

**CHAPTER 70**

**UNIFORM FIRE CODE**

**Authority**

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

**Source and Effective Date**

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

**Executive Order No. 66(1978) Expiration Date**

Chapter 70, Uniform Fire Code, expires on December 22, 2004.

**Chapter Historical Note**

Chapter 70, Congregate Housing Services Program, was adopted as R.1982 d.272, effective August 16, 1982. See: 14 N.J.R. 609(b), 14 N.J.R. 912(b). Pursuant to Executive Order No. 66(1978), Chapter 70, Congregate Housing Services Program, was readopted as R.1987 d.315, effective July 9, 1987. See: 19 N.J.R. 678(a), 19 N.J.R. 1430(a). Pursuant to Executive Order No. 66(1978), Chapter 70, Congregate Housing Services Program, was readopted as R.1992 d.214, effective April 22, 1992. See: 24 N.J.R. 513(c), 24 N.J.R. 1880(a). Pursuant to Executive Order No. 66(1978), Chapter 70, Congregate Housing Services Program, expired on April 22, 1997.

Chapter 70, Uniform Fire Code, was originally codified in Title 5 as Chapter 18, Uniform Fire Code. Chapter 18 was adopted as R.1985 d.66, effective February 19, 1985. See: 16 N.J.R. 3339(b), 17 N.J.R. 394(a).

Subchapter 4, Fire Safety Code, was adopted as R.1986 d.214, effective June 16, 1986. See: 17 N.J.R. 1161(a), 18 N.J.R. 1260(b).

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

Subchapter 3, State Fire Prevention Code, was repealed, and Subchapter 3, State Fire Prevention Code, was adopted as new rules by R.1992 d.105, effective March 2, 1992. See: 23 N.J.R. 3554(a), 24 N.J.R. 740(a).

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

Pursuant to Reorganization Plan No. 002-1998, Chapter 18, Uniform Fire Code, was recodified as N.J.A.C. 5:70, effective July 1, 1998. See: 30 N.J.R. 1347(a), 30 N.J.R. 2644(a).

Subchapter 3, State Fire Prevention Code, was repealed and Subchapter 3, State Fire Prevention Code, was adopted as new rules by R.1998 d.424, effective August 17, 1998 (operative January 2, 1999). See: 30 N.J.R. 1466(a), 30 N.J.R. 3068(c).

Pursuant to Executive Order No. 66(1978), Chapter 70, Uniform Fire Code, was readopted as R.2000 d.30, effective December 22, 1999. See: Source and Effective Date. See, also, section annotations.

**Cross References**

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

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

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

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

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 See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).  
 Substituted "Prevention" for "Protection".  
 Amended by R.1995 d.58, effective March 6, 1995.  
 See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

## SUBCHAPTER 1. GENERAL PROVISIONS

### 5:70-1.1 Title; division into subchapters

(a) The regulations contained in this chapter shall be known as the "New Jersey Uniform Fire Code" and are referred to herein as the Code.

(b) The Code is divided into four subchapters:

1. N.J.A.C. 5:70-1, entitled "General Provisions";
2. N.J.A.C. 5:70-2, entitled "Administration and Enforcement";
3. N.J.A.C. 5:70-3, entitled "State Fire Prevention Code"; and
4. N.J.A.C. 5:70-4, entitled "State Fire Safety Code."

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

(b)3 substituted "1984" for "latest".  
 Amended by R.1986 d.214, effective June 16, 1986.  
 See: 17 N.J.R. 1161(a), 18 N.J.R. 1260(b).

(b)4 deleted "(Reserved)" and added text "is entitled "Fire ... as this subchapter."

Amended by R.1992 d.104, effective March 2, 1992.  
 See: 23 N.J.R. 3552(a), 24 N.J.R. 739(a).

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

### 5:70-1.2 Authority

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

### 5:70-1.3 Intent and purpose

(a) It is the intent of this Code to prescribe regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

(b) Where no specific standards or requirements are specified in this Code, or contained within other applicable laws (or adopted codes) or ordinances, compliance with the standards of the National Fire Protection Association or other nationally recognized fire-safety standards as are approved by the fire official shall be deemed as prima facie evidence of compliance with the stated intent of this Code.

### 5:70-1.4 Applicability

(a) The provisions of this Code shall apply to new and existing buildings, uses and conditions, as hereinafter provided.

(b) The provisions contained in this Code shall not be construed as applying to the transportation of any article or substance shipped under the jurisdiction of and in compliance with the regulations prescribed by the military forces of the United States or the transportation of flammable or combustible liquids or hazardous materials or chemicals subject to the regulation and control of the New Jersey Department of Transportation or the United States Department of Transportation or other Federal Agency having jurisdiction.

1. The fire official shall have jurisdiction to order the correction of any dangerous condition created by any transportation conveyance.

2. The right of any local government to adopt ordinances governing the routing of vehicles transporting flammable or combustible liquids or hazardous materials or chemicals shall not be deemed to be limited by anything contained in this section.

(c) Nothing in this Code shall be construed, interpreted or applied to abrogate, nullify or abolish any law, ordinance or code adopted by any local government regulating the repair, removal, demolition, use, location, occupancy or maintenance of buildings and property as specifically provided herein. When any provision of this Code is found to be in conflict with any zoning, safety, health or other applicable law, ordinance or code of the jurisdiction existing on the effective date of this Code or hereafter adopted, the provision which establishes the higher standard for the promotion and protection of the safety and welfare of the public shall prevail.

(d) All regulations, other than this Code, promulgated by any State agency with regard to fire safety in existing buildings, structures and premises subject to this Code shall, to the extent of any inconsistency with this Code, be deemed to have been superseded by this Code.

