

See: 23 N.J.R. 2234(a), 23 N.J.R. 2999(a).

Text at (b)4, 5, (d)5, 6, 7, (g)29, 30 added; (b)1, (e)1, (f)6, (j)3 deleted.

Amended by R.1992 d.385, effective October 5, 1992.

See: 24 N.J.R. 2654(a), 24 N.J.R. 3519(a).

Added uses at (b)4, (d)7, (f)21, 22 and 23, (g)30, (h)4, (i)2 and 3, (k)5 and 6, (l)3 and 4, (m)4 and 5.

Amended by R.1996 d.501, effective October 21, 1996.

See: 28 N.J.R. 3853(a), 28 N.J.R. 4578(a).

#### Case Notes

Life hazard use registration fee could properly be imposed on church school. *New Life Gospel Church v. State*, Dept. of Community Affairs, Div. of Housing Bureau of Fire Safety, 257 N.J.Super. 241, 608 A.2d 397 (A.D.1992), certification denied 133 N.J. 429, 627 A.2d 1136.

#### 5:18-2.4C Type Ca through Ci life hazard uses

(a) Type Ca life hazard uses are as follows:

1. Theaters incorporating a legitimate, regular or thrust stage having any scenery or prop storage area behind a proscenium arch and having a maximum permitted occupancy of fewer than 100 persons;

2. (Reserved)

(b) Type Cb life hazard uses are as follows:

1. Theaters incorporating a legitimate, regular or thrust stage having any scenery or prop storage area behind a proscenium arch and having a maximum permitted occupancy of 100 or more but fewer than 200 persons.

(c) Type Cc life hazard uses are as follows:

1. (Reserved)

2. Institutional and similar facilities including, but not limited to, hospitals and long term care facilities which house people suffering from physical limitation due to age, health, or handicaps which have fewer than 100 beds.

3. Eating and/or drinking establishments with a maximum permitted occupancy of 300 or more but fewer than 500 persons.

(d) Type Cd life hazard uses are as follows:

1. Theaters incorporating a legitimate, regular or thrust stage having any scenery or prop storage area behind a proscenium arch and having a maximum permitted occupancy of 200 or more but fewer than 300 persons;

2. Institutional and similar facilities including, but not limited to, hospitals and long term care facilities which house people suffering from physical limitation due to age, health, or handicaps which have 100 or more but fewer than 200 beds.

(e) Type Ce life hazard uses are as follows:

1. Theaters incorporating a legitimate, regular or thrust stage having any scenery or prop storage area behind a proscenium arch with a maximum permitted occupancy of 300 or more persons;

2. (Reserved)

3. Institutional and similar facilities including, but not limited to, hospitals and long term care facilities which house people suffering from physical limitation due to age, health, or handicaps which have 200 beds or more;

4. (Reserved)

(f) Type Cf life hazard uses are as follows:

1. Places of amusement with a maximum permitted occupancy of fewer than 200 persons which are designed to disorient the occupant, reduce vision, present barriers or otherwise impede the free flow of traffic such as haunted houses, fun houses, tunnels of love and similar uses.

(g) Type Cg life hazard uses are as follows:

1. (Reserved)

2. Places of amusement with a maximum permitted occupancy of 200 or more persons which are designed to disorient the occupant, reduce vision, present barriers or otherwise impede the free flow of traffic such as haunted houses, fun houses, tunnels of love and similar uses.

3. Eating and/or drinking establishments with a maximum permitted occupancy of 500 or more but less than 750 persons.

(h) Type Ch life hazard uses are as follows:

1. Eating and/or drinking establishments with a maximum permitted occupancy of 750 or more but fewer than 1,000 persons.

(i) Type Ci life hazard uses are as follows:

1. Eating and/or drinking establishments with a maximum permitted occupancy of 1,000 or more persons.

New Rule, R.1987 d.508, effective December 7, 1987.

See: 19 N.J.R. 1680(a), 19 N.J.R. 2266(a).

Amended by R.1991 d.504, effective October 7, 1991.

See: 23 N.J.R. 2234(a), 23 N.J.R. 2999(a).

Text at (c)3, (g)3, (h), (i) added; text at (a)2, (c)1, (e)2 and 4, (g)1 deleted.

#### 5:18-2.4D Type Da through Dc life hazard uses

(a) Type Da life hazard uses are as follows:

1. Covered mall buildings with a mall portion of 12,000 or more but less than 50,000 square feet.

(b) Type Db life hazard uses are as follows:

1. Covered mall buildings with a mall portion of 50,000 or more but less than 100,000 square feet.

(c) Type Dc life hazard uses are as follows:

1. Covered mall buildings with a mall portion of 100,000 or more square feet.

Amended by R.1991 d.504, effective October 7, 1991.  
See: 23 N.J.R. 2234(a), 23 N.J.R. 2999(a).  
Da revised, Db and Dc added.

### 5:18-2.5 Required inspections

(a) All life hazard uses shall be inspected for compliance with the provisions of this Code periodically but not any less often than specified herein:

1. Type Aa through Aj life hazard uses: once every 12 months, except day nurseries and daycare centers with a maximum permitted occupancy of 100 or more which shall be inspected once every six months.
2. Type Ba through Bo life hazard uses: once every 12 months.
3. Type Ca through Ci life hazard uses: once every three months.
4. Type Da through Dc life hazard uses: once every three months.

