Subchapter 1A, Local Enforcing Agencies and Subchapter 1B, Inspector Licensing, were adopted as R.2001 d.468, effective December 17, 2001 (operative July 1, 2002). See: 33 N.J.R. 1983(a), 33 N.J.R. 4311(a).

Chapter 10, Maintenance of Hotels and Multiple Dwellings, was readopted as R.2004 d.58, effective January 9, 2004. See: 35 N.J.R. 1175(a), 36 N.J.R. 648(a).

Chapter 10, Maintenance of Hotels and Multiple Dwellings, was readopted as R.2009 d.225, effective June 16, 2009. See: 40 N.J.R. 4267(a), 41 N.J.R. 2778(b).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 10, Maintenance of Hotels and Multiple Dwellings, was scheduled to expire on June 16, 2016. See: 43 N.J.R. 1203(a).

Subchapters 1, 1A, 1B, 2, and 4 through 28 of Chapter 10, Maintenance of Hotels and Multiple Dwellings, were readopted, effective March 2, 2016. See: Source and Effective Date.

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"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.

"Surface" means an area such as an interior or exterior wall, ceiling, floor, door, door frame, window sill, window frame, porch, stair, handrail and spindle, or other abradable surface, soil, furniture, a carpet, a radiator or a water pipe.

"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).

Amended by R.1999 d.259, effective August 16, 1999.

See: 31 N.J.R. 825(a), 31 N.J.R. 2330(a).

Added definition of "Fuel-burning appliance".

Amended by R.2000 d.325, effective August 7, 2000.

See: 32 N.J.R. 1891(a), 32 N.J.R. 2863(a).

In "Owner", added a second sentence.

Amended by R.2001 d.468, effective December 17, 2001 (operative July 1, 2002).

See: 33 N.J.R. 1983(a), 33 N.J.R. 4311(a).

Inserted "Local enforcing agency".

Amended by R.2005 d.144, effective May 16, 2005.

See: 36 N.J.R. 2106(a), 37 N.J.R. 1754(c).

Added "Interim controls", "Lead hazard control work", "Lead-based paint", "Lead-based paint hazard", "Surface".

Amended by R.2006 d.177, effective May 15, 2006.

See: 37 N.J.R. 1698(a), 37 N.J.R. 1931(a), 38 N.J.R. 2115(b).

Inserted the definitions "Expected to reside" and "Housing for the elderly".

#### Case Notes

Structure containing eight apartments was "multiple dwelling" with three or more units, over which Bureau of Housing Inspection retained regulatory jurisdiction, even after property was subdivided into separate lots, which were held in ownership under different deeds. Department Of

Community Affairs, Bureau Of Housing Inspection v. 39-45 Fourth Street, City Of Passaic, New Jersey (John L. Lira), 2003 WL 722267 (N.J. Adm.), NO. CAF 3939-99.

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.

Two properties that were the subject of penalties imposed on account of violations of the New Jersey Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq., were properly considered to be "multiple dwellings" within the meaning of N.J.A.C. 5:10-2.2 because both were structures that had been built, erected, and framed of component structural parts designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind which is enclosed within exterior walls on all sides and had three or more units of dwelling space that were occupied, or were intended to be occupied by three or more persons who live independently of each other. Department of Community Affairs, Bureau of Housing Inspection v. 43-45 16<sup>th</sup> Avenue, Paterson and JAJ Family Group LP and Department of Community Affairs, Bureau of Housing Inspection v. 49-51 16<sup>th</sup> Avenue, Paterson and JAJ Family Group LP, OAL Dkt. Nos. CAF 11664-12 and 11732-12, 2013 N.J. AGEN LEXIS 88, April 12, 2013, Initial Decision.

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.

#### Case Notes

Multiple dwelling building penalized for failure to register as rooming house. DeGrazia v. Department of Community Affairs, Bureau of Rooming and Boarding House Standards, 97 N.J.A.R.2d (CAF) 66.

Denial of rooming and boarding house licensure due to code violations affirmed. Vignanelli v. Keansburg Borough, 97 N.J.A.R.2d (CAF) 63.

Denial of rooming house licensure for failure to complete application modified. Tuli v. Township of Weehawken, 97 N.J.A.R.2d (CAF) 60.

Reasonable penalty for failure to correct code violations found appropriate. Bureau of Housing Inspection v. Murnick, 97 N.J.A.R.2d (CAF) 50.

#### 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.

(c) In the event that the Director transmits any proposed regulations to the Board without calling a special meeting, either the Chairman of the Board or any three members of the Board may call a special meeting pursuant to N.J.A.C. 5:10-3.2.

(d) In the event that no special meeting is called, each member of the Board shall individually submit to the Director such comments and recommendations as he may have within 30 days of his receipt of a copy of the proposed regulations. Upon receipt of any member's comments and recommendations, the Director shall promptly provide copies thereof to all other members.