1. Regulations determined by the Department of Community Affairs to be affected by this subsection include the following:

- i. N.J.A.C. 5:10-25;
- ii. N.J.A.C. 5:27-5;
- iii. N.J.A.C. 5:23-2.23(i)7 and 9;
- iv. N.J.A.C. 8:43-3;

- v. N.J.A.C. 8:43A-15.2(b) and (c);
- vi. N.J.A.C. 8:43B-3.2;
- vii. N.J.A.C. 8:39-41.3 and 41.4;
- viii. N.J.A.C. 8:42A-23.7;
- ix. N.J.A.C. 10:44A-6.1(e) through (w);
- x. N.J.A.C. 10:44B-6.2;
- xi. N.J.A.C. 10A:31-3.1(b)1-3 and 11-13;
- xii. N.J.A.C. 10A:32-4.4 and 4.5;
- xiii. N.J.A.C. 10A:34-2.13;
- xiv. N.J.A.C. 12:100-4.2(a)10 (incorporating Subparts E, L and S of 29 C.F.R. Part 1910);
- xv. N.J.A.C. 5:11; and
- xvi. N.J.A.C. 5:18.

2. The enumeration of certain regulations in (d)1 above shall not be construed as limiting the applicability of this subsection.

(e) The planning, design and construction of new buildings and structures, or the planning, design and alteration or renovation of existing buildings and structures, to provide the necessary egress facilities, fire protection and built-in fire protection equipment shall be controlled by the New Jersey Uniform Construction Code, and any alterations, additions or changes in or to buildings and structures required by the provisions of this Code which are within the scope of the Uniform Construction Code shall be made in accordance therewith, unless specifically provided otherwise by this Code.

(f) When adequate fire protection is not being provided in a building, structure or premises as herein required or where such fire protection is deemed necessary by the fire official due to hazardous or dangerous conditions involving the occupancy of a building or structure, special fire protection equipment shall be installed in accordance with the requirements of the fire official and Uniform Construction Code.

(g) Any requirement in this chapter that is applicable to a building shall also be applicable to the exterior portion of the premises in which the building is located, or to a premises that does not include a building, if the Division or the fire official finds compliance with such requirement in such exterior area or premises to be necessary for the protection of the safety of persons upon the premises, firefighters or the general public.

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

(b)2 deleted "Nothing in this section shall be deemed to limit the" and added text "shall not be . . . in this section."

Amended by R.1986 d.214, effective June 16, 1986.  
See: 17 N.J.R. 1161(a), 18 N.J.R. 1260(b).

Added "New Jersey Department of Transportation" to (b).

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 (d) regarding superseding of rules.  
Amended by R.1991 d.570, effective November 18, 1991.  
See: 23 N.J.R. 2813(a), 23 N.J.R. 3444(a).

Added new (h).  
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).

#### Case Notes

Local ordinance could impose more stringent fire safety requirements on summer rental units than were imposed by the Uniform Fire Code. *United Property Owners Association of Belmar v. Borough of Belmar*, 777 A.2d 950 (2001).

#### 5:70-1.5 Definitions

The following terms shall have the meanings indicated except where the context clearly requires otherwise. All definitions found in the Uniform Fire Safety Act, P.L. 1983, c.383, N.J.S.A. 52:27D-192 et seq., shall be applicable to this chapter. Where a term is not defined in this section or in the Uniform Fire Safety Act, then the definition of that term found in the Uniform Construction Code at N.J.A.C. 5:23-1.4 shall govern.

"Act" means the Uniform Fire Safety Act, P.L. 1983, c.383, N.J.S.A. 52:27D-192 et seq., and includes all acts amendatory and supplementary thereto and all regulations adopted pursuant thereto.

"Atrium" means a floor opening or series of floor openings connecting two or more stories that is covered at the top of the series of openings and is used for purposes other than an enclosed stairway; elevator hoistway; escalator opening; or utility shaft used for plumbing, electrical, air conditioning, or communication facilities.

"Bed and breakfast" means a facility providing sleeping or dwelling accommodations to transient guests which:

1. Is comprised of a structure originally constructed as a private residence or a bed and breakfast;
2. Includes individual sleeping accommodations for 50 or fewer guests;
3. Has at least one dwelling unit occupied by the owner of the facility as his place of residence during any time that the facility is being used for the lodging of guests;
4. Has not less than 300 square feet of common area for the exclusive use of the guests, including, but not limited to, parlors, dining rooms, libraries and solariums;
5. Prohibits cooking and smoking in guest rooms;
6. Provides a meal to the guests in the forenoon of each day but does not operate as a restaurant open to the general public;

7. Is not a "rooming house" or "boarding house" as defined in N.J.S.A. 55:13B-3; and

8. Does not allow:

i. More than 15 percent of the guests to remain more than 30 successive days or more than 30 days of any period of 60 successive days or more than 30 days of any period of 60 successive days; or

ii. Any guest to remain more than 60 successive days or more than 60 days of any period of 90 successive days.

"Bed and breakfast guesthouse" means a bed and breakfast designed to accommodate at least six guests, but not more than 25 guests.

"Bed and breakfast homestay" means a bed and breakfast designed to accommodate five or fewer guests.

"Bed and breakfast inn" means a bed and breakfast designed to accommodate at least 26 guests, but not more than 50 guests.

"Boarding school" means a public or private residential educational facility, where students are taught a curriculum equivalent to an elementary or secondary school education, which provides lodging services, and that is registered with and certified by the State pursuant to N.J.S.A. 18A:69-2 and N.J.A.C. 6:34.

"Carnival" means a traveling circus or other traveling amusement show having one or more of the following:

1. Mobile enclosed structures used for human occupancy; or
2. Tents or temporary membrane structures requiring a permit in accordance with N.J.A.C. 5:23-3.14(b)22ii.

"Commissioner" means the Commissioner of the Department of Community Affairs or his delegate.

"Common Areas", when used with reference to a covered mall building, shall include all areas not included within any retail establishment and shall also include the required means of egress from all retail establishments. When used with reference to buildings of use groups R-1 and R-2 shall mean all areas accessible to, and which may be utilized by, either the building occupants or the general public and shall include, but not be limited to, vestibules, hallways, stairways, landings and occupiable rooms and spaces not part of any dwelling unit; and shall also include any area accessible to the owner or manager or any person employed in the maintenance of the building which area is not part of any dwelling unit.

"Day" means a calendar day, unless otherwise specified.

"Department" means the New Jersey Department of Community Affairs.

"Director" means the Director of the Division of Fire Safety.

