

SUBCHAPTER 27. CHILD-PROTECTION WINDOW GUARDS

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APPENDIX 27A

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SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

5:10-1.1 Title

This chapter promulgated pursuant to N.J.S.A. 55:13A-1 et seq. of the Laws of New Jersey shall be known and may be cited as the "Regulations for Maintenance of Hotels and Multiple Dwellings", and are hereinafter referred to as "regulations".

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). *Bajinath 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, maintenance, occupancy and use of new and existing hotels, retreat lodging facilities 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. Has no dwelling units not occupied by unit owners, if a condominium, or by shareholders, if a cooperative or mutual housing corporation.

- i. If there are both owner-occupied units and units that are not owner-occupied within a building section, then the owner-occupied units within that building section, and only the owner-occupied units, shall be considered not to be portions of a multiple dwelling.

- ii. The condominium association or cooperative or mutual housing corporation shall provide the Bureau with any information necessary to justify an exemption for a dwelling unit or building section pursuant to this paragraph.

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.

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

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

In (a), deleted references to demolition and to removal, and inserted a reference to retreat lodging facilities; and rewrote (b)2.

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.

(g) If, in the course of inspecting any hotel or multiple dwelling, any inspector performing inspections for the Bureau shall find a condition which is, or appears to be, in violation of the Uniform Fire Code, N.J.A.C. 5:70, the inspector shall give prompt notice of that condition to the Bureau, which shall promptly notify the Division of Fire Safety.

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

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

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

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

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

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

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

tion was performed, the municipal inspection prior to resale shall not be accepted in lieu of a current inspection.

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

3. Upon a finding that the requirements of the municipal maintenance code are substantially identical to the requirements of this chapter, the inspection prior to sale shall be accepted in lieu of the current inspection.

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

(k) Upon reasonable request of the Bureau, the owner of any multiple dwelling in which any violation of N.J.A.C. 5:10-6.6 is found or suspected shall provide to the Bureau, at the sole cost and expense of such owner, a risk assessment prepared by a certified lead evaluation firm pursuant to N.J.A.C. 5:17 which identifies lead-based paint hazards and specifies corrective action to eliminate or control such hazards. The Bureau may also request, and the owner shall provide, a certification that the multiple dwelling is free of lead-based paint hazards issued pursuant to N.J.A.C. 5:17.

Amended by R.1971 d.60, effective April 23, 1971.
See: 3 N.J.R. 77(a).
Amended by R.1978 d.289, effective August 17, 1978.
See: 10 N.J.R. 222(a), 10 N.J.R. 378(b).
Recodified April 9, 1981 from N.J.A.C. 5:10-1.26.
Amended by R.1988 d.572, effective December 19, 1988.
See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).
Added (g).
Administrative Correction to (d)1.
See: 22 N.J.R. 921(a).
Amended by R.1993 d.464, effective September 20, 1993.
See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).
Amended by R.1995 d.279, effective June 5, 1995.
See: 27 N.J.R. 1345(a), 27 N.J.R. 2181(a).
Added (h) to (j).
Administrative change.
See: 31 N.J.R. 35(a).
Amended by R.2005 d.144, effective May 16, 2005.
See: 36 N.J.R. 2106(a), 37 N.J.R. 1754(c).
Added (k).

Case Notes

Dust wipe sample test was not sufficient to determine that a multiple dwelling unit was lead free and did not take the place of a risk assessment and certification. Dep't of Community Affairs, Bureau of Housing Inspection v. 20-22 Manning Ave., OAL Dkt. No. CAF 6263-07, 2008 N.J. AGEN LEXIS 282, Initial Decision (April 4, 2008).

Bureau of Housing Inspection unable to waive statutory reinspection fee. New Jersey Department of Community Affairs, Bureau of Housing Inspection v. D'Agostino, 97 N.J.A.R.2d (CAF) 56.