#### Case Notes

Former regulation regarding use group classifications for hotels applied to school dormitories. *Blair Academy v. Sheehan*, 149 N.J.Super. 113, 373 A.2d 418 (App.Div.1977).

### SUBCHAPTER 4. DUTIES OF OWNERS AND OCCUPANTS

#### 5:10-4.1 Concurrent responsibilities

(a) Owners, including agents of owners, managing agents and superintendents shall have the general duties outlined herein for the maintenance of the premises, and no such person shall be relieved from any such responsibility hereunder by reason of the fact that an occupant or other person shall have similar responsibilities or shall have failed to report any violation, nor shall any such person be relieved of any responsibility by the terms or provisions of any lease, contract or agreement.

(b) Occupants, and to the extent provided herein, members of their families, or other persons living on the premises shall have the general duties outlined herein for occupants for the maintenance of the premises, and no such person shall be relieved from any such responsibility by reason of the fact that any owner or operator shall have similar responsibilities, nor shall any person be relieved of any responsibility by the terms or provisions of any contract, lease or agreement.

(c) In any premises subject to either the Horizontal Property Act (N.J.S.A. 46:8A-1 et seq.) or the Condominium Act (N.J.S.A. 46:8B-1 et seq.), the council of co-owners or condominium association, as the case may be, shall have the duties of an owner as set forth in these regulations. However, any such council or association shall only be required to abate those violations which pertain either to the common areas or common elements or which it has the right, pursuant to contract or otherwise, to require the owner of the individual dwelling unit to abate. Owners of individual dwelling units shall be responsible for the abatement of violations and for the maintenance of records pertaining only to each such unit; provided, however, that the responsibilities of the dwelling unit owner and of the council or association may be concurrent.

1. It shall be the duty of the council of co-owners or association, as the case may be, to forward a notice for payment of the \$20.00 inspection fee set forth at N.J.A.C. 5:10-1.12(h)4 to the unit owner and to identify those tenant-occupied units known to the association prior to the five-year cyclical inspection.

Amended by R.2005 d.144, effective May 16, 2005.

See: 36 N.J.R. 2106(a), 37 N.J.R. 1754(c).

In (c), inserted "and for the maintenance of records" following "abatement of violations" in the introductory paragraph, added 1.

#### Case Notes

Under the Hotel and Multiple Dwellings Law and implementing regulations, it is the obligation of the building owner to make sure a tenant's installation of a double-keyed lock is corrected; the building owner must advise the tenant that the lock is a violation of the regulations and that failure to correct it will constitute grounds for eviction, and the same advice must be given to tenants who remove or tamper with smoke detectors or carbon monoxide alarms. *Nostrame v. Dep't of Community Affairs, Bureau of Housing Inspection*, OAL Dkt. No. CAF 05703-02 and CAF 11012-03, 2007 N.J. AGEN LEXIS 846, Final Decision (August 4, 2007).

Initial Decision (2007 N.J. AGEN LEXIS 573) adopted, which concluded that the homeowners association of Marlton Village, a fee simple townhome development, was not subject to Hotel and Multiple Dwelling Law liability as an owner of a multiple dwelling, because it did not exercise a sufficient degree of control over the multiple dwellings to fall within the definition of owner. *Bureau of Housing Inspection v. Marlton Village*, OAL Dkt. No. CAF 4096-05, 2007 N.J. AGEN LEXIS 850, Final Decision (August 1, 2007).

Initial Decision (2006 N.J. AGEN LEXIS 1019) adopted, which concluded that provision of carbon monoxide detectors is a concurrent responsibility of both a condominium association and the individual unit owners, and may be properly assessed to the association; administrative decisions considering this issue have consistently required condominium associations to ensure that each dwelling unit is equipped with adequate safety devices, such as carbon monoxide alarms and smoke detectors. *Dep't of Community Affairs, Bureau of Housing Inspection v. 275 Prospect Tower Ass'n, Inc.*, OAL Dkt. No. CAF 7872-05, Final Decision (January 8, 2007), aff'd per curiam, No. A-3097-06T2, 2008 N.J. Super. Unpub. LEXIS 924 (App.Div. May 6, 2008).

Owner of leased premises responsible for fines due to building code violations affirmed. *Department of Community Affairs, Division of Code and Standards, Bureau of Housing Inspection v. One Hundred One Asbury Avenue, Asbury Park, Moriarty (D & Z Realty)*, 97 N.J.A.R.2d (CAF) 85.

Owner of multiple dwelling required to maintain in accordance with regulations; penalty policy unenforceable as not promulgated as a rule. *Bureau of Housing Inspection v. Roger Gardens, Inc.*, 5 N.J.A.R. 120 (1983).