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

"Dormitory" means a building, or portion thereof, containing rooms which are provided as residences or for overnight sleeping for individuals or groups, and includes those residences utilized by fraternities or sororities which are recognized by or owned by a school or institution of higher education, but does not include those residences or multiple dwellings utilized by students which are not recognized by or owned by a school or institution of higher education. "Dormitory" is not to include a building used primarily to house faculty or a multiple dwelling in which occupancy of each dwelling unit is limited to persons who are members of a single family group.

"Fire barrier" means a continuous membrane, either vertical or horizontal, such as a wall or floor assembly, that is designed and constructed with a specified fire resistance rating and located to limit the spread of fire and restrict the movement of smoke. Such barriers may have protected openings when a specific fire resistive rating is indicated by this Code. When a rating is required, existing walls, columns and floor/ceiling assemblies meeting the requirements of Federal Housing and Urban Development Rehabilitation Guidelines #8 or of Sections 1, 2, 3 and 4 of Appendix B of the BOCA Basic/National Existing Structures Code, 1984 Ed., shall be acceptable.

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

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

"Floor area, gross" means the floor area within the perimeter of the outside walls of the building or use under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or other features.

"Floor area, net", for purposes of determining occupant load, means the actual occupied floor area and shall not include unoccupied accessory areas or thickness of walls.

"Fraternity" or "sorority" means an organization or chapter primarily composed of students enrolled in a college or university or any student organization recognized as such by a school or institution of higher education that occupies a building used by its members as a dormitory, whether or not owned by the school or institution of higher education.

“High-rise structure” means any building or structure having floors used for human occupancy located either more than six stories or more than 75 feet above the lowest level accessible to a fire department vehicle.

“Incidental use” means a use supplemental to the main use of a building where the area devoted to such use does not occupy more than 10 percent of the area of any floor.

“Institution of higher education” means a public or private college or university incorporated and located in New Jersey, as defined in N.J.S.A. 18A:62-1, N.J.S.A. 18A:68-1, or any equivalent college or university incorporated and located in New Jersey, which, by virtue of law or character or license, is a nonprofit educational institution authorized to grant academic degrees.

“Life hazard use” means a building or structure, or part thereof, classified in any of the use groups in the building subcode of the New Jersey Uniform Construction Code and defined as such in subchapter 2 of this chapter. “Life hazard use” shall also mean and include high rise structures as defined in this section.

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

“Lumber” means boards, dimension lumber, timber, plywood, pressure treated wood, fencing and fence posts, and other similar wood products.

“Maximum permitted occupancy” means the maximum number of persons which can be permitted in a building or portion thereof as established in accordance with N.J.A.C. 5:70-4.11(e).

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

“Owner-occupied” when used in conjunction with “Use Group R-3” means a building serving as the residence of at least one holder of record of title to the property.

“Premises” means a specific locality, area of land or portion thereof, and shall include any buildings, structures or portions of buildings or structures thereon.

“Protective equipment” means any equipment, device, system or apparatus permitted or required by the commissioner to be constructed or installed in or upon a building, structure or premises for the purpose of protecting the

occupants or intended occupants thereof, fire fighters or the public generally from fire or products of combustion.

“Smoke barrier” means a continuous membrane, either vertical or horizontal, such as a wall, floor, or ceiling assembly, that is designed and constructed to restrict the movement of smoke. A smoke barrier may or may not have a fire resistance rating. Such barriers may have protected openings. When a fire resistive rating is required, existing walls, columns and floor/ceiling assemblies meeting the requirements of Federal Housing and Urban Development Rehabilitation Guidelines #8, or of Sections 1, 2, 3 and 4 of Appendix B of the BOCA Basic/National Existing Structures Code, 1984 Ed., shall be acceptable.

“State Fire Prevention Code” means the model code of the Building Officials and Code Administrators International, Inc., known as the “BOCA National Fire Prevention Code/1996,” adopted by reference in N.J.A.C. 5:70-3.1(a) as the State Fire Prevention Code for New Jersey, subject to the modifications set forth in N.J.A.C. 5:70-3.2.

“Story above grade” means any story having its finished floor surface entirely above grade except that a story which is partly or completely below grade (basement) shall be considered as a story above grade when the distance from grade to the finished surface of the floor above the basement is more than six feet for more than 50 percent of the total perimeter or more than 12 feet at any point.

“Uniform Construction Code” or “Construction Code” means the New Jersey Uniform Construction Code (N.J.A.C. 5:23-1 et seq.).

“Use” or “Use Group” means the use to which a building, portion of a building, or premises is put as follows. It shall also mean and include any place, whether constructed, manufactured or naturally occurring, whether fixed or mobile, that is used for any human purpose or occupancy that would subject it to the provisions of this Code if it were a building or premises.

1. “Use Group A-1-A”: This Use Group shall include all theaters and other buildings used primarily for theatrical or operatic performances and exhibitions, arranged with a raised stage, proscenium curtain, fixed or portable scenery loft, lights, motion picture booth, mechanical appliances or other theatrical accessories and equipment, and provided with fixed seats.

2. “Use Group A-1-B”: This Use Group shall include all theaters without a stage and equipped with fixed seats used for motion picture performances.

3. “Use Group A-2”: This Use Group shall include all buildings and places of public assembly, without theatrical stage accessories, designed for use as dance halls, night clubs, and eating and/or drinking establishments, and similar occupancies, in which the established maximum permitted occupant load exceeds the number of seats provided by more than 30 percent, and shall include all rooms, lobbies and other spaces connected thereto with a common means of egress and entrance.



4. "Use Group A-3": This Use Group shall include all buildings with or without an auditorium in which persons assemble for amusement, entertainment or recreation, and incidental motion picture, dramatic or theatrical presentations, lectures or other similar purposes without theatrical stage other than a raised platform; and principally used without permanent seating facilities, including art galleries, exhibition halls, museums, lecture halls, libraries, restaurants other than night clubs, and recreation centers; and buildings designed for other similar assembly purposes including passenger terminals.

5. "Use Group A-4": This Use Group shall include all buildings used as churches and for similar religious purposes.

6. "Use Group A-5": This Use Group shall include grandstands, bleachers, coliseums, stadiums, tents and similar structures for outdoor assembly uses.