The periodic inspection of a covered mall may be limited to the common areas.

(b) Where a life hazard use is operated on a seasonal basis, the number of required annual inspections shall not be reduced. Inspections of type Ca through Ci and type Da through Dc life hazard uses which are in operation for only a portion of the year shall be conducted immediately prior to opening and closing and twice during operation of the use.

(c) Within 30 days following each annual and every other quarterly inspection of a life hazard use, the owner shall file an application for a certificate of inspection on forms provided by the local enforcing agency. Forms shall be provided either before or at the time of inspection. The form shall be returned to the local enforcing agency.

(d) Upon completion of a required inspection, the local enforcing agency shall issue a certificate of inspection. A certificate of inspection shall not be issued until all violations cited have been corrected. The certificate of inspection shall be posted by the owner of the use in a conspicuous location therein.

Amended by R.1985 d.611, effective December 2, 1985.  
See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

Added (b)i.

Amended by R.1987 d.247, effective June 15, 1987.  
See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).

Old (c) deleted and new text substituted; (d) added.  
Amended by R.1987 d.508, effective December 7, 1987.  
See: 19 N.J.R. 1680(a), 19 N.J.R. 2266(a).

Added text to (a) "except day nurseries . . . every six months".

Amended by R.1989 d.556, effective November 6, 1989.  
See: 21 N.J.R. 2431(a), 21 N.J.R. 3453(a).

Added new (e) and (f).

Amended by R.1993 d.197, effective May 3, 1993.  
See: 25 N.J.R. 393(a), 25 N.J.R. 1868(a).

Rule amended at (a)3 and 4 to add new uses.  
Amended by R.1993 d.628, effective December 6, 1993.  
See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

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

### 5:18-2.6 Registration of buildings and uses

(a) Whenever the Commissioner or any local enforcing agency shall have cause to believe that a building or use is a life hazard use, then the Commissioner or the agency shall submit a registration application to the owner. It shall be a violation of the Code for an owner to fail to complete and return such an application within 30 days.

1. Whenever the use of a building or any portion thereof is conducted on a seasonal basis, the Commissioner may require the owner of the building to comply with this registration requirement for any use conducted therein.

(b) The owner of a life hazard use shall file with the Commissioner, upon forms provided by the Commissioner, a registration application. Each registration application shall include at least the following information:

1. The name, address, and telephone number of the applicant;
2. Where the applicant is a corporation, the names and residential addresses of each officer, director and stockholder holding more than 10 percent of the stock. Stockholder information shall not be required for a publicly traded stock corporation;
3. Where the applicant is a corporation, the name, address, and telephone number of the agent for service of process. The address must be a physical location and shall not be a post office box;
4. A description of the use being applied for, including:
  - i. Geographical location, including street address, and tax lot and block numbers;
  - ii. Height of building in which use is located;
  - iii. Location of use in building;
  - iv. Floor area of use;
  - v. Capacity when the use is public assembly; and
  - vi. Description of processes carried out or material stored when it is processed or storage which causes the use to be subject to registration.

5. Where the owner of the use and the owner of the building in which it is located are not the same then the application shall include the same information for the owner of the building as is herein required for the owner of the use.

- (5) More than 1,000 pounds of ammonium nitrate;
  - (6) More than one microcurie of radium not contained in a sealed source;
  - (7) More than one millicurie of radium or other radiation material in a sealed source or sources;
  - (8) Any amount of radioactive material for which a specific license from the Nuclear Regulatory Commission is required; or
  - (9) More than 10 pounds of flammable solids.
- v. The melting, casting, heat treating, machining or grinding of more than 10 pounds of magnesium per working day.
7. Type 5 permit:
- i. (Reserved)
- (b) Application for a permit required by this Code shall be made to the fire official in such form and detail as the fire official shall prescribe. Applications for permits shall be accompanied by plans or drawings as required by the fire official for evaluation of the application.
- (c) Before a permit is issued, the fire official or the fire official's designated representative shall make or cause to be made such inspections or tests as necessary to assure that the use and activity for which application is made complies with the provisions of this Code.
- (d) A permit shall constitute permission to maintain, store or handle materials, or to conduct processes which produce conditions hazardous to life or property, or to install equipment used in connection with such activities in accordance with the provisions of this Code. Such permissions shall not be construed as authority to violate, cancel or set aside any of the provisions of this Code.
- (e) Plans approved by the fire official are approved with the intent they comply in all respects to this Code. Any omission or error on the plans does not relieve the applicant of complying with all applicable requirements of this Code.
- (f) The fire official may revoke a permit or approval issued under the provisions of this Code if upon inspection any violation of the Code exists, or if conditions of a permit have been violated, or if there has been any false statement or misrepresentation as to material fact in the application, data or plans on which the permit or approval was based.
- (g) A permit shall remain in effect until revoked, or for one year unless a shorter period of time is otherwise specified. Permits shall not be transferable and any change in use, operation or tenancy shall require a new permit.