Under former N.J.A.C. 5:10-19.2, common elements to be repaired by condominium association following code violations include wiring and plumbing in dwelling units and smoke detector installation; repair assessment to owners permitted. *Florence Condominium Assn. v. Bureau of Housing Inspection*, 5 N.J.A.R. 5 (1983).

#### 5:10-4.2 Discontinuation of services

(a) No person shall intentionally cause any service, facility, equipment or utility which is required to be supplied under this chapter to be removed, shut off or discontinued, or knowingly allow such condition to continue, when the condition affects any occupied unit of dwelling space.

1. This section shall not be applicable to such temporary interruption as may be necessary when actual repairs or alterations are in process or during temporary emergencies when discontinuance of services is caused by any public utility or public agency or is approved by the bureau.

(b) In the event of any discontinuation of services, repairs shall be performed expeditiously to minimize inconvenience to occupants and, to the greatest extent possible, temporary or alternate service shall be provided until permanent service can be restored.

New Rule, R.1981 d.95, effective April 9, 1981.

See: 12 N.J.R. 383(d), 13 N.J.R. 189(d).

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

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

## SUBCHAPTER 5. DUTIES OF OCCUPANTS

### 5:10-5.1 Responsibility of occupants

(a) An occupant shall in addition to complying with all provisions of this chapter applicable to him, be responsible for violations of this chapter to the extent that he has the power to prevent the occurrence of a violation or assist in abating the violation. An occupant has the power to prevent the occurrence of a violation if:

1. It is caused by his own willful act or the willful act of a member of his family or household, or of his guest; or
2. It is the result of his gross negligence, neglect or abuse, or the gross negligence, neglect or abuse of a member of his family or household, or his guest.

(b) The occupant, any member of his family or household, or his guest shall, with respect to the public parts of the premises, be liable if a violation is caused by his own willful act, gross negligence, neglect or abuse.

(c) Every occupant of each unit of dwelling space shall give the owner thereof or his agent or employees access to any part of the unit of dwelling space upon reasonable notification, which under ordinary circumstances shall be one day for multiple dwellings, except immediately for hotels, for the purpose of making such inspection and such repairs or alterations as are necessary to effect compliance with the law and this chapter. In case of safety or structural emergencies immediate access shall be given.

(d) All items stored by occupants in any area provided for common storage by occupants of more than one unit of dwelling space shall bear the name and dwelling unit number of the occupant storing the said item or items. It shall be the responsibility of the occupant to label each item and maintain it labeled. Materials stored in such areas shall be secured against becoming sources of infestation and shall not be placed so as to create a hazard.

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

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

### 5:10-5.2 Reporting of violations

Upon discovery by an occupant of any conditions on the premises, failure of service, or defect in any equipment,

which constitutes a violation hereof, the occupant shall report same promptly to the owner or to the superintendent having charge of the premises.

### 5:10-5.3 Prohibited acts

(a) No occupant or other person shall:

1. Create or maintain any condition constituting a violation of the Uniform Fire Code, N.J.A.C. 5:70;
2. Take down, obscure, alter, destroy, or in any way deface any notice, certificate or sign required by this chapter to be displayed; or
3. Destroy or damage protective equipment.

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

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

Administrative change.

See: 31 N.J.R. 35(a).

### 5:10-5.4 Unsafe and unsanitary conditions

(a) Occupants shall place all garbage within the receptacles provided for garbage disposal. Where janitorial service is not required, they shall place all containers with sufficient frequency to avoid an insanitary accumulation in the exterior area or areas set aside for the same. Garbage, rubbish and other refuse shall not be thrown out of windows or down dumbwaiters, nor shall garbage and refuse be set out on stairways or fire escapes or in common hallways.

(b) Occupants of each unit of dwelling space shall be responsible to the extent of their own use and activities for keeping the interior thereof safe and sanitary. Occupants shall prevent any accumulation of garbage or waste matter which may become a source of infestation.

(c) Every occupant shall maintain all plumbing fixtures used by him in a clean and sanitary condition, shall not deposit any material in any fixture or sewer system which would cause stoppage or of damage to properly maintained fixture or sewer systems and shall be responsible for the exercise of reasonable care in the proper use and operation of such fixtures.

(d) Occupants shall not damage, remove or destroy screens needed for the building.

(e) Every occupant of any unit of dwelling space shall be responsible for removing conditions resulting from the occupants own activities or which may result in infestation conditions which are subject to and under his exclusive control.

(f) No occupant shall cause excessive grease, soot or other foreign matter to accumulate on side walls, ceilings or other exposed room surfaces by improper use of heating or cooking equipment. Cooking equipment shall be kept clean, free of garbage, food particles and grease.

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

**5:10-5.5 Willful damage**

Every occupant shall be liable for willfully or maliciously causing damage to any part of the premises which results in a

violation of this chapter. Any adult occupants shall be responsible and liable for any violation of this section caused by minors under their care or custody occupying the same unit of dwelling space if the violations were created or permitted to