7. "Use Group B": All buildings and structures, or parts thereof, shall be classified in Use Group B which are used for the transaction of business, for the rendering of professional services, or for other services that involve stocks of goods, wares or merchandise in limited quantities for use incidental to office uses or sample purposes.

8. "Use Group E": This Use Group shall include all buildings and structures serving 50 or more students from kindergarten through grade 12 and also means and includes any educational building serving 50 or more students in some, but not all, of the grades from kindergarten to grade 12, inclusive.

9. "Use Group F": All buildings and structures, or parts thereof, in which occupants are engaged in performing work or labor in the fabricating, assembling or processing of products or materials shall be classified in Use Group F; including, among others, factories, assembling plants, industrial laboratories and all other industrial and manufacturing uses, except those of Use Group H involving highly combustible, flammable or explosive products and materials.

i. "Use Group F-1": Factory and industrial uses which are not otherwise classified as low-hazard Use Group F-2, shall be classified as a moderate-hazard factory and industrial use, Use Group F-1.

ii. "Use Group F-2": Factory and industrial uses which involve the fabrication or manufacturing of non-combustible materials that, during finishing, packing or processing, do not contribute to a significant fire hazard, shall be classified as Use Group F-2. The following manufacturing processes are indicative of, and shall be classified as, Use Group F-2: beverages, nonalcoholic; brick and masonry; ceramic products; foundries; glass products; gypsum; ice; metal fabrication and assembly; and water pumping plants.

10. "Use Group H": All buildings and structures, or parts thereof, shall be classified in Use Group H which are used for the manufacturing, processing, generation or storage of corrosive, highly toxic, highly combustible, flammable or explosive materials that constitute a high fire or explosion hazard, including loose combustible fibers, dust and unstable materials.

11. "Use Group I-1": This Use Group shall include buildings housing six or more individuals who, because of age, mental instability or other reasons, must live in a supervised environment but who are physically capable of responding to an emergency situation without personal assistance. Included in this group are uses such as facilities for children, aged persons, mentally impaired and convalescents including: convalescent facilities, group homes, boarding houses, homes for the aged, mentally retarded care facilities, nursing homes (ambulatory), orphanages and residential care facilities. Occupancies such as the above with five or less occupants shall be classified as a residential Use Group.

12. "Use Group I-2": This Use Group shall include all buildings used for housing people suffering from physical limitations because of health or age, including, among others, day nurseries, hospitals, sanitariums, infirmaries, orphanages and homes for aged and infirm.

13. "Use Group I-3": This Use Group shall include all buildings designed for the detention of people under restraint, including, among others, jails, prisons, reformatories, insane asylums and similar uses.

14. "Use Group M": All buildings and structures, or parts thereof, shall be classified in Use Group M which are used for display and sales purposes involving stocks of goods, wares or merchandise incidental to such purposes and accessible to the public; including, among others, retail stores, motor fuel service stations, shops and salesrooms and markets.

15. "Use Group R-1": This Use Group shall include all hotels, motels, and similar buildings arranged for shelter and sleeping accommodations and in which the occupants are primarily transient in nature, making use of the facilities for a period of less than 30 days. This definition shall also mean and include bed and breakfast guesthouses and bed and breakfast inns.

16. "Use Group R-2": This Use Group shall include all multiple family dwellings having more than two dwelling units and shall also include all dormitories, rooming houses, group rentals where the occupants are living independently of each other and similar buildings arranged for shelter and sleeping accommodations in which the occupants are primarily not transient in nature. This Use Group shall also include attached one- and two-family dwelling units which do not meet the definition for Use Group R-3.

17. "Use Group R-3": This Use Group shall include all buildings arranged for the use of detached one-and two-family dwelling units, including, but not limited to, buildings with not more than five lodgers or boarders per family, and excluding buildings designed in accordance with the one-and two-family subcode of the State Uniform Construction Code. This Use Group shall also mean and include:

- i. Bed and breakfast homestays; and
- ii. Attached one-and two-family dwellings constructed in accordance with the Uniform Construction Code requirements for multiple single family dwellings.

18. "Use Group R-4": This Use Group shall include all buildings arranged for use as detached one-and two-family dwelling units, including, without limitation, buildings occupied by not more than five lodgers or boarders per family and buildings used as bed and breakfast homestays, that are designed in accordance with the one-and two-family dwelling subcode of the State Uniform Construction Code.

19. "Use Group S-1": All buildings and structures, or parts thereof, which are used primarily for the storage of moderate hazard contents which are likely to burn with moderate rapidity, but which do not produce either poisonous gases, fumes or explosives; including, among others, warehouses, storehouses and freight depots.

20. "Use Group S-2": All buildings and structures, or parts thereof, which are used primarily for the storage of noncombustible materials, and of low hazard wares that do not ordinarily burn rapidly such as products on wood pallets or in paper cartons without significant amounts of combustible wrappings; including, among others, warehouses, storehouses and freight depots. Such products may have a negligible amount of plastic trim such as knobs, handles or film wrapping.

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

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

Added definition "Common areas".

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

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

Added new definitions.

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

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

Added definitions for "guest house" and "K-12 educational building"; added definitions 1.-18. under "Use" or "Use Group".

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

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

Uniform Fire Safety Act definitions incorporated by reference; definition of fire inspector added; definition of fire official amended. Amended by R.1992 d.104, effective March 2, 1992.

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

School dormitories added to definition of use.

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

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

Definitions for hardware store, Use Group F-1 and Use Group F-2 added.

Amended by R.1992 d.405, effective October 19, 1992.

See: 24 N.J.R. 1938(a), 24 N.J.R. 3723(b).

Use Group A-2 amended to including eating/drinking establishments where load exceeds seats by 30%.

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

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

Added definitions of gross and net floor area and lumber.

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).

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

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

Emergency amendment, R.2000 d.402, effective September 8, 2000 (to expire November 7, 2000).

See: 32 N.J.R. 3647(a)

Added definitions for "Boarding school", "Dormitory", "Fraternity" and "Institution of higher education"; added last sentence to "Local enforcing agency".

Adopted concurrent proposal, R.2000 d.486, effective November 6, 2000.

See: 32 N.J.R. 3647(a), 32 N.J.R. 4310(a).

Readopted provisions of R.2000 d.402 with changes, effective December 4, 2000.