1. Exceptions:

- i. A type 1 permit for welding or cutting shall be effective throughout the local enforcing agency's jurisdiction and shall be issued on an annual basis;
  - ii. A type 1 permit for use of a commercial farm building as a place of public assembly shall be issued for each event.
- (h) Any permit issued shall become invalid if the authorized work or activity is not commenced within six months after issuance of the permit, or if the authorized work or activity is suspended or abandoned for a period of six months after the time of commencement.
- (i) A permit shall not be issued until the designated fees have been paid.
- 1. There shall be no fee for a permit required by this subchapter if a municipality has by ordinance established a periodic inspection and fee schedule for a use substantially similar to the permit requirement.
- (j) No permit(s) shall be issued for a carnival, as defined in N.J.A.C. 5:18-1.5, if the carnival has not been registered in accordance with N.J.A.C. 5:18-2.21.

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

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

Substantially amended.

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

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

Deleted the word "fireworks" from (b)2vii.

See correction notice in July 20, 1987 Register.

Administrative Correction to (e).

See: 21 N.J.R. 3085(a).

Amended by R.1989 d.556, effective November 6, 1989.

See: 21 N.J.R. 2431(a), 21 N.J.R. 3453(a).

Added new 2 under (b) and renumbered existing 2-6 as 3-7.

Amended by R.1990 d.325, effective July 2, 1990.

See: 21 N.J.R. 1654(a), 22 N.J.R. 2001(a).

Text at (b)2iii amended to decrease tent area to 900 square feet; text at (b)3iii deleted.

Amended by R.1991 d.504, effective October 7, 1991.

See: 23 N.J.R. 2234(a), 23 N.J.R. 2999(a).

Text deleted at (b)5ii and 6v.

Amended by R.1992 d.385, effective October 5, 1992.

See: 24 N.J.R. 2654(a), 24 N.J.R. 3519(a).

Text added at (b)3x and xi, 5ii, 6iii; deleted at 6v.

Amended by R.1993 d.197, effective May 3, 1993.

See: 25 N.J.R. 393(a), 25 N.J.R. 1868(a).

Permit required for cooking operations using a fire suppression system, if not already registered; fee for fire official allowed, if not already provided for.

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Amended by R.1995 d.59, effective March 6, 1995.

See: 26 N.J.R. 4249(a), 27 N.J.R. 891(a).

Administrative correction.

See: 27 N.J.R. 2886(b).

Amended by R.1996 d.164, effective April 1, 1996.

See: 27 N.J.R. 2654(a), 28 N.J.R. 1833(a).

Added (a)3xiii and (g)1ii.

Amended by R.1996 d.485, effective October 21, 1996.

See: 28 N.J.R. 2109(b), 28 N.J.R. 4577(b).

Amended by R.1996 d.501, effective October 21, 1996.

See: 28 N.J.R. 3853(a), 28 N.J.R. 4578(a).

**5:18-2.8 (Reserved)**

**Case Notes**

Life hazard use registration fee could properly be imposed on church school. *New Life Gospel Church v. State*, Dept. of Community Affairs, Div. of Housing Bureau of Fire Safety, 257 N.J.Super. 241, 608 A.2d 397 (A.D.1992), certification denied 133 N.J. 429, 627 A.2d 1136.

**5:18-2.9 Fees: registration; certificate of smoke detector compliance; permit; carnival registration certificate**

(a) The annual registration fee for life hazard uses shall be as follows:

1. Type Aa—\$70.00 per year;
2. Type Ab—\$103.00 per year;
3. Type Ac—\$110.00 per year;
4. Type Ad—\$123.00 per year;
5. Type Ae—\$138.00 per year;
6. Type Af—\$166.00 per year;
7. Type Ag—\$208.00 per year;
8. Type Ah—\$248.00 per year;
9. Type Ai—\$331.00 per year;
10. Type Aj—\$414.00 per year;
11. Type Ba—\$110.00 per year;
12. Type Bb—\$208.00 per year;
13. Type Bc—\$331.00 per year;
14. Type Bd—\$414.00 per year;
15. Type Be—\$484.00 per year;
16. Type Bf—\$591.00 per year;
17. Type Bg—\$629.00 per year;
18. Type Bh—\$787.00 per year;
19. Type Bi—\$947.00 per year;
20. Type Bj—\$984.00 per year;
21. Type Bk—\$1,180.00 per year;
22. Type Bl—\$1,378.00 per year;
23. Type Bm—\$1,537.00 per year;
24. Type Bn—\$1,967.00 per year;
25. Type Bo—\$2,360.00 per year;
26. Type Bp—\$828.00 per year;
27. Type Ca—\$787.00 per year;
28. Type Cb—\$944.00 per year;
29. Type Cc—\$1,022.00 per year;
30. Type Cd—\$1,101.00 per year;

31. Type Ce—\$1,259.00 per year;
32. Type Cf—\$1,378.00 per year;
33. Type Cg—\$1,573.00 per year;
34. Type Ch—\$1,976.00 per year;
35. Type Ci—\$2,375.00 per year;
36. Type Da—\$1,568.00 per year;
37. Type Db—\$2,375.00 per year;
38. Type Dc—\$3,088.00 per year.

(b) Where more than one life hazard use exists under one ownership at a given location, the highest life hazard use shall be registered at full fee and subsequent life hazard uses at one-half the scheduled fee.

1. No public or private K-12 educational building shall pay more than one \$138.00 life hazard use registration fee, regardless of the number or type of life hazard uses contained within the building.

2. No camp accommodating six or more children of school age shall pay more than one \$123.00 life hazard use registration fee, regardless of the number or type of life hazard uses contained within the premises.