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

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

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

5:10-1.11 Certificate of registration

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

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

(c) Each certificate of registration shall state:

1. The name, address and telephone number of said owner;
2. Such description of each hotel, retreat lodging facility or multiple dwelling, by street number or otherwise, as will enable the Bureau easily to locate the same;
3. The name, address and telephone number of the agent appointed by said owner pursuant to (f) below for the purpose of receiving service of process and other orders or notices;
4. The name, address and telephone number of the person, association or corporation, if any, which manages or operates such hotel, retreat lodging facility or multiple dwelling for or on behalf of said owner;
5. The name and address of any mortgage holder of record;
6. Whether or not the property is being registered for the first time and, if not, the date of transfer to the present owner;
7. Whether the owner is a corporation, partnership, individual(s), or some other entity;
8. Whether the building is a hotel, a retreat lodging facility or a multiple dwelling;
9. The construction class;

10. The number of dwelling units in the building;

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

11. The number of stories;

(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

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 of or 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 continue with the knowledge or acquiescence or consent of said adult member.

5:10-5.6 Heating by occupant

(a) Where any occupant undertakes by contract, or as a condition of his lease to supply his own heat through a furnace or boiler which also heats any unit of dwelling space occupied by other persons, the said occupant shall be

responsible in the same manner as the owner for supplying heat in accordance with the provisions of this chapter.

(b) Installation and maintenance: Where any occupant undertakes to install heating equipment, it shall conform to the requirements of the New Jersey Uniform Construction Code.

(c) The occupant shall be responsible for maintaining such equipment installed by him in good repair and operating condition during all times that the heating equipment remains under his control.

5:10-5.7 Occupancy violations

No occupant shall occupy or permit the occupancy of any unit of dwelling space in violation of the occupancy standards established under N.J.A.C. 5:10-22. No occupant shall cook in any unit or dwelling space except where all the required cooking facilities are installed as required under N.J.A.C. 5:10-20. No occupant shall occupy or continue to occupy a unit of dwelling space that does not have provision for bathroom and toilet room facilities as required by N.J.A.C. 5:10-21.

5:10-5.8 Storage

No occupant shall utilize any area outside of his dwelling space for storage purposes except in an area designated for such use in accordance with N.J.A.C. 5:10-5.1(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 6. GENERAL MAINTENANCE

5:10-6.1 Elimination of hazards

The owner of any hotel or multiple dwelling shall be responsible at all times for keeping all parts of the premises occupied by himself or other persons, to the extent of his responsibilities described herein, clean and free of infestation and hazards to the health or safety of occupants and other persons in or near the premises.

Case Notes

Landlord did not have absolute liability, on basis of warranty of habitability, for injuries caused by presence of lead paint, even if injured party was unable to show that landlord knew or should have known of condition. Ruiz ex rel. Ruiz v. Kaprelian, 322 N.J.Super. 460, 731 A.2d 118 (N.J.Super.A.D. 1999).

Landlord's duty to proper installation and attentive repair work. Anderson v. Sammy Redd and Associates, 278 N.J.Super. 50, 650 A.2d 376 (A.D.1994), certification denied 139 N.J. 441, 655 A.2d 444.

Landlord's negligent installation and repair of window screen as proximate cause of child's death was fact question. Anderson v. Sammy Redd and Associates, 278 N.J.Super. 50, 650 A.2d 376 (A.D.1994), certification denied 139 N.J. 441, 655 A.2d 444.

Regulations relating to obligations of hotel-keeper for safety in and around property were not applicable in negligence action against hotel. Catando v. Sheraton Poste Inn, 249 N.J.Super. 253, 592 A.2d 294 (A.D.1991) certification denied 127 N.J. 550, 606 A.2d 364.

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

5:10-6.2 Nuisances

The owner of any hotel or multiple dwelling shall be responsible for avoiding, eliminating or abating any noises, lights, odors, radiations or vibrations arising out of the use or occupancy of the premises which shall constitute a nuisance that is harmful or potentially harmful to the health and well-being of persons of ordinary sensitivity occupying or using the premises.

Case Notes

Standard for constructive eviction or rent abatement due to co-tenant noise or conduct (citing former N.J.A.C. 5:10-9.4). Gottdiener v. Mailhot, 179 N.J.Super. 286, 431 A.2d 851 (App.Div.1981).