Amended by R.2002 d.372, effective November 18, 2002.

See: 34 N.J.R. 2636(a), 34 N.J.R. 3958(a).

In "Carnival", deleted "uses" following "of the following" in the introductory paragraph, amended the N.J.A.C. reference in 2 and deleted 3.

Administrative correction.

See: 35 N.J.R. 219(d).

Amended by R.2003 d.137, effective April 7, 2003.

See: 34 N.J.R. 4277(a), 35 N.J.R. 1558(c).

In "Use" or "Use Group", rewrote 17, added a new 18, and recodified former 18 and 19 as 19 and 20.

#### Case Notes

Multiple dwelling with seven stories on one side and six stories on the other was "high-rise structure". *Mahmood H. Choudhury-Park Royal Apartments v. Bureau of Fire Safety, State Dept. of Community Affairs*, 92 N.J.A.R.2d (CAF) 46.

#### 5:70-1.6 (Reserved)

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

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

Formerly "Operative date".

#### 5:70-1.7 Severability

(a) If any provision of the Code or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Code which can be given effect and to this end the provisions of the Code are severable.

## SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT

### 5:70-2.1 Enforcement authority

(a) It shall be the duty and responsibility of the agency having jurisdiction in accordance with N.J.A.C. 5:71-2.2 to enforce the provisions of this Code as set forth herein.

1. Where no local enforcing agency has been created the Division shall enforce the provisions of this Code for life hazard uses or whenever conditions which constitute an imminent hazard are found to exist.

(b) The local enforcing agency shall periodically inspect all premises, except owner-occupied Use Group R-3 and R-4 structures used exclusively for dwelling purposes. These inspections shall be made in accordance with the schedule contained in this Code, when required under any cyclical inspection program, and as often as may be necessary for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with fire operations, or endanger life, or any conditions constituting violations of the provisions or intent of this Code or a locally adopted amendment. Except in the case of cyclical inspection programs or other good cause, inspections shall not include occupied dwelling units.

(c) Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the fire official or his or her authorized representative has reasonable cause to believe that there exists in any or upon any premises any condition which makes such building or premises unsafe, the fire official or his or her authorized representative may enter such premises, at all reasonable times to inspect the same or to perform any duty imposed upon the fire official by this code, provided that if such premises be occupied, he or she shall first present proper credentials and demand entry; and if such premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and demand entry.

1. No owner or occupant or any other persons having charge, care or control of any premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the fire official or his or her authorized representative for the purpose of inspection and examination pursuant to this Code. If the owner or occupant denies entry, the fire official or his or her authorized representative shall obtain a proper warrant or other remedy provided by law to secure entry.

(d) Local enforcing agency personnel shall use this Code to enforce N.J.A.C. 5:76-1.4.

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).

Amended by R.2003 d.137, effective April 7, 2003.

See: 34 N.J.R. 4277(a), 35 N.J.R. 1558(c).

In (b), inserted "periodically" preceding "inspect", deleted "detached" following "owner-occupied", and inserted "and R-4" following "R-3".

Amended by R.2003 d.230, effective June 16, 2003.

See: 34 N.J.R. 3888(a), 35 N.J.R. 2639(b).

Added (d).

#### Case Notes

Abatement of violation; failure to install fire suppression system. Lee's Emergency Equipment v. Department of Community Affairs, 94 N.J.A.R.2d (CAF) 39.

#### 5:70-2.2 Responsibility for compliance

(a) The owner shall be responsible for the safe and proper maintenance of the premises at all times.

(b) Owners of premises which are, or which contain, one or more uses subject to this Code, shall have concurrent responsibility with the owners of any such uses for compliance with the Code. No person shall be required to abate any violations which he has no power to abate or to require to be abated. If a violation is served on an owner who cannot comply due to lack of authority, within five days of receipt of the notice of violation, the owner shall either provide notice of the violation to the party with authority or inform the fire official of such party's name and address.

(c) If an occupant of a premises creates conditions in violation of this Code, by virtue of storage, handling and use of substances, materials, devices and appliances, the occupant can be held responsible for the abatement of said hazardous conditions.

(d) A person shall be deemed to have violated or caused to have violated a provision of this Code if an officer, agent or employee under his control and with his knowledge has violated or caused to have violated any of the provisions of this Code.

(e) Subsequent owners or those succeeding to control over the premises shall be responsible for correcting unabated violations and for the payment of outstanding fees and/or penalties whether or not they have requested a certificate of fire code status.

1. Upon request of the owner, contract purchaser, transferee or the authorized agent of any of them, the enforcing agency having jurisdiction over the premises shall issue a certificate either indicating that violations exist or that fees and/or penalties remain outstanding according to its records, or which states that its records indicate that no violations remain unabated and no penalties or fees remain unpaid. Upon request, the agency shall provide copies of the violations list and penalty orders.

2. Fees for the issuance of certificates of fire code status shall be as follows:

i. In any jurisdiction in which the Division of Fire Safety serves as the local enforcing agency, there shall be no charge for the first two certificates requested in any month period by an owner who is current in payment of applicable life hazard or non-life hazard fees. Thereafter, or if an owner has not made such payment, a notation to that effect shall be made on the bill and the requestor shall be charged a fee for the issuance of the certificate in the amount of \$35.00.



ii. The fire official of a local enforcing agency other than the Division of Fire Safety may establish a reasonable fee for the issuance of a certificate of fire code status.

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

### 5:70-2.3 Certificate of smoke detector and carbon monoxide alarm compliance

(a) Before any Use Group R-3 or R-4 structure is sold, leased, or otherwise made subject to a change of occupancy for residential purposes, the owner shall obtain a certificate of smoke detector and carbon monoxide alarm compliance CSDCMAC, evidencing compliance with N.J.A.C. 5:70-4.19, from the appropriate enforcing agency.

1. Where a municipality has existing inspection or approval requirements under a property maintenance or other municipal code, a CSDCMAC shall not be required; provided, however, that the agency responsible for the enforcement of that code shall not issue any certificate of inspection or occupancy or other approval under such municipal code until it has determined that the dwelling complies with the requirements of N.J.A.C. 5:70-4.19.