3. Each life hazard use that is separately owned shall be registered at full fee.

(c) The application fee for a permit shall be as follows:

1. Type 1—\$35.00;
2. Type 2—\$138.00;
3. Type 3—\$276.00;
4. Type 4—\$414.00;

i. Exception: There shall be no fee for Type 4 permits for storage or activity at a premises registered as a life hazard use in accordance with this subchapter.

5. (Reserved)

(d) The application fee for a certificate of smoke detector compliance, as required by N.J.A.C. 5:18-2.3, shall be \$20.00.

(e) The application fee for a carnival registration certificate shall be as follows:

1. For 10 or fewer locations: \$50.00;
2. For 11 to 25 locations: \$75.00;
3. For 26 or more locations: \$100.00.

(f) A municipality having a local enforcing agency may establish by ordinance a different permit and certificate of smoke detector compliance fee schedule based on the actual cost anticipated or incurred for the enforcement of these Code provisions; provided, however, that the permit fee for the temporary use of a commercial farm building as a place of public assembly shall not exceed \$75.00.

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

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

Deleted "not in excess of fees in Schedule (b) above".

Amended by R.1987 d.508, effective December 7, 1987.

See: 19 N.J.R. 1680(a), 19 N.J.R. 2266(a).

Added (a)5 through (a)33.

Emergency amendment, R.1989 d.404, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2126(a), 21 N.J.R. 2402(a).

Increased life hazard use registration fees and permit fees by approximately 15 percent.

Fee increases in (a) and (c).

Adopted concurrent proposal, R.1989 d.513, effective September 1, 1989.

See: 21 N.J.R. 2126(a), 21 N.J.R. 2402(a), 21 N.J.R. 3084(a).

Provisions of emergency amendment, R.1989 d.404 readopted without change.

Amended by R.1989 d.556, effective November 6, 1989.

See: 21 N.J.R. 2431(a), 21 N.J.R. 3453(a).

Established limit of no more than one \$115.00 fee for K-12 educational building, at (b).

Amended by R.1991 d.504, effective October 7, 1991.

See: 23 N.J.R. 2234(a), 23 N.J.R. 2999(a).

Fees increased.

Amended by R.1991 d.530, effective November 4, 1991.

See: 23 N.J.R. 2234(a), 23 N.J.R. 2453(a), 23 N.J.R. 3325(a).

Added (a)33.

Amended by R.1992 d.11, effective January 6, 1992.

See: 23 N.J.R. 3064(a), 24 N.J.R. 88(a).

Application fee added at (d).

Amended by R.1992 d.385, effective October 5, 1992.

See: 24 N.J.R. 2654(a), 24 N.J.R. 3519(a).

Exception to Type 4 permit requirements added at (c)4i.

Recodified from 5:18-2.8 and amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Amended by R.1995 d.59, effective March 6, 1995.

See: 26 N.J.R. 4249(a), 27 N.J.R. 891(a).

Amended by R.1996 d.164, effective April 1, 1996.

See: 27 N.J.R. 2654(a), 28 N.J.R. 1833(a).

In (f) added the proviso.

Amended by R.1996 d.485, effective October 21, 1996.

See: 28 N.J.R. 2109(b), 28 N.J.R. 4577(b).

Amended by R.1996 d.501, effective October 21, 1996.

See: 28 N.J.R. 3853(a), 28 N.J.R. 4578(a).

### 5:18-2.10 Enforcement procedures

(a) Whenever the fire official or the fire inspector observes a violation of a provision of this Code or locally adopted amendments the fire official shall prepare and serve on the owner a written notice of violation identifying the condition which is in violation, including the location, the appropriate Code section, and specifying time limits for the required repairs or improvements to be made. The notice shall contain or be accompanied by a written statement of the owner's right to appeal as set forth in N.J.A.C. 5:18-2.19.

(b) Time periods allowed for abatement of violations of this Code shall be as follows:

1. For any violation of N.J.A.C. 5:18-3, the fire official shall allow a minimum of 15 days.

i. The fire official may specify a time period of not less than three days where there is a dangerous condition that is liable to cause or contribute to the spread of fire or endanger the occupants.

2. For any violation of N.J.A.C. 5:18-4, the fire official shall allow a minimum of 30 days for abatement or the submission of a request for an extension, in accordance with (d) below.

(c) These time limits shall not apply to violations constituting an imminent hazard in accordance with N.J.A.C. 5:18-2.16 or to the revocation of permits in accordance with N.J.A.C. 5:18-2.7(f).

(d) The fire official may grant extensions of time whenever he shall determine that despite diligent effort compliance cannot be accomplished within the time specified in the notice.

1. No extension shall be granted unless it is requested in writing by the owner. A request for extension shall set forth the work which has been accomplished, the work that remains, the reason why an extension is necessary and the date by which the work will be completed.

2. An application for an extension shall be deemed to be an admission that the notice of violation is factually and procedurally correct and that the violations do or did exist.

i. An owner who inquires concerning an extension shall be informed of the provisions of (d)2 above.

ii. If the local enforcing agency provides forms for an application for extension, the provisions of (d)2 above shall be prominently printed on them.

(e) If the notice of violation is not complied with within the time specified by the fire official, the fire official shall institute the appropriate enforcement proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful use of the building or structure in violation of the provisions of this Code or of any order or direction made pursuant thereto.

(f) If the fire official determines that the Code cannot be adequately or safely enforced without police support, he or she shall request the police to provide assistance. If no assistance is forthcoming, he or she shall pursue formal action to address the situation and shall not use physical force.

(g) Any person, firm or corporation violating any of the provisions of the Code or failing to comply with any order issued pursuant to any section thereof, shall be subject to the penalties provided in N.J.A.C. 5:18-2.12. The imposition of penalties shall not prevent the fire official from instituting appropriate action to restrain, correct or abate a

violation; or to prevent illegal occupancy of a building, structure or premises; or to stop an illegal act, business or use in or about any premises.

Amended by R.1992 d.104, effective March 2, 1992.

See: 23 N.J.R. 3552(a), 24 N.J.R. 739(a).

Text at (a)1-10 deleted; reference to N.J.A.C. 5:18-3 added.

Amended by R.1993 d.195, effective May 3, 1993.

See: 25 N.J.R. 397(a), 25 N.J.R. 1872(a).

Old (d)1 deleted; new (d)1 and 2 added; authorized representative to follow required procedures.

Recodified from 5:18-2.9 and amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Administrative correction.

See: 27 N.J.R. 2886(b).

#### Case Notes

Failure to present sufficient evidence that building was in compliance with sub-codes in force at the time of its construction. No. 1 Chinese Kitchen v. Fire Safety Bureau, 94 N.J.A.R.2d (CAF) 91.

#### 5:18-2.11 Service of notice and orders

(a) Notice, rules, decisions and orders issued and served pursuant to the Act shall be effective if served by any one of the methods set forth below:

1. By personal delivery; or
2. By leaving the document at the addressee's office or dwelling unit with a person 14 years of age or older; or
3. By certified mail return receipt requested to the person's last known address; however, if the document is returned as "refused" or "unclaimed" with no indication of a change of address, service may be made by ordinary mail to the same address; or
4. If on an owner, by serving the document on the Secretary of State, who shall be deemed the owner's agent for service of process; if:
  - i. A certified mailing was returned; and
  - ii. A copy of the document is posted in a conspicuous location on the premises, which location shall include the walls in a front vestibule, common foyer or hallway near the inside main front entrance.

(b) The date of personal service or the third day after mailing shall be considered the date of service.

(c) A copy of any notice or order served upon the owner of a State-leased or owned property shall be sent to the Director of Property and Facilities Management, Department of Treasury.

Recodified from 5:18-2.10 and amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:18-2.12 Penalties

(a) The Commissioner or a local enforcing agency may assess, levy and collect penalties to ensure compliance with the Code. No penalty shall be imposed except upon issuance of a written order requiring abatement and the allowance of a reasonable specified period in which to comply, unless clear notice of the violation otherwise exists.

(b) The maximum penalty for any act or omission in violation of the act or code but not enumerated in this subsection is \$5,000 per violation per day. Except as specified below, a violation of N.J.A.C. 5:18-3 or 4 shall subject a violator to a maximum penalty of \$500.00 per violation, per day. Specific violations shall subject violators to penalties as follows:

1. Imminent hazard—punitive closure:
  - i. Failure to obey an imminent hazard order—a maximum of \$5,000 per day for each day that the failure continues.
  - ii. Failure to obey an order to close for fixed period of time issued pursuant to N.J.A.C. 5:18-2.17—a maximum of \$5,000 per day for each day that the failure continues.
2. Egress:
  - i. Blocking, locking, or obstructing required exits in a place of public assembly or education—a maximum of \$5,000 per occurrence;
  - ii. Blocking, locking, or obstructing required exits in any other place—a maximum of \$2,500 per occurrence.
3. Occupancy:
  - i. Exceeding the maximum permitted occupancy in a place of public assembly or education:
    - (1) For the first offense—a maximum of \$2,500;
    - (2) For a subsequent offense—a maximum of \$5,000;
  - ii. Exceeding the maximum permitted occupancy in any other place:
    - (1) For the first offense—a maximum of \$500.00;
    - (2) For a subsequent offense—a maximum of \$2,500.
4. Fire protection equipment:
  - i. Failure to install a required suppression or detection device after having been given written notice of the requirement to do so:
    - (1) In a place of public assembly or education—a maximum of \$2,500 per violation per day;
    - (2) In any other place—a maximum of \$1,000 per violation per day.

ii. Disabling or decreasing the effectiveness of any fire suppression or alarm device or system.

(1) In a place of public assembly or education—a maximum of \$5,000 per occurrence;

(2) In any other place—a maximum of \$1,000 per occurrence.

5. Failure to comply with a lawful action:

i. A negligent or inadvertent failure to comply with a lawful order, ruling, notice or other action of the Commissioner or a local enforcing agency—a maximum of \$2,000 per occurrence.

ii. A refusal or deliberate failure to comply with a lawful order, ruling, notice or other action of the Commissioner or a local enforcing agency—a maximum of \$5,000 per occurrence.

6. Obstruction:

i. Anyone who obstructs, hinders, delays or interferes by force or otherwise with the Commissioner or any member of a local enforcing agency in the exercise of any power or the discharge of any function or duty under the provisions of this Code—a maximum of \$2,500 per occurrence.

7. Permits:

i. Failure to obtain a required permit prior to commencing the operation, process or activity for which a permit was required—a maximum of double the amount of the applicable permit fee.

ii. Failure to obtain a required permit after being ordered to do so while continuing the operation, process or activity—a maximum of \$5,000 per day during which the operation, process, or activity continues.

8. Registration:

i. Failure to file a registration application after having been ordered to do so—an amount equal to double the applicable registration fee, but not less than \$200.00 or more than \$1,000 for each registration.

ii. Failure to pay the required annual registration fee when due—an amount equal to the unpaid fee. Payment of the fee after imposition of the penalty shall not absolve the owner from responsibility for the penalty nor shall payment of the penalty be deemed to absolve the owner from the obligation to pay the fee.

9. False statements:

i. Preparing, uttering or rendering any false statement, pertaining to reports, documents, plans or specifications permitted or required under the provisions of this code—a maximum of \$5,000.

ii. Submission of a materially false application for a permit or registration—a maximum of \$1,000 per occurrence.

10. Special hazards:

i. For any violation of N.J.A.C. 5:18-3 or 4 of this Code which is not specifically enumerated above but which, under the circumstances, presents a specific hazard to life—a maximum of \$5,000 per violation per day. The violation notice must set forth the basis for determining the basis for a special hazard.

(c) Each day during which the violation remains unabated after the date or time specified in the order or notice for its correction or termination shall constitute an additional and separate violation.

(d) The filing of a timely appeal shall stay the action until a decision is made by the construction board of appeals or the Commissioner, as the case may be.

(e) A violation that is recurring justifies imposition of an immediate penalty without the necessity for an interval in which correction can be made. A violation shall be deemed to be a recurring violation if a notice has been served within two years from the date that a previous notice was served and the violation, premises and responsible party are substantially the same.

(f) If a penalty order has not been satisfied by the 30th day after its issuance, the Commissioner or local enforcing agency may institute a civil penalty action by a summary proceeding under the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq.) in the Superior Court or municipal court.

1. A person who fails to pay immediately a money judgment rendered against him may be sentenced to imprisonment by the court for a period not exceeding six months, unless the judgment is sooner paid.

2. All moneys that are recovered as a result of the assessment of penalties shall be paid into the designated trust account and shall be appropriated to support the local enforcing agency's operation.

(g) The Commissioner or fire official may offer to reduce any penalty provided that such reduction is in the best interest of fire safety and will assure compliance. No penalty reduction can be made final while the violation that led to its assessment remains in existence.

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

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

(b)1 added.

Amended by R.1993 d.195, effective May 3, 1993.

See: 25 N.J.R. 397(a), 25 N.J.R. 1872(a).

Added new subsection (f); recodified old (f) to (g) and added (g)2.

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### Case Notes

City estopped from bringing action to summarily enforce penalty for fire code violations after informing building owner to appeal violation to fire marshal rather than to County Construction Board of Appeals. *State v. Kouvas*, 292 N.J.Super. 417, 678 A.2d 1178 (A.D. 1996).

Serious-life-threatening fire safety violations warranted penalty assessment when violations remained completely unabated. *Irvington/66 v. Department of Community Affairs*, 95 N.J.A.R.2d (CAF) 83.

Assessment of penalty against landlord for fire code violations was justified; reduction of penalty contingent. *Davis v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 29.

Apartment owners were dilatory in obtaining permits and approvals for apartment's smoke detection system; In the Matter of 904 Atlantic Avenue, 94 N.J.A.R.2d (CAF) 18.

### 5:18-2.12A Dedicated and compensatory penalties

(a) When an owner has been given notice of the existence of a violation and has not abated the violation, that owner shall, in addition to being liable to the penalty provided for by N.J.A.C. 5:18-2.12, be liable to a dedicated penalty assessed pursuant to this subsection.

1. Whenever any penalty is assessed pursuant to N.J.A.C. 5:18-2.12, then a dedicated penalty in like amount shall be assessed pursuant to this section.

2. The amount of any dedicated penalty assessed pursuant to this subsection shall be in accordance with the standards set forth in N.J.A.C. 5:18-2.12(b), except that a dedicated penalty of up to \$50,000 for each violation may be assessed where there is a serious injury or loss of human life directly or indirectly resulting from any unabated violation.

3. Dedicated penalties assessed pursuant to the requirements of this subsection shall be assessed only once and shall not be assessed each day, as may be done in the case of penalties assessed pursuant to N.J.A.C. 5:18-2.12.

(b) All monies collected pursuant to this section shall be placed in a special municipal trust fund to be applied to the cost to the municipality of firefighter training and/or new firefighting equipment.

1. In the case where a fire district is the local enforcing agency, the funds shall be placed in the general treasury of the district subject to separate accounting and annual certification to the Department from the district chief financial officer.

2. In any case in which the enforcing agency is the Department, a county fire marshal, or an intermunicipal agency, all revenue from dedicated and compensatory penalties shall be paid into the fund maintained, in accordance with this section, by the municipality or fire district in which the building, structure or premises at which the violation occurred is located.

Amended by R.1993 d.195, effective May 3, 1993.

See: 25 N.J.R. 397(a), 25 N.J.R. 1872(a).

Rule retitled "Dedicated and compensatory penalties"; added (a)1-3 and (c)1; penalty upper limited specified as \$150,000.