5:10-6.3 Maintenance of dwelling units

Every unit of dwelling space shall be so maintained as to be fit for human use and habitation and to prevent progressive deterioration of the unit to the detriment of the health, safety and well-being of its occupants.

Case Notes

Unabated building code violations which showed deterioration and possible sanitary problems warranted fine of \$375. Bureau of Housing Inspection v. Eighty-eight Seeley Avenue, 96 N.J.A.R.2d (CAF). 103.

Apartment complex must employ specific number of full-time maintenance persons. Kushner Companies v. Department of Community Affairs, 95 N.J.A.R.2d (CAF) 3.

5:10-6.4 Maintenance of exterior

(a) The exterior of the premises and all structures thereon shall be kept free of all nuisances, insanitary conditions, and any hazards to the safety or health of occupants, pedestrians and other persons utilizing the premises, and any of the foregoing conditions shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of such conditions which include, but are not limited to the following:

1. Brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash, refuse and debris;
2. Dead and dying trees and limbs or other natural growth which by reason of rotting or deteriorating conditions or storm damage constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions;
3. Loose and overhanging objects and accumulations of ice and snow which by reason of location above ground

level constitute a danger of falling on persons in the vicinity thereof;

4. Holes, excavations, breaks, projections, obstructions, litter, icy conditions, uncleared snow and excretion of pets and other animals on paths, walks, driveways, parking lots and parking areas and other parts of the premises. Holes and excavations shall be filled and repaired, walks and steps replaced and other conditions removed where necessary to eliminate hazards or insanitary conditions with reasonable dispatch upon their discovery;

5. Accumulations of water, vegetation or other matter which might serve as a source of food or as a harboring or breeding place for infestation;

6. Walks, courts and other paved areas shall be kept clean and free of litter, dirt, mud or other conditions hazardous to pedestrians.

(b) All parts of the premises shall be so graded and, where necessary, provided with runoff drains and other means to carry off and dispose of surface waters in such a manner as to eliminate any recurrent or excessive accumulations of storm water on the premises, without causing excessive accumulations of water on adjoining properties:

1. Parts of the premises regularly used by occupants shall drain within one hour of the termination of any storm creating surface waters;

2. Other parts of the premises not covered under paragraph 1 of this subsection shall drain within six hours of the cessation of any such storm.

Case Notes

Regulations relating to obligations of hotel-keeper for safety in and around property were not applicable in negligence action against hotel. *Catando v. Sheraton Poste Inn*, 249 N.J.Super. 253, 592 A.2d 294 (A.D.1991) certification denied 127 N.J. 550, 606 A.2d 364.

Multiple dwelling owner required to provide adequate garbage storage and disposal (citing former N.J.A.C. 5:10-9.4); municipal limitation of garbage collection to curbside service not discriminatory against multiple dwelling owners. *Pleasure Bay Apartments v. City of Long Branch*, 66 N.J. 79, 328 A.2d 593 (1974).

Unabated fire-safety and other violations warranted imposition of \$6,750 in penalties against landlord. *804 Ocean v. Community Affairs*, 95 N.J.A.R.2d (CAF) 17.

5:10-6.5 Outdoor pools

Outdoor swimming pools, decorative pools, reflecting pools and artificial fish ponds which contain 24 inches or more of water shall be protected by a fence, wall, building, enclosure or solid wall of durable material of which the pool itself may be constructed so as to afford no external hand-holds or footholds, of materials which are impenetrable by toddlers, and shall be at least four feet in height and equipped with a self-closing and self-latching closure mechanism not more than six inches below the top of the gate and provided with hardware for permanent locking.

5:10-6.6 Lead-safe maintenance requirements for multiple dwellings

(a) Each multiple dwelling, including all common areas, constructed before 1978, shall be subject to the requirements for lead-safe maintenance contained in this section. All such buildings shall undergo a combined inspection and risk assessment, and lead hazard control work in accordance with (b) below or shall comply with the requirements for standard treatments contained in (c) below. Following the performance of lead hazard control work or standard treatments, all buildings shall be subject to the requirements for on-going evaluation and maintenance contained in (d) below.