2. Where no municipal inspection or approval requirement exists, the agency responsible for enforcement of the Uniform Fire Safety Act shall be responsible for issuance of the CSDCMAC.

i. The Department, where it serves as the enforcing agency, may, upon application by a local fire department, delegate to that fire department the responsibility and authority for issuance of the CSDCMAC within the municipality, or portion of a municipality, served by that fire department.

3. The owner, or authorized agent of the owner, shall apply for a CSDCMAC on a form provided by the enforcing agency. The application shall be accompanied by the appropriate fee, as set forth in N.J.A.C. 5:70-2.9(d).

4. A CSDCMAC shall not be transferable. If the change of occupancy specified in the application for a CSDCMAC does not occur within six months, a new application shall be required.

i. The enforcing agency may issue a CSDCMAC for a seasonal rental unit for a period of up to 12 months, regardless of the number or frequency of changes in tenancy.

5. No CSDCMAC shall be issued until inspection of the structure indicates compliance with N.J.A.C. 5:70-4.19, except as provided in (b) below.

(b) The enforcing agency, unless it is otherwise required to inspect the structure under a property maintenance or other municipal code, may accept, in lieu of inspection, a certification that one or more smoke detectors and carbon monoxide alarms, as applicable, have been installed and tested in accordance with N.J.A.C. 5:70-4.19. Such certification shall be upon forms provided by the enforcing agency.

(c) No CSDCMAC or municipal certificate of occupancy shall be issued for any Use-Group R-3 or R-4 structure, or unit therein, as the case may be, unless the structure or unit

contains a carbon monoxide detector meeting the requirements of UL Standard 2034; provided, however, that no carbon monoxide alarm shall be required in any building that does not contain any fuel-burning appliances and does not have an attached garage. An "open parking structure," as defined in the building subcode of the State Uniform Construction Code, shall not be deemed to be an attached garage.

New Rule, R.1992 d.11, effective January 6, 1992.

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

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

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

Added provision to delegate authority to issue smoke detector compliance certificates.

Recodified from 5:18-2.20 and amended by R.1995 d.58, effective March 6, 1995.

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

Prior text at 5:18-2.3, Variances, recodified as 5:18-2.14.

Administrative correction.

See: 29 N.J.R. 2551(a).

In (b), changed N.J.A.C. reference.

Amended by R.2003 d.137, effective April 7, 2003.

See: 34 N.J.R. 4277(a), 35 N.J.R. 1558(c).

Rewrote the section.

### 5:70-2.4 Scope and classification of life hazard uses

(a) The premises and uses identified as life hazard uses shall be divided into four basic groups designated as types "A", "B", "C", and "D." The premises and uses included in each of these types are set forth in N.J.A.C. 5:70-2.4A, 2.4B, 2.4C and 2.4D, respectively. This designation is for reference purposes only and shall not be determinative of the degree of hazard associated with them. Within each group, the various uses shall be specifically identified or described and subdivided by the use of lower case letters.

(b) Premises that are incidental or auxiliary to the agricultural use of a farm property shall not be classified as life hazard uses.

(c) Each individual life hazard use shall be registered separately and treated as separate and distinct for the administrative purposes of this Code whether or not there are other life hazard uses at the same premises.

(d) Wherever used in N.J.A.C. 5:70-2.4A, 2.4B, 2.4C and 2.4D, the following words shall have the meanings indicated:

"Day care center" shall include any facility licensed by the Department of Human Services as a day care center, regardless of the ages of the persons in the care of the center.

"Day nursery" shall include any facility licensed by the Department of Human Services as a day nursery.

"Hardware store" shall mean a building or location of less than 12,000 square feet offering for sale a variety of merchandise including, but not restricted to, limited amounts of tools and associated equipment, garden supplies and paints, and also offering limited quantities of building materials including, but not limited to, plumbing, electrical and car-

penry supplies. The establishment may also provide services such as glazing, sharpening and repairs.

“K-12 educational building” shall mean an educational building serving 50 or more students from kindergarten through grade 12 and also means and includes any educational building serving 50 or more students in some, but not all, of the grades from kindergarten to grade 12, inclusive.

“Motor vehicle” shall include all motor-powered means of transportation, including, without limitation, boats and airplanes.

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

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

Added text (c)4 “and intermediate-care facilities.”

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

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

(b)-(e) is now in section 2.4A.

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

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

References to life hazard uses added.

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

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

#### 5:70-2.4A Type Aa through Aj life hazard uses

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

1. Day nurseries with a maximum permitted occupancy of six or more but fewer than 50 persons;
2. Day care centers with a maximum permitted occupancy of six or more but fewer than 50 persons;
3. Camps accommodating six or more, but fewer than 50, children of school age.

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

1. Day nurseries with a maximum permitted occupancy of 50 or more but fewer than 100 persons;
2. Day care centers with a maximum permitted occupancy of 50 or more but fewer than 100 persons;
3. Camps accommodating 50 or more, but fewer than 100, children of school age.

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

1. Hotels or motels of two or three stories and under 25 rooms, with any interior exit-ways;
2. Rooming and boarding homes of one story;
3. Eating and/or drinking establishments with a maximum permitted occupancy of fewer than 50 persons in which alcoholic beverages may be consumed.
4. Dormitories of one story not to include fraternity and sorority houses registered pursuant to (c)2 above.
5. Guest houses, as defined in N.J.A.C. 5:70-1.5, regardless of number of stories.

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

1. All buildings or structures used for the service of motor vehicles including aircraft and marine motor craft;
2. All buildings or locations where flammable and/or combustible fuels are stored and dispensed to motor vehicles, including aircraft and marine motor craft;
3. Halfway houses, group homes, community residences, residential child care facilities and residential health care facilities, alcohol and drug treatment centers, youth hostels, homeless shelters and other similar facilities with a maximum permitted occupancy of fewer than 50 persons;
4. Buildings used for dry cleaning purposes.
5. Camps accommodating 100 or more children of school age.

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

1. Day nurseries with a maximum permitted occupancy of 100 persons or more;
2. Day care centers with a maximum permitted occupancy of 100 persons or more;
3. Public and private K-12 educational buildings with a maximum permitted occupancy greater than 50 persons.