Recodified from 5:18-2.17 and amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

### 5:18-2.13 Fire department costs

(a) An owner who has been given notice of a violation shall be responsible for a penalty not exceeding \$150,000 or the costs of suppressing any fire which directly or indirectly results from the violation, whichever is greater. To create an obligation, the violation need not have been the initial cause of the fire; it is sufficient if the violation's existence has increased the intensity of the fire or the difficulty of its extinguishment. This penalty is independent of any penalty issued in accordance with N.J.A.C. 5:18-2.12 for failure to abate the violation. Suppression costs may be imposed for a fire which occurs during the period allowed for abatement.

(b) The suppression costs shall include, but not be limited to, costs of labor, equipment and material incurred by municipalities, fire districts or fire departments involved in suppressing the fire, as well as any other actual expenses, including attorney fees, incurred for the collection of the penalty. If a compensatory penalty in excess of \$150,000 is sought, the cost of suppression shall be certified to the fire official of the area in which the fire occurred by the chiefs of the suppression units involved.

(c) The fire official shall serve notice on the owner and order payment. The notice shall state the violations justifying imposition of the penalty. If payment is not received within 30 days, the fire official shall pursue collection in the manner specified herein for penalties. The monies collected shall be paid to the municipalities or districts and appropriated in accordance with N.J.A.C. 5:18-2.12A(b).

New Rule, R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

### 5:18-2.14 Variances

(a) Upon the application of a property owner or lessee with the consent of the owner, the fire official may grant a variance from the requirements of a regulation or standard adopted pursuant to the Act; provided, however, that no variance shall be granted unless it is determined that strict compliance would result in practical difficulty and that the variance, if granted, would not unreasonably jeopardize the safety of the occupants or intended occupants, fire fighters or the public generally.

1. In any facility subject to regulation by any State agency, no variance shall be granted except after consultation with that State agency.

2. Financial hardship alone shall not be grounds for a variance.

(b) An application for a variance shall be made in writing, shall be filed with the fire official and shall set forth the following information:

1. The requirements of the regulation from which a variance is sought;

2. The manner in which strict compliance with the regulation would result in practical difficulty;

3. The nature and extent of the practical difficulty; and

4. Feasible alternatives which would adequately protect the occupants or intended occupants, fire fighters and the public generally.

(c) Within 30 days after receiving an application for a variance, the fire official shall grant or deny the application in writing, stating the reasons for his action.

1. An application which is not granted within 30 days shall be deemed to have been denied.

2. A denial of an application for a variance may be appealed in the same manner as any other ruling of the fire official.

(d) Copies of all variance applications and records of the action taken on them shall be maintained as permanent public records by the fire official.

1. A fire official shall promptly provide the Division with copies of all decisions granting or denying variances after they have been rendered.

(e) Variations to requirements found in the Uniform Construction Code may only be granted by the Construction Official in accordance with the Uniform Construction Code.

Amended by R.1986 d.214, effective June 16, 1986.

See: 17 N.J.R. 1161(a), 18 N.J.R. 1260(b).

(e) added.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

2. The emblem shall be permanently affixed to the left of the main entrance door at a height between four and six feet above the ground and shall be installed and maintained by the owner of the building.

(b) Detached one and two family residential structures with truss construction that are not part of a planned real estate development shall be exempt from the requirements of (a) above, unless otherwise provided by municipal ordinance.

(c) Individual structures and dwelling units with truss construction that are part of a planned real estate development shall not be required to have an identifying emblem if there is an emblem affixed at each entrance to the development.

New Rule, R.1992 d.5, effective January 6, 1992.  
See: 23 N.J.R. 2168(a), 24 N.J.R. 89(a).  
Recodified from 5:18-2.19 by R.1995 d.58, effective March 6, 1995.  
See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:18-2.21 (Reserved)

#### 5:18-2.22 Registration of carnivals

(a) No carnival shall be operated at any time or at any location unless a carnival registration certificate has been issued by the Division.

(b) The owner of every carnival shall apply for a carnival registration certificate at least 30 days before the first intended operation. The application shall include the following:

1. Dates and locations of intended operation;
2. All uses requiring a permit under N.J.A.C. 5:18-2.7;
3. Complete plans for all mobile enclosed structures to be used for human occupancy;
4. Flame spread certifications, seating and usage diagrams for all tents;
5. Certificate of insurance;
6. Name, address and telephone number of the owner(s) of the carnival; and
7. Name of the person who will be with the carnival and will be responsible for securing all permits required by N.J.A.C. 5:18-2.7 and for the correction of any violations of this Code.

(c) Upon review and approval of the application, the Division will issue a carnival registration certificate to the owner. Additionally, copies shall be provided to all local enforcing agencies identified on the submitted schedule.

1. The certificate must be maintained by the responsible party identified pursuant to (b)7 above at all show

locations and be available for inspection by the fire official.

2. Possession of a carnival registration certificate shall not relieve the owner of responsibility for obtaining permits as required by N.J.A.C. 5:18-2.7 or for otherwise complying with the requirements of this chapter.

(d) Any application for a carnival registration certificate shall be accompanied by the fee as set forth in N.J.A.C. 5:18-2.8.

New Rule, R.1995 d.59, effective March 6, 1995.  
See: 26 N.J.R. 4249(a), 27 N.J.R. 891(a).

### SUBCHAPTER 3. STATE FIRE PREVENTION CODE

#### 5:18-3.1 Purpose and scope

(a) The purpose of this subchapter is to prescribe minimum requirements and controls to safeguard life, property, or public welfare from the hazards of fire and explosion.

(b) This subchapter shall be applicable to:

1. All buildings, structures, and premises within this State, with the exception of owner-occupied one and two-family dwellings used exclusively for dwelling purposes within this State; and

2. All fire safety hazards arising from the storage, handling or use of substances, materials or devices and arising from conditions hazardous to life, property or public welfare in the use or occupancy of buildings, structures, sheds, tents, lots or premises.

3. Buildings or other facilities built under and in full compliance with the codes in force at the time of construction or alteration thereof, and that have been properly maintained and used for such use as originally permitted, shall be exempt from the requirements of this subchapter pertaining to any of the following matters:

i. Fire protection of structural elements except as provided for existing buildings under the Uniform Construction Code;

ii. Isolation of hazardous operations: provided, however, that the fire official may require the installation of fire safety devices or systems (fire extinguishers, fire alarms, fire detection devices, sprinklers or similar systems) where, in the judgment of the fire official, they are necessary to provide safety to life and property.

iii. In lieu of requiring the installation of safety devices or systems or when necessary to secure safety in addition thereto, the fire official may prescribe limitations on the handling and storage of materials or substances or upon operations that are liable to cause

fire, contribute to the spread of fire, or endanger life or property.

(c) Whenever, in this subchapter, reference is made to the Appendix, the provisions in the Appendix shall not apply unless specifically adopted herein.

Amended by R.1993 d.197, effective May 3, 1993.

See: 25 N.J.R. 393(a), 25 N.J.R. 1868(a).

Added "used exclusively for dwelling purposes" at (b)1.

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### Case Notes

Term "individual dwelling unit" in Uniform Fire Code has same meaning as term "dwelling unit" in Uniform Fire Safety Act; term thus applies to both permanent and transient occupancies. *Venuti v. Cape May County Const. Bd. of Appeals*, 231 N.J.Super. 546, 555 A.2d 1175 (A.D.1989).

Hotel and motel rooms with cooking facilities are "individual dwelling units" and thus exempt from Uniform Fire Code requirements for fire suppression systems. *Venuti v. Cape May County Const. Bd. of Appeals*, 231 N.J.Super. 546, 555 A.2d 1175 (A.D.1989).

Municipal subcode official did not have authority to require portable fire extinguishers to be placed in motel and hotel efficiency units with cooking facilities. *Venuti v. Cape May County Const. Bd. of Appeals*, 231 N.J.Super. 546, 555 A.2d 1175 (A.D.1989).

#### 5:18-3.2 Definitions

The following terms shall have the meanings indicated except where the context clearly requires otherwise. Where a term is not defined then the definition of that term found in this code at N.J.A.C. 5:18-1.5 or within the Uniform Construction Code at N.J.A.C. 5:23-1.4 shall govern:

"Acetylene, low pressure" means acetylene at a pressure not exceeding one pound per square inch gauge (psig).

"Acetylene, medium pressure" means acetylene at pressures exceeding one psig but not exceeding 15 psig.

"Acetylenic compound" means a material, like acetylene, having a triple bond between two carbon atoms.

"Agent" means any person who shall have charge, care or control of any buildings as owner, or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person representing the actual owner shall be bound to comply with the provisions of this code to the same extent as if that person were the owner.

"Air supported structure" means a structural and mechanical system, which is constructed of high strength fabric or film and achieves its shape, stability and support by pretensioning with internal air pressure.

"Alarm" means any audible or visible signal or intelligence indicating existence of a supposed fire or emergency requiring response and emergency action on the part of the fire fighting service. Also, the alarm devices or device by which fire and emergency signals are received.

"Approved" means approved by the fire official or the Department.

"Automatic detecting device" means a device which automatically detects heat, smoke or other products of combustion.

"Automatic fire alarm system" means a fire alarm system containing automatic detecting device(s) which actuates a fire alarm signal and which may contain manual fire alarm devices.

"Automatic fire suppression system" means an engineered system using carbon dioxide (CO<sub>2</sub>), dry chemical, a halogenated extinguishing agent, or an automatic sprinkler system to automatically detect and suppress a fire through fixed piping and nozzles.

"Automatic sprinkler system" for fire protection purposes means an integrated sprinkler system of underground and/or overhead piping designed in accordance with fire protection engineering standards. The system includes a suitable water supply. The portion of the system aboveground is a network of specially sized or hydraulically designed piping installed in a building, structure or area, generally overhead, and to which automatic sprinklers are connected in a systematic pattern. The system is usually activated by heat from a fire and discharges water over the fire area.

"Automatic water supply" means water supplied through a gravity or pressure tank or automatically operated fire pumps, or from a direct connection to an approved municipal water main.

"Blasting agent" means any material or mixture consisting of a fuel and oxidizer intended for blasting, not otherwise classified as an explosive, in which none of the ingredients are classified as explosives, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined. Materials or mixtures classified as nitro carbonates by U.S. Department of Transportation (DOT) regulations shall be included in this definition.

"Boiling point" means the temperature at which the vapor pressure of a liquid equals the atmospheric pressure of 14.7 pounds per square inch gauge (psig) of mercury. Where an accurate boiling point is unavailable for the material in question, or for mixtures which do not have a constant boiling point, for purposes of this classification, the 10 percent of a distillation performed in accordance with ASTM D86 listed in Appendix 3-A, incorporated herein by reference, may be used as the boiling point of the liquid.