1. The requirements of this section shall not apply to:

i. Buildings, dwelling units or common areas that have been certified to be free of lead-based paint in accordance with N.J.A.C. 5:17;

ii. A seasonal rental unit which is rented for less than six months' duration each year;

iii. A dwelling unit that has been certified as having a lead-free interior in accordance with N.J.A.C. 5:17;

iv. An owner-occupied dwelling unit; or

v. Housing for the elderly, or a residential property designated exclusively for persons with disabilities; except this exemption shall not apply if a child less than age six resides or is expected to reside in the dwelling unit.

(b) Inspection, risk assessment and lead hazard control work: A combined inspection and risk assessment shall be performed in accordance with the applicable provisions of N.J.A.C. 5:17. Data collected from a previous inspection or risk assessment may be used. If a property or portions of a property were inspected for lead-based paint prior to May 16, 2005, a risk assessment shall be performed for the property or portions inspected; however, a new inspection shall not be required. For purposes of this section, "risk assessment" shall exclude testing of soil. For purposes of this section, "floors" shall include both carpeted and uncarpeted surfaces.

1. Lead hazard control work to address lead-based paint hazards identified in the risk assessment shall be conducted in accordance with the applicable provisions of N.J.A.C. 5:17 for lead-based paint abatement and in accordance with the U.S. Department of Housing and Urban Development rules (24 CFR 35) for interim controls included here as Subchapter Appendix 6-A, incorporated herein by reference.

2. Following the performance of an inspection and risk assessment and any necessary lead hazard control work, the owner shall obtain a certification that the property is free of lead-based paint hazards issued in accordance with N.J.A.C. 5:17-3.6.

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

5:10-17.2 No smoking signs

Common areas available for or utilized for storage purposes and public garages shall contain one sign at least one square foot in area, clearly legible and prominently displayed at or near the entrance to the space, prohibiting smoking in the area.

5:10-17.3 Limitations on storage space

(a) Storage in common areas shall not cover more than 80 percent of the overall floor area and not more than 60 percent of the cubic content of the storage area and shall be arranged so that there will be maintained at all times aisles at least three feet in width.

(b) Storage shall not be permitted in attic spaces in garden apartments unless such spaces are designed for such purposes.

5:10-17.4 Refrigerators and similar equipment

The owner shall first remove the doors of any refrigerators or other such equipment with exterior closing devices likely to be hazardous to children, if stored on the premises.

5:10-17.5 (Reserved)

Repealed by R.1993 d.464, effective September 20, 1993.
See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).
Section was "Closets under stairs".

SUBCHAPTER 18. MAILBOXES AND IDENTIFICATION SIGNS

5:10-18.1 Mailboxes and directories

(a) The owner shall provide and maintain mail receptacles for all occupants, conforming to all Federal postal laws and regulations.

(b) In multiple dwellings, there shall be identification by name and unit of dwelling space for each designated occupant, maintained by the person in charge of the premises or posted at or near the main entrance of the premises or in the lobby, lounge or mailroom area. Nothing herein shall be construed as requiring a directory for transient guests, provided there is a responsible person on the premises designated by the owner, known to postal authorities, who shall on behalf of the owner receive and distribute or make available for pickup mail for transient guests.

5:10-18.2 Identification signs

(a) Every unit of dwelling space in hotels and multiple dwellings shall have some permanent and legible identifica-

tion by letter, number or other symbol at or near the front entrance thereof.

(b) Floor signs designating the number of the floor shall be posted prominently and maintained permanently near to and visible from the entrance to the elevators and stairwells serving each floor.

(c) The street number of the premises shall be posted prominently at the front entrance of the premises and be visible day and night from the public right-of-way adjoining the main front entrances of the premises.

SUBCHAPTER 19. BUILDING SECURITY

5:10-19.1 Hotels

(a) The following provisions apply to hotels:

1. Entrance doors to dwelling units shall be equipped with a medium duty dead latching lockset (series 160, FF-H-106a, minimum, with a minimum 11/16 inch by 1/2 inch with 1/2 inch minimum throw latch bolt with automatic deadlocking plunger) or with a dead bolt separate from the latch set.