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

1. All buildings or locations where flammable and/or combustible fuels are stored and dispensed to motor vehicles, and used for the service of motor vehicles, including aircraft and marine motor craft;
2. Hotels or motels of two or three stories and 25 or more but fewer than 50 rooms, with any interior exit-ways;
3. Halfway houses, group homes, community residences, residential child care facilities and residential health care facilities, alcohol and drug treatment centers, youth hostels, homeless shelters and other similar facilities with a maximum permitted occupancy of 50 or more but fewer than 100 persons;
4. Rooming and boarding homes of two or three stories.
5. Dormitories of two or three stories not to include fraternity and sorority houses registered pursuant to (f)4 above.

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

1. Eating and/or drinking establishments with a maximum permitted occupancy of 50 or more but fewer than 100 persons;
2. Hotels or motels of two or three stories and 50 or more but fewer than 100 rooms, with any interior exit-ways;

3. Above ground aggregate storage of more than 660 gallons but less than 5,000 gallons of Class II or IIIA combustible liquids (except for heating purposes).

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

1. Rooming and boarding homes of four or more stories;

2. Halfway houses, group homes, community residences, residential child care facilities and residential health care facilities, alcohol and drug treatment centers, youth hostels, homeless shelters and other similar facilities with a maximum permitted occupancy of 100 persons or more.

3. Dormitories of four or more stories not to include fraternity or sorority houses registered pursuant to (h)1 above.

4. Hotels or motels of four or five stories and having fewer than 50 rooms, with any interior exit-ways.

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

1. Hotels or motels of two or three stories and 100 rooms or more, with any interior exit-ways;

2. Hardware stores and home improvement centers of 3,000 or more but less than 12,000 square feet of gross floor area.

3. Hotels and motels of four or five stories and which have 50 or more but fewer than 100 rooms, with any interior exit-ways.

(j) Type Aj life hazard uses are as follows:

1. (Reserved)

2. Above ground aggregate storage of 5,000 gallons or more, but less than 50,000 gallons, of Class II or IIIA combustible liquids, or above ground aggregate storage of more than 660 gallons but less than 10,000 gallons of Class I flammable liquids.

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

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

Subsection (b)-(e) from old section 2.4.

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

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

Added 4. under (e); K-12 educational buildings.

Amended by R.1991 d.50, effective October 7, 1991.

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

Text at (j)1 deleted.

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

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

Text on school dormitories and guest houses added.

Administrative Correction.

See: N.J.R. April 20, 1992.

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

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

Hardware store added at (i)2.

Amended by R.1995 d.57, effective March 6, 1995.

See: 26 N.J.R. 4254(a), 27 N.J.R. 878(a).

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).

Amended by R.2002 d.372, effective November 18, 2002.

See: 34 N.J.R. 2636(a), 34 N.J.R. 3958(a).

Rewrote (c)4, (f)5 and (h)3.

Administrative correction.

See: 35 N.J.R. 219(d).

Administrative correction.

See: 35 N.J.R. 1267(a).

#### Case Notes

Church school could properly have imposed against its life hazard registration fee. *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.

Payment of fire safety registration fee required. *Shoreway Garage v. Bureau of Fire Safety*, 92 N.J.A.R.2d (CAF) 60.

#### 5:70-2.4B Type Ba through Bp life hazard uses

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

1. Welding or cutting operations on a regular basis not using flammable gases in buildings or structures under 10,000 square feet.

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

1. (Reserved)

2. Recreation centers, multi-purpose rooms, lecture halls, art galleries, exhibition halls and similar uses where persons assemble other than for religious services with a maximum permitted occupancy of 100 or more but fewer than 200 persons;

3. Welding or cutting operations on a regular basis not using flammable gases in buildings or structures of 10,000 or more but less than 50,000 square feet.

4. Transfer from one container to another of liquefied petroleum gas or liquefied natural gas at any location, other than motor vehicle or marine motor craft service stations, not registered for storage and use.

5. Spraying or dip operations, as regulated by the State Fire Prevention Code, Chapter 13, as amended by N.J.A.C. 5:70-3.2(a)13i through xvi, in all approved areas of less than 100 square feet, as defined in the State Fire Prevention Code, Section F-1302.1.

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

1. Recreation centers, multi-purpose rooms, lecture halls, art galleries, exhibition halls and similar uses where persons assemble other than for religious services with a maximum permitted occupancy of 200 or more but fewer than 500 persons.

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

1. Motion picture theaters, or theaters incorporating a legitimate, regular or thrust stage without any scenery or prop storage areas behind a proscenium arch, with a maximum permitted occupancy of fewer than 100 persons;

2. The manufacture, processing or blending of less than 1,000 gallons of Class I flammable liquid, or less than 10,000 gallons of Class II or IIIA combustible liquids, in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery;

3. Welding or cutting operations on a regular basis not using flammable gases in buildings or structures of 50,000 square feet or more;

4. Storage of fireworks, explosives or blasting agents in a type 4 magazine;

i. Type 2 and 3 magazines are portable and intended only for the temporary storage of explosives and blasting agents, and as such, must be covered by a permit.

5. Eating and/or drinking establishments with a maximum permitted occupancy of 100 or more but fewer than 200 persons;

6. (Reserved)

7. Spraying or dip operations, as regulated by the State Fire Prevention Code, Chapter 13, as amended by N.J.A.C. 5:70-3.2(a)13i through xvi, in all approved areas of 100 or more but less than 250 square feet, as defined in the State Fire Prevention Code, Section F-1302.1.

8. Welding and cutting operations using flammable gases on a regular basis in buildings or structures under 10,000 square feet.

(e) Type Be life hazards uses are as follows:

1. Hotels and motels of four or five stories, and which have 100 rooms or more with any interior exit-ways.



2. Welding or cutting operations using flammable gases on a regular basis in buildings or structures of 10,000 square feet or more but less than 50,000 square feet.

3. Recreation centers, multi-purpose rooms, lecture halls, art galleries, exhibition halls and similar uses where persons assemble other than for religious services with a maximum permitted occupancy of 500 or more but fewer than 1,000 persons.

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

1. Prisons and other facilities of six or more but fewer than 50 beds where residents, occupants, or inmates are kept under restraint;

2. Motion picture theaters, or theaters incorporating a legitimate, regular or thrust stage without any scenery or prop storage area behind a proscenium arch, with a maximum permitted occupancy of 100 or more but fewer than 200 persons;

3. Retail stores and other mercantile uses of more than 12,000 square feet but less than 24,000 square feet in gross floor area;

4. Hotels or motels which exceed five stories, and have fewer than 50 rooms, with any interior exit-ways;

5.-6. (Reserved)

7. Equipment, processes, and operations involving dust which, if mixed with air, becomes explosive, including, but not limited to, grain bleachers or elevators; flour, starch or feed mills; malt houses, wood flour manufacturing plants; or plants that pulverize aluminum, coal, cocoa, magnesium, spices, or sugar in all buildings or structures under 50,000 square feet;

8. Crop ripening or coloring processes in all buildings or structures under 50,000 square feet;

9. Lumber yards and/or woodworking plants in which more than 100,000 but less than 250,000 board feet of lumber is to be stored;

10. Tire recapping or rebuilding plants in buildings or structures under 50,000 square feet;

11. Manufacturing of articles of cellulose nitrate plastics including the use of cellulose nitrate plastics in the manufacture or assembly of other articles in all buildings or structures under 50,000 square feet;

12. The manufacture of matches in all buildings or structures under 50,000 square feet;

13. The manufacture of fireworks, explosives or blasting agents in all buildings or structures under 50,000 square feet;

14. The manufacture, processing or blending of more than 1,000 but less than 10,000 gallons of Class I flammable liquids in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery;

15. (Reserved)

16. Storage of more than 2,500 cubic feet gross volume of combustible empty assembled packing cases, boxes, barrels, pallets, or similar containers in a building not classified as a warehouse or factory as specified in this section;

17. Storage of more than 2,500 cubic feet gross volume of rubber tires, baled cotton, rubber, cork, or other similarly combustible material in a building not classified as a warehouse or factory as specified in this section;

18. Storage of matches with more than 25 but fewer than 50 cases in the aggregate;

19. Storage of fireworks, explosives or blasting agents in a type UG magazine;

i. Type 2 and 3 magazines are portable and intended only for the temporary storage of explosives and blasting agents, and as such, must be covered by a permit.

20. Above ground aggregate storage of more than 50,000 but less than 1,000,000 gallons of Class II or IIIA combustible liquids.

21. Factories and other industrial uses of Use Group F-1, not otherwise classified, of 12,000 or more but less than 24,000 square feet in gross floor area.

22. Warehouses, storehouses and freight depots, used for the storage and handling of ordinary combustible materials, not otherwise classified, of 12,000 or more, but less than 24,000 square feet in gross floor area.

23. Any installation of liquefied petroleum gas or liquefied natural gas utilizing storage containers of over 1,000 gallons individual water capacity or with an aggregate water capacity exceeding 2,000, but not more than 4,000, gallons.

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

1. Any high-rise structure of seven or more but fewer than 10 stories;

2. Prisons and other facilities of 50 or more but fewer than 100 beds where residents, occupants, or inmates are kept under restraint;

3. Free-standing institutional and similar facilities including, but not limited to, outpatient surgery facilities, renal dialysis facilities, abortion clinics, and birthing centers, in buildings of less than 10,000 square feet;

4. Motion picture theaters, and theaters incorporating a legitimate, regular or thrust stage without any scenery or prop storage area behind a proscenium arch, with a maximum permitted occupancy of 200 or more persons;

5. Eating and/or drinking establishments with a maximum permitted occupancy of 200 or more but fewer than 300 persons;

6. Retail stores and other mercantile uses of 24,000 or more but less than 48,000 square feet in gross floor area;

7. Hotels or motels which exceed five stories, and which have 50 or more but fewer than 100 rooms, with any interior exit-ways;

8. Recreation centers, multi-purpose rooms, lecture halls, art galleries, exhibition halls and similar uses where persons assemble other than for religious services with a maximum permitted occupancy of 1,000 or more persons;

9. Transportation terminals with a maximum permitted occupancy of 100 or more persons;

10. Spraying or dip operations, as regulated by the State Fire Prevention Code, Chapter 13, as amended by N.J.A.C. 5:70-3.2(a)13i through xvi, in all approved areas of 250 or more but less than 500 square feet, as defined in the State Fire Prevention Code, Section F-1302.1;

11. Equipment, processes, and operations involving dust which, if mixed with air, become explosive including, but not limited to, grain bleachers or elevators; flour, starch or feed mills; malt houses; wood flour manufacturing plants; or plants that pulverize aluminum, coal, cocoa, magnesium, spices, or sugar in all buildings or structures of 50,000 or more but less than 100,000 square feet;

12. Crop ripening or coloring processes in all buildings or structures of 50,000 or more but less than 100,000 square feet;

13. Lumber yards and/or woodworking plants in which 250,000 or more but less than 500,000 board feet of lumber is to be stored;

14. Tire recapping or rebuilding plants in buildings or structures of 50,000 or more but less than 100,000 square feet;

15. Organic coating manufacturing operations making one gallon or more of an organic coating in a working day;

16. Manufacturing of articles of cellulose nitrate plastics including the use of cellulose nitrate plastics in the manufacture or assembly of other articles in all buildings or structures of 50,000 or more but less than 100,000 square feet;

17. Processing, handling or use of 100 or more but less than 500 cubic feet of loose combustible vegetable or animal fibers, including, but not limited to, readily ignitable and free burning fibers such as cotton, sisal, henequen, ixtel, jute, hemp, tow, cocoa fiber, oakum, baled waste, baled waste paper, kapok, hay, straw, Spanish moss, excelsior, certain synthetic fibers, and cloth in the form of scraps and clippings;

18. The manufacture of matches in all buildings or structures of 50,000 or more but less than 100,000 square feet;

19. The manufacture of fireworks, explosives or blasting agents in all buildings or structures of 50,000 or more but less than 100,000 square feet;

20.-22. (Reserved)

23. Storage of cellulose nitrate motion picture film or cellulose nitrate (pyroxylin) plastics in quantities which exceed 25 pounds;

24. Storage of 100 or more but less than 500 cubic feet of loose combustible vegetable or animