

vi. No credit shall be allowed for any work that is not satisfactory to the Bureau or for inspections by construction or subcode officials of newly constructed or altered buildings pursuant to (c) below.

18. The municipality or county may from time to time make requisitions against the reservation, as may be approved by the Bureau, up to but not in excess of the amount of credits outstanding in said account as of the date of the requisition. Said requisition shall be expressly limited to reimbursement to the municipality or county for existing or additional expenses incurred in carrying out the duties assumed by it hereunder or to improve its housing inspection program and to supplement the locally approved budget dedicated to local housing inspection program; provided, however, in the event the municipality or county shows to the satisfaction of the Bureau that such funds are not needed for the above, requisitions may request payment to the general surplus or other account designated by the municipality or county.

19. The municipality or county shall submit such data as the Bureau shall from time to time require and shall from time to time make its books available for the Bureau's inspection at such times as the Bureau shall require.

20. The municipality or county shall conscientiously enforce all local ordinances related to housing and shall proceed under such ordinances with respect to all cases referred by the Bureau for enforcement under such ordinances. No payment shall be made by the Bureau for enforcement under local ordinances.

21. The Bureau expressly reserves the right, at its option, to carry out inspection and enforcement activities within the boundaries of the municipality or county as it deems necessary to fulfill the duties imposed upon it by the Act or to assure faithful discharge by the municipality or county of its duties and responsibilities pursuant to (b) of this section.

22. The municipality or county shall not utilize any funds received pursuant to this subsection to employ or otherwise compensate any employee of the Department of Community Affairs who has directly participated in the negotiation or approval of the authorization.

23. The authorization may be terminated at any time by the Bureau for any of the following reasons:

- i. Failure for any reason of the municipality or county to fulfill in a timely and proper manner any of the conditions herein set forth;
- ii. Submission of reports by the municipality or county to the Bureau that are incorrect or incomplete in any material respect;
- iii. Improper use of funds provided pursuant hereto;
- iv. Any conduct on the part of a local employee which would constitute a violation of the New Jersey

Conflict of Interest Law, N.J.S.A. 52:13D-12 et seq., if that conduct were engaged in by a State employee.

24. In the event of termination, the municipality or county shall deliver to the Bureau all inspection reports and registration information in its possession.

25. Any authorization given by the Bureau shall be effective as of the date stated in the letter of authorization and shall continue in effect until revoked by the Bureau.

26. Any authorization conferred pursuant to this subsection shall be deemed to be extended to the territory of one or more other local units of government upon submission by such other local units of government and proof of compliance with the requirements of the Interlocal Services Act (N.J.S.A. 40:8A-1 et seq.).

27. Any municipality or county acting under an authorization granted by the Bureau pursuant to this subsection shall be solely responsible for, and shall keep, save and hold the Department of Community Affairs, the Division of Codes and Standards and the Bureau of Housing Inspection, and their officers, directors, employees, agents and servants, harmless from, all claims, loss, liability, expense, damage and judgments, including all legal expenses incurred, resulting from any and all injury, and damage to agents or employees or anyone connected with performance pursuant to the authorization or to any other persons caused by any and all acts of the municipality or any of its officers, directors, employees, agents, or any person or persons in connection with performance under this authorization, or from any and all injury and damage to any property caused by any and all acts of the municipality or county or any of its officers, directors, employees, agents and servants or any other person or persons in connection with performance pursuant to this authorization.

i. The liability of the municipality or county pursuant hereto shall continue after the termination of the authorization with respect to any liability, claims, loss, expense, damage or judgments resulting from acts occurring prior to termination.

ii. The municipality or county shall be solely responsible to defend any and all suits that may be brought against the Department, the Division, or the Bureau or any of its officers, directors, employees, agents or servants on account of any and all acts of the municipality or county and shall make good to, and reimburse the Department for any expenditures that the Department may make by reason of such acts.

28. No municipality or county shall unilaterally discontinue performing inspections pursuant to the authorization except upon six months' notice to the Bureau.

(c) The Construction Official in each municipality is hereby designated as an agent of the Bureau of Housing Inspection for the purpose of inspecting newly constructed

or altered hotels and multiple dwellings in order to enforce the provisions of these regulations. Responsibility for inspection may be delegated to the appropriate subcode official(s).

(d) The local enforcing agency, as the term is defined in N.J.A.C. 5:70-1.5, authorized to enforce the Uniform Fire Code in each municipality is hereby designated as the agent of the Bureau for the purpose of inspecting existing buildings in order to enforce all provisions of the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq., and the Uniform Fire Code, N.J.A.C. 5:70, applicable to hotels and multiple dwellings; provided, however, that such provisions shall continue to be enforced by the Bureau in multiple dwellings and hotels that are not life hazard uses, as defined in N.J.A.C. 5:70-2.4A or 2.4B, until such time as the Bureau has been advised by the Division of Fire Safety that the local enforcing agency has agreed to accept responsibility for periodic fire safety inspections in such buildings.

Amended by R.1981 d.95, effective March 11, 1981.

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

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

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

(b) "Any such authorization . . ." added; (b)(1-2) added.

(d) added.

Amended by R.1983 d.389, effective September 19, 1983.

See: 15 N.J.R. 1054(a), 15 N.J.R. 1575(c).

Added 28 to (b).

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).

Subsection (d) substantially amended.

Notice of Correction, effective May 4, 1992.

See: 24 N.J.R. 1791(b).

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).

Amended by R.1999 d.104, effective April 5, 1999.

See: 31 N.J.R. 121(a), 31 N.J.R. 851(b).

In (b), rewrote 5 and 6, and substituted a reference to the Division of Codes and Standards for a reference to the Division of Housing in 27.

Case Notes

Standards for denial of exception from two exit requirement (citing former N.J.A.C. 5:10-19.4). *Renan Realty Corp. v. Dept. of Community Affairs*, 182 N.J.Super. 415, 442 A.2d 614 (App.Div.1981).

Authority to promulgate regulations; regulations reasonably necessary and appropriate. *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.

Penalty assessment compromise accepted for corrections of violations. *Paganelli v. Bureau of Housing Inspection, Department of Community Affairs*, 97 N.J.A.R.2d (CAF) 86.

Numerous unabated safety violations in apartment building, including unrepaired stairways, ceilings, walls and window screens, defective smoke detectors and roach infestations, warranted penalty assessment. *Bureau of Housing Inspection v. Scott*, 96 N.J.A.R.2d (CAF) 119.

Owner of multiple dwelling who failed to prove correction of past fire safety violations was subject to penalty assessment. *Bureau of Housing Inspection v. Taylor*, 96 N.J.A.R.2d (CAF) 80.

Condominium association qualifies as owner subject to Hotel and Multiple Dwelling Law. Three Hundred Twenty Five Saw Mill Road v. Bureau of Housing Inspection, 96 N.J.A.R.2d (CAF) 69.

Reinspection of defective premises was required to establish continuing violations for possible penalties. 20 President Street v. Department of Community Affairs, 95 N.J.A.R.2d (CAF) 101.

Failure to abate all outstanding building violations as agreed rendered owner liable for higher penalty assessment. *Gertner v. Department of Community Affairs*, 95 N.J.A.R.2d (CAF) 65.

Failure to pay reinspection fee once building violations were abated warranted imposition of minimum \$50 penalty. *Department of Community Affairs v. 19 Bruen Avenue*, 95 N.J.A.R.2d (CAF) 54.

Building owner required to pay penalty for violations of building code was not entitled to a reduction in the fine. *Radzik v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 26.

Multiple dwelling owner with address and phone number in another state is not in compliance with the statute which requires an "in-county agent". In the Matter of 1151 Washington Street, 93 N.J.A.R.2d (CAF) 62.

Penalty was due to the unabated violations at reinspection and was not based on the unabated screening violations at the time of reinspection. *Romano v. Department of Community Affairs*, 93 N.J.A.R. 2d (CAF) 49.

Inspection report and issuance of green card in 1983 did not prevent the enforcement of requirements for installation of self-closing/self-locking doors and installation of doorbells. *Department of Community Affairs v. Bistricher*, 93 N.J.A.R.2d (CAF) 43.

Landlords' failure to correct code violations; imposition of fine. 142 Mill Street, Paterson, New Jersey (Bonafield) v. Department of Community Affairs, Bureau of Housing Inspection, 93 N.J.A.R.2d (CAF) 31.

Rapid abatement efforts following citation; reduction in fine. N.J.S.A. 55:13A-6(g). *Bajjnath v. Department of Community Affairs, Bureau of Housing Inspection*, 93 N.J.A.R.2d (CAF) 30.

Failure to abate violations of the Hotel and Multiple Dwelling Law justified monetary penalty. 17-19 Calhoun Street v. Department of Community Affairs, 93 N.J.A.R.2d (CAF) 15.

Owner of apartment buildings was subject to penalties of \$21,550 for continuing violations of Hotel and Multiple Dwelling Law. *Department of Community Affairs, Bureau of Housing Inspection v. Salsburg*, 92 N.J.A.R.2d (CAF) 91.

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. 5:70.

(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. 5:70.

(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).

Administrative change.

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

5:10-1.17 (Reserved)

Amended by R.1982 d.334, effective September 20, 1982.
See: 14 N.J.R. 909(b), 14 N.J.R. 1089(c).

Originally filed as an emergency adoption (R.1982 d.259) on July 22, 1982. Readopted as R.1982 d.334.
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).
Section concerned Inspection fees.

5:10-1.18 through 5:10-1.29 (Reserved)**5:10-1.30 (Reserved)**

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).

5:10-1.31 (Reserved)

Amended by R.1978 d.289, effective August 17, 1978.
See: 10 N.J.R. 222(a), 10 N.J.R. 378(b).

5:10-1.32 (Reserved)

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).

5:10-1.33 through 5:10-1.34 (Reserved)**SUBCHAPTER 2. DEFINITIONS****5:10-2.1 Tense, gender and number**

Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; words used in the singular include the plural and the plural the singular.

5:10-2.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Act”, See “Law or Act” of this section.

“Adjoining grade elevation” means the average elevation of the final grade adjoining all exterior walls of a building, calculated from grade elevations taken at intervals of 10 feet around the perimeter of the building.

“Alteration”, as applied to a building or structure, means a change or rearrangement in the structural parts or in the egress facilities of any such building or structure, or any enlargement thereof, whether by extension on any side or by any increase in height, or the moving of such building or structure from one location or position to another.

“ANSI” means the American National Standards Institute, Inc.

“Approved” means approved by the Bureau of Housing Inspection or its duly authorized representative.

“Architect” means a person registered to practice the profession of architecture under the laws of the State of New Jersey.

“ASHRAE” means the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

“Attic” means the space between the ceiling beams of the top story and the roof rafters.

“Basement” means that portion of a building which is partly below and partly above grade, and has at least one half its ceiling height above grade.

“Basin” means a plumbing fixture located in a bathroom or in close proximity thereto and used exclusively for sanitation operations.

“Bathroom” means any enclosed space containing one or more bathtubs, or showers, or both, and which also may contain water closets, lavatories or fixtures serving similar purposes.

“Board” means the Hotel and Multiple Dwelling Health and Safety Board. (See N.J.S.A. 55:13A-3(c).)

“BOCA” means the Building Officials and Code Administrators International.

“Building” means a structure 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.

“Bureau” means the Bureau of Housing Inspection. (See N.J.S.A. 55:13A-3(d).)

“Ceiling height” means vertical distance between the finished floor and the finished ceiling.

“Cellar” means that portion of a building which is partly or completely below grade, and has more than one-half its ceiling height below grade.

“Central heating” means the provision of heat throughout a building by means of one or more heating units or furnaces centrally located in a building, rather than by means of individual heating units or furnaces located in some or all of the units of dwelling space in said building.

“Child-protection window guard” or “window guard” means a bar, screen or grille assembly designed to be

installed in a window for the purpose of preventing accidental fall or ejection of a child through the window.

“Chimney” means a vertical enclosure containing one or more flues used to remove hot gases from burning fuel, refuse, or from industrial processes.

“Commissioner” means the Commissioner of the Department of Community Affairs, New Jersey or his duly authorized representative.

“Common area” means all areas accessible to, and which may be utilized by either occupants of a building or the general public, or both, including, but not limited to, vestibules, hallways, stairways, landings and common space and occupiable room or space, as hereinafter defined, which is not part of any dwelling unit. This definition shall also mean and include any area accessible to the owner or manager or any person employed in the maintenance of the building which is not part of any dwelling unit.

“Concurrent loads” means two or more elements of dead or live load that, for purposes of design, are considered to act simultaneously.

“Condominium” means the form of ownership of real property under a master deed providing for ownership by one or more owners of units, together with an undivided interest in common elements appurtenant to each such unit. (See N.J.S.A. 46:8B-3 and 55:13A-3(q).)

“Construction” means any or all work or operations necessary or incidental to the erection, demolition, assembling, installing, or equipping of buildings, or any alterations and operations incidental thereto. The term “construction” shall include land clearing, grading, excavating and filling. It shall also mean the finished product of any such work or operations.

“Construction class (group)” means the category in which a building or space is classified based on the fire-resistance ratings of its construction elements as set forth in the current edition of the BOCA National Building Code.

“Cooperative” means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by said corporation or association, or to lease or purchase a dwelling constructed or to be constructed by said corporation or association. (See N.J.S.A. 55:13A-3(r).)

“Corridor” means an enclosed passage providing a means of access from rooms or spaces to an exit.

“Court” means an open, uncovered, and unoccupied space on the same lot with a building.

“Crawl space” means an unoccupiable area in a building not more than 48 inches in height.

“Dead-end” means a portion of a corridor in which the travel to an exit is in one direction only.

“Demolition” means the dismantling or razing of all or part of a building, including operations incidental thereto.

“Department” means the Department of Community Affairs, State of New Jersey.

“Design winter conditions” means the design temperature at the nearest locality reported in the latest edition of the Handbook of the American Engineers Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE).

“Deterioration” means decay, damage, loss of material or ability to function as intended caused by exposure to the elements.

“Director” means the Director of the Division of Housing and Development.

“Drainage system” means all the piping within public or private premises, which conveys sewage, rain water, or other liquid wastes to a legal point of disposal, but shall not include the mains of public sewer system or private or public sewage-treatment or disposal plant.

“Duct (Ventilation)” means a pipe, tube, shaft, conduit, or an enclosed space within a wall or structure, used for conveying air.

“Dumbwaiter” means a hoisting and lowering mechanism equipped with a car that moves in guides in a substantially vertical direction, the floor area of which does not exceed nine square feet, whose total inside height, whether or not provided with fixed or movable shelves does not exceed four feet, the capacity of which does not exceed 500 pounds and that is used exclusively for carrying materials.

“Dwelling space”. (See N.J.A.C. 5:10-2.2, definition of “Unit of dwelling space”.)

“Dwelling unit” means a room or rooms, or suite or apartment, that is occupied or intended to be occupied for sleeping or dwelling purposes by one or more persons. (See N.J.S.A. 55:13A-3(h).)

“Egress or means of egress” means a path by which ambulatory persons can travel safely and without assistance from a unit of dwelling space, dwelling unit or rooming unit along a continuous and unobstructed line to an exterior open area.

“Electrically supervised”, as applied to a control circuit, means that in the event of interruption of the current supply or in the event of a break in the circuit, a specific signal will be given.

“Elevator” means a hoisting and lowering mechanism equipped with a car or platform that moves in guides in a substantially vertical direction, and that serves two or more floors of a building.

“Emancipated minor” means any person under the age of 18 who is gainfully employed and who is self-supporting or who is married to a spouse who is gainfully employed and who supports the said minor, or who is a student living away from home and in regular attendance in an institution of higher learning.

“Engineer” means a person licensed to practice the profession of engineering under the law of the State of New Jersey.

“Exit” means a means of egress from the interior of a building to an open exterior space, including any or all of the following: door openings, enclosed vertical exits, grade passageways, horizontal exits, exterior stairs, or fire escapes; but not including access stairs, aisles, corridor doors or corridors.

“Extermination” means the process of controlling and eliminating of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping, or by any other recognized and lawful pest-elimination methods.

“Fire resistance rating” means the time in hours or fractions thereof that materials or their assemblies will withstand fire exposure as determined by a fire test made in conformity with recognized standards.

“Fire separation wall” means a fire resistance rated assembly of materials having protected openings which is designed to restrict the spread of fire.

“Fire wall” means a fire resistance rated wall, having no unprotected openings, which restricts the spread of fire and extends openings, which restricts the spread of fire and extends continuously from the foundation to or through the roof.

“Floor area” means the projected horizontal area enclosed inside of walls, partitions, or other enclosing construction.

“Flue” means an enclosed passageway in a chimney to carry products of combustion to the outer air.

“Footing” means a foundation element consisting of an enlargement of a foundation pier or foundation wall, wherein the soil materials along the sides of and underlying the element may be visually inspected prior to and during its construction.

“Foundation (Building)” means a construction that transfers building loads to the support soil.

“Foundation wall” means a wall extending below grade.

“Fresh air” means outdoor air.

“Fuel-burning appliance” means a device or apparatus which is designed to utilize natural gas, manufactured gas, mixed gas, liquefied petroleum products, solid fuel, oil or any gas as a fuel for heating, cooling, hot water, cooking, generating light or power or for aesthetics.

“Garbage” means rubbish and refuse as defined in this section.

“Grade” means a reference plane representing the average of finished ground level adjoining the building at all exterior walls.

“Grade passageway” means a horizontal extension of a vertical exit or a passage leading from a yard or court to an open exterior space.

“Guest” means any person who occupies a unit of dwelling space either as a temporary occupant or transient in an establishment holding itself out as serving transients or on a temporary or permanent basis in an establishment providing housekeeping or dining services on a regular basis to occupants.

“Habitable room” means a residential room or space, having an area exceeding 59 square feet in which the ordinary functions of domestic life are carried on, and which includes bedrooms, living rooms, studies, recreation rooms, kitchens, dining rooms, and other similar spaces, but does not include closets, halls, stairs, laundry rooms, or bathrooms.

“Hazard” means a condition which because of faulty construction or maintenance of the premises creates significant and recognizable danger or risk to the health and safety of persons on or near the premises.

“Height (Buildings)” means the vertical distance from the curb level to the highest point of the roof beams in the case of flat roofs, or to a point at the average height of the gable in the case of roofs having a pitch of more than one foot in 4½ feet; except that where the curb level has not been legally established, or where every part of the building is set back more than 25 feet from a street line, the height shall be measured from the adjoining grade elevation.

“Hotel” means any building, including but not limited to any related structure, accessory building and land appurtenant thereto, and any part thereof, which contains ten or more dwelling units or has sleeping facilities for 25 or more persons and is kept, used, maintained, advertised as, or held out to be, a place where sleeping or dwelling accommodations are available to guests. “Hotel” also means any facility that is commonly regarded as a hotel, motor hotel, motel or established guesthouse in the community in which it is

located. "Hotel" does not include those facilities that are excluded by statute. (See N.J.S.A. 55:13A-3(j).)

"Infestation" means the presence within a hotel or multiple dwelling of any insects, rodents or other pests. Infestation shall include breeding areas on the exterior of the premises so located that products thereof may spread to the interior of any building subject to these regulations.

"Janitorial services" means cleaning and maintaining of common areas including the making of minor repairs, attendance to the furnishing of heat and hot water where the owner is responsible for operation and maintenance thereof, the removal of garbage, refuse and rubbish from the premises, and the removal of snow, ice, dirt, and other matter creating obstructions or hazards from pedestrian paths, sidewalks and gutters.

"Kitchen" means any room or part of a room used for cooking or the preparation of food.

"Law" or "Act" means N.J.S.A. 55:13A-1 et seq., the Hotel and Multiple Dwelling Law.

"Leader" means a vertical drainage pipe for conveying storm water from roof or gutter drains to a building house storm drain, building house drain (combined) or other means of disposal. The leader shall include the horizontal pipe to a single roof drain or gutter drain.

"Live load" means all occupants, materials, equipment, constructions or other elements of weight supported in, on or by a building that will or are likely to be moved or relocated during the expected life of the building.

"Mechanical ventilation" means the process of introducing outdoor air into, or removing vitiated air from a building by mechanical means. A mechanical ventilating system may include air heating, air cooling or air conditioning components.

"Minor" means any person who is under the age of 18. (See N.J.A.C. 5:10-2.2, definitions of "Emancipated minor" and "Unemancipated minor".)

"Multiple dwelling" means any building or structure and any land appurtenant thereto, and any portion thereof, in which three or more dwelling units are occupied or intended to be occupied by three or more persons living independently of each other. "Multiple dwelling" also means any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two dwelling units are occupied or intended to be occupied by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. "Multiple dwelling" does not include those buildings and structures that are excluded by statute. (See N.J.S.A. 55:13A-3(k).)

"Municipality" means in addition to its legal meaning, two or more municipalities acting in concert through any public agency, joint committee, contractual arrangement or in any other manner authorized by law.

"Mutual housing corporation" means a not-for-profit corporation incorporated under the laws of the State of New Jersey on a mutual or cooperative basis within the scope of the "Lanham War Housing Act," 42 U.S.C. Sect. 1501 et seq., which acquired a National Defense Housing Project pursuant to said act. (See N.J.S.A. 55:13A-3(p).)

"Natural ventilation" means ventilation by opening to outer air through windows, skylights, doors, louvers or stacks with or without wind-driven devices.

"New Jersey Uniform Construction Code" means N.J.S.A. 52:27D-119 et seq., N.J.A.C. 5:23-1.1 et seq., and the Subcodes adopted pursuant thereto.

"NFPA" means the National Fire Protection Association.

"Occupancy" means the purpose or activity for which a building or space is used or is designed or intended to be used.

"Occupant" means any person or persons, including guests, in actual physical possession or occupancy of a unit of dwelling space on a regular basis. For purposes of assigning specific duties or responsibilities, the term "occupant", unless the text indicates otherwise, shall mean the tenant, lessee, head of the family or household, or other adult person or emancipated minor assuming basic responsibility for the continued renting or occupancy of the dwelling space.

"Occupiable room" means a room or space, other than a habitable room, designed for human occupancy or use, in which persons may remain for a period of time for rest, amusement, dining, shopping, storing goods or other similar purposes, or in which persons may be engaged at work.

"Owner" means any person who owns, purports to own, or exercises control of any hotel, multiple dwelling or retreat lodging facility. (See N.J.S.A. 55:13A-3(l).)

"Partition" means a vertical unit or assembly of materials that separates one space from another within any story of a building.

"Person" means any individual, corporation, association, or other entity. (See N.J.S.A. 1:1-2 and 55:13A-3(m).)

"Plumbing" means the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, equipment and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and the public or private water supply systems, within or adjacent to any building; also the practice and materials used in the installation, maintenance, extension, or alteration of storm water, liquid waste, or sewerage, and water-supply systems of any premises and their connection with any point or public disposal or other acceptable terminal.

“Plumbing fixtures” means installed receptacles, devices, or appliances that are supplied with water or which receive or discharge liquids or liquid-borne wastes.

“Potable water” means water free from impurities present in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the Department of Health.

“Premises” means land, improvements thereon, or any part thereof.

“Project” means a group of buildings subject to the Act that:

1. Are or are represented to be under common or substantially common ownership;
2. Are on a single lot or contiguous lots, and
3. Are named, designated or advertised as a common entity. Lots shall be considered to be contiguous even if they are separated by a public right-of-way. (See N.J.S.A. 55:13A-3(o).)

“Protective equipment” means any equipment, device, system or apparatus required or permitted to be constructed or installed in any hotel or multiple dwelling for the protection of occupants, intended occupants or the general public. (See N.J.S.A. 55:13A-3(i).)

“Refuse” means all putrescible solid wastes (except body wastes), including but not limited to garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

“Regulations” means the rules contained in this chapter.

“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).
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".

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.

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.