2. Such entrance doors shall also be equipped with either a viewing device installed on the designated main entrance door to the dwelling unit located so as to enable a person on the inside of the entrance door to view a person immediately outside, or with a chain door guard so installed as to permit partial opening of the door; provided, however, that chain door guards shall not be installed as an alternative to viewing devices in dormitories.

3. All openable windows, sliding doors, basement windows and windows opening onto exterior stairways, fire escapes, porches, terraces, balconies or other areas affording easy access to the premises shall be equipped with a locking device of some kind.

4. Grilles lockable from the inside only may be placed on the inside or outside of windows only if the windows do not serve to provide access to exits.

Amended by R.2002 d.341, effective November 4, 2002.
See: 34 N.J.R. 2371(a), 34 N.J.R. 3771(a).

In (a)2, added "; provided, however, that chain door guards shall not be installed as an alternative to viewing devices in dormitories".

5:10-19.2 Multiple dwellings

(a) The following provisions apply to multiple dwellings.

1. Every building entrance door or other exterior door permitting access to two or more units of dwelling space shall be equipped with heavy duty dead latching locksets (series 161, FF-H-106a, minimum, with a minimum 7/8 inch by 5/8 inch with 1/2 inch minimum throw latch bolt with automatic dead-locking plunger). Outside cylinders of

main entrance door locks shall be operated by the tenant's key, which shall not be keyed to also open the tenant's dwelling unit entrance door.

2. All exit and exitway doors shall be freely openable from the inside at all times.

3. All exterior entrance doors to common basement, cellar or storage areas shall be self-closing and lockable.

4. All entrance doors to dwelling units shall be equipped with a medium duty dead latching lockset (series 160, FF-H-106a, minimum, with a minimum $1\frac{1}{16}$ inch by $\frac{1}{2}$ inch with $\frac{1}{2}$ inch minimum throw latch bolt with automatic dead-locking plunger) or with a dead bolt lock separate from the latch set.

5. All entrance doors to each dwelling unit shall be equipped with a chain door guard so as to permit partial opening of the door, and a viewing device installed on the designated main entrance door to the dwelling unit, located so to enable a person on the inside of the entrance door to view a person immediately outside.

6. All openable windows, sliding doors, basement windows and windows opening onto exterior stairways, fire escapes, porches, terraces, balconies or other areas affording easy access to the premises shall be equipped with a locking device of some kind.

7. Grilles lockable from the inside only may be placed on the inside or outside of windows only if the windows do not serve to provide access to exits.

8. Every exterior entrance door leading to interior common areas which provide access to two or more interior dwelling unit entrance doors shall be a self-closing and self-locking door, shall be kept closed at all times except when in actual use and shall be equipped with a viewing device if it would not otherwise be possible to see a person seeking to enter without opening the door. In addition, the main entrance door shall be either attended at all times by a doorman or equipped with an electrically operated buzzer and latch-release system, individual exterior door bells connected to each dwelling unit, or an approved alternative security and entrance system. However, no building shall be equipped with an electrically operated latch-release system if such building is not also equipped with an intercommunication system allowing effective communication between a person in any dwelling unit and a person standing outside of the main entrance door.

9. When the main entrance to a building contains a vestibule with doors at both ends, only the inside set of doors must conform to the security requirements.

10. Buildings with fewer than six dwelling units shall not be required to have bells in every dwelling unit provided there is at least one exterior door bell connected so as to ring at least one bell in the common areas which will be audible in all dwelling units.

11. Exposed hinges on building entrance doors and entrance doors to dwelling units are either to be removed and replaced with hinges which have nonremovable hinge pins, or altered so that the door would be protected against being lifted from its hinges by pulling the hinge pin. (An acceptable alteration method to an existing door would be to remove two screws, opposite each other, from both leaves of the hinge, insert screw, steel pin or equivalent into jamb leaf, protruding $\frac{1}{2}$ inch, drill out the opposite screw hole in the door. Do this in the top and bottom hinge of the door. When closed, the hinge pins may be removed, but the door will remain firmly in place.)

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

Case Notes

Ordinance requiring apartment complex security guards valid under municipal police power; not preempted by statute or regulation (citing former N.J.A.C. 5:10-19.6). *Sunrise Village Associates v. Roselle Park*, 181 N.J.Super. 567, 438 A.2d 944 (Law Div.1980) affirmed per curiam 181 N.J.Super. 565, 438 A.2d 944 (App.Div.1981) certification denied 89 N.J. 413, 446 A.2d 144.

Violation of door lock regulation evidence of negligence in action against landlord (citing former N.J.A.C. 5:10-19.6). *Trentacost v. Brussel*, 82 N.J. 214, 412 A.2d 436 (1980).

Citation to former N.J.A.C. 5:10-6.6; landlord liable for damages for failure to repair door lock. *Braitman v. Overlook Terrace Corp.*, 68 N.J. 368, 346 A.2d 76 (1975).

Condominium association was exempt from required security door locks and doorbells where owners demonstrated that compliance would cause undue financial hardship. *Twin Rivers Lake Condominium v. Department of Community Affairs*, 97 N.J.A.R.2d (CAF) 5.

Violations of Hotel and Multiple Dwelling Law obliged owners to install self-locking, self-closing doors, and exterior doorbells. *Bureau of Housing Inspection v. Bistricher*, 95 N.J.A.R.2d (CAF) 99.

Unabated fire-safety and other violations warranted imposition of \$6,750 in penalties against landlord. *804 Ocean v. Community Affairs*, 95 N.J.A.R.2d (CAF) 17.

SUBCHAPTER 20. COOKING FACILITIES

5:10-20.1 Required facilities

(a) No cooking shall be permitted in any unit of dwelling space unless there is provision for the following minimum cooking and sanitary facilities:

1. A kitchen sink of nonabsorbent impervious material and drainboard of appropriate materials, connected to and having available at all times a supply of hot and cold water under sufficient pressure as required under N.J.A.C. 5:10-15. The kitchen sink shall be connected to a sanitary disposal or sewer system;

2. Cooking and preparation of food shall be undertaken only in areas designated therefor;

3. Means of natural ventilation or mechanical ventilation sufficient to remove promptly cooking odors to the exterior of the premises without first circulating them within the interior habitable space of the unit;

4. Place for storage of food free from infestation;

5. Facilities for refrigeration in good operating condition for protection of food from spoilage permitting maintenance of temperatures for storage above 32 degrees and below 50 degrees without regard to outside temperature;

6. A cooking facility which, if electrical, is connected with safety to an electrical system of sufficient capacity, or if gas, connected by permanent fixtures and tubing to avoid leakage of gas. The use of gasoline stoves or other similar fuel-burning appliances using highly flammable liquids and the use of portable kerosene stoves or other similar fuel-burning portable appliances for cooking is prohibited;

7. Cabinets or drawers or other storage areas for utensils, dishes and other cooking and eating equipment;

8. Two floor or wall electrical outlets for electrical appliances.

(b) Notwithstanding (a) above, microwave ovens may be used in rooming units.

Amended by R.2002 d.341. effective November 4, 2002.
Sec: 34 N.J.R. 2371(a), 34 N.J.R. 3771(a).
Added (b).

Case Notes

Apartment owner was entitled to use a range hood in lieu of mechanical venting. Matter of 1100 Edgewood Ave., Trenton, New Jersey, 92 N.J.A.R.2d (CAF) 57.

SUBCHAPTER 21. SANITARY FACILITIES

5:10-21.1 Required facilities

(a) Every unit of dwelling space shall contain the following minimum sanitary facilities:

1. A toilet equipped with a flushing mechanism;
2. A bathtub or shower or other complete bathing facility;
3. A wash basin in the toilet room or within close proximity thereto;
4. In dwelling units having more than one room available or used for sleeping purposes, each such room shall have accessible to it, sanitary facilities directly from the room itself or through any common portion of the dwelling unit without requiring passage through the bedroom.

(b) A complete second set of sanitary facilities shall be required for any unit of dwelling space with permissible occupancy of eight or more persons.

(c) Each toilet and bathing facility shall be located in a separate room or rooms completely enclosed sides and top and shall provide privacy to the occupant thereof. Any such room shall be provided with:

1. One or more doors, each of which can be locked from the interior;
2. Floor, walls and ceiling surfaces made of or protected by durable materials capable of being exposed regularly to moisture without damage or deterioration.

(d) Every bathroom and toilet room shall be of sufficient dimension to provide 1 1/2 foot clearance in front of each fixture including (but not limited to) toilet, lavatory, bathtub or shower;

(e) Every toilet including the toilet seat, wash basin, shower, bath and other plumbing or sanitary facility forming part of any toilet room or bathroom shall be maintained in good operating condition at all times and shall be kept clean and free of material that might clog the same or impair its operation and shall drain into a sanitary sewer or other approved sanitary disposal system.

5:10-21.2 Rooming units

(a) Occupants of rooming units shall either have the sanitary facilities required hereunder within the rooming unit or accessible to the rooming unit dwelling directly or by passage through a common hallway or passageway into which such rooming unit opens. Any such facility shall be located either on the same level or no more than one level below or above the rooming unit accessible through a stairway.

(b) There shall be available at least one of each kind of sanitary facility located as provided herein for each group of rooming units with a permissible capacity of six persons and an additional set of each kind of sanitary facility for each additional multiple group of rooming units with a permissible capacity of eight persons or fraction thereof. For dwellings or structures utilized exclusively by male occupants, urinals flushed by running water may be substituted for no more than one-half of the required number of toilet facilities.

(c) Any additional toilets over and above the initial toilet shall be located or partitioned separately from any other toilet required hereunder and any additional bathing facility required hereunder shall be located separate from any other required bathing facility. There shall be no more than one of the required toilet facilities in the same room as any required bathing facility.

5:10-21.3 Dormitories

Rules on dormitories are outlined in the following table:

Persons	Water closets		Urinals		Persons	Lavatories		Bathtubs or showers	
	Male	Female	Male	Urinals		Male	Female	Persons	Bathtubs or showers
1-15	1	1	1-30	1	1-15	1	2	1-7	1
16-30	2	2	31-60	2	16-30	2	3	8-15	2
31-50	3	4	61-100	3	31-50	4	3	16-25	3
51-75	4	6	101-150	4	51-75	4	5	26-35	4
76-100	6	8			76-100	6	7	36-45	5
100-150	8	10			101-125	7	9	45-55	6
Over 150, add 1 additional closet for each 25 males and each 20 additional females			Over 150, add 1 for each additional 50 males		Over 125, add 1 lavatory for each 20 additional males and each 15 additional females			Over 55 and not over 200, add 1 tub or shower for each 10 persons. Over 200 add 1 tub or shower for each 20 persons	

1 Drinking fountain for each 75 persons

(b) In rooming units used or intended to be used solely for transient occupancy, there shall be a minimum usable floor area of 50 square feet for each occupant provided, however, that children under the age of six shall not be considered additional occupants.

(c) In every rooming unit used or intended to be used for non-transient occupancy, there shall be a usable floor area of at least 80 square feet in every room occupied or intended to be occupied for sleeping purposes by one occupant and a usable floor area of at least 60 square feet per occupant in every room occupied or intended to be occupied for sleeping purposes by more than one occupant, provided, however, that children under the age of two shall not be considered to be additional occupants.

(d) In every dwelling unit other than a rooming unit, every room occupied or intended to be occupied for sleeping purposes by one occupant shall have a minimum usable floor area of 70 square feet and every room occupied or intended to be occupied for sleeping purposes by more than one occupant shall have a usable floor area of at least 50 square feet for each such occupant, provided, however, that children under the age of two shall not be considered to be additional occupants.

SUBCHAPTER 22. OCCUPANCY STANDARDS

5:10-22.1 Basements and cellars

(a) Basements and cellars may be used for dwelling space provided that:

1. The entire area constituting the dwelling unit must comply with all requirements set forth in this chapter applicable to habitable rooms or areas and to all requirements set forth in N.J.A.C. 5:70 applicable to dwelling units in basements or stories below grade; and

2. The floors, ceiling and walls of each unit of dwelling space must be free of moisture.

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).

5:10-22.2 Unemancipated minors

No unemancipated minor shall occupy any unit of dwelling space not having as part thereof for the exclusive use of its occupants the sanitary facilities required under N.J.A.C. 5:10-21.

5:10-22.3 Floor area

(a) In all dwelling units other than rooming units, there shall be a minimum usable floor area for the initial occupant of 150 square feet and 100 square feet additional space for each additional occupant provided, however, that children under the age of two shall not be considered additional occupants.

Case Notes

Absence of enforcement by state or local agency of building code provision would not preclude court from awarding regulatory relocation assistance benefits directly against landlord if landlord's effort to comply prior to any enforcement action would result in displacement of its tenant. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

If landlord does not provide relocation assistance benefits, demand by landlord that tenant agree to occupancy limit in lease may not satisfy reasonableness requirement of Act authorizing landlord to establish reasonable rules and regulations governing conduct of its tenants. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Landlord could require compliance with occupancy limits imposed by regulations without waiting for enforcement action. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

A tenant should never remove or tamper with a window guard. A tenant should regularly check window guards to make sure that they have not become loose or damaged in any way. If there is a problem that the owner or maintenance person fails or refuses to fix within a reasonable time after being told about it, the tenant can contact the municipal housing or building department or the Bureau of Housing Inspection of the New Jersey Department of Community Affairs (609-633-6210). The tenant should contact the Bureau of Housing Inspection if the owner fails or refuses to provide and install a window guard after receiving a written request from the tenant.

How much can a tenant be required to pay for installation of a window guard?

By law, the owner of an apartment can charge a tenant no more than twenty dollars (\$20.00) for each window guard that the tenant asks in writing to have installed in the tenant's apartment.

How can a tenant get window guards removed?

The owner of an apartment must remove a window guard when requested to do so by the tenant in writing. The tenant should be sure that window guards are no longer needed before asking that they be removed. Window guards should not be removed by tenants.

Who is responsible for providing and maintaining window guards in a building that is a condominium, a cooperative or mutual housing?

In a condominium, cooperative or mutual housing multiple dwelling, the owner of the apartment is responsible for providing and maintaining window guards in the apartment. The association is responsible for providing and maintaining window guards on windows in the hallways. A tenant who wants to have window guards installed both in the apartment and in the hallways must make written requests both to the apartment owner and to the association.

Who can answer additional questions about the window guard law and rules?

Any tenant or owner who has questions about the law and rules concerning window guards can call the Bureau of Hous-

ing Inspection of the New Jersey Department of Community Affairs (609-633-6210).

New Rule, R.2007 d.40, effective February 5, 2007.
See: 38 N.J.R. 3947(a), 39 N.J.R. 363(b).

SUBCHAPTER 28. CARBON MONOXIDE ALARMS

5:10-28.1 Carbon monoxide alarms

(a) Carbon monoxide alarms shall be installed and maintained in full operating condition in the following locations:

1. Single station carbon monoxide alarms shall be installed and maintained in the immediate vicinity of the sleeping area in every guestroom or dwelling unit in buildings that contain a fuel-burning appliance or that have an attached garage.

2. As an alternative to the requirements in (a)1 above, carbon monoxide alarms may be installed in the locations specified in the Uniform Construction Code (N.J.A.C. 5:23-3.20). A copy of the certificate of approval issued by the local construction code enforcing agency shall be provided to the Bureau at the time of installation, at or after the time of inspection, or at any other time, as proof of installation, in accordance with the Uniform Construction Code.

(b) Carbon monoxide alarms shall be manufactured, listed and labeled in accordance with UL 2034 and shall be installed in accordance with the requirements of this subchapter and NFPA 720. Carbon monoxide alarms shall be battery operated, hard-wired or of the plug-in type.

(c) At the request of a tenant of a multiple dwelling unit in which a person who is deaf or hearing-impaired resides, the owner shall provide and install a visual alarm type carbon monoxide detector for that unit.

Amended by R.2005 d.173, effective June 6, 2005.
See: 37 N.J.R. 379(a), 37 N.J.R. 2012(b).

In (a), rewrote 2.

Amended by R.2006 d.74, effective February 21, 2006.
See: 37 N.J.R. 3877(a), 38 N.J.R. 1182(a).

Added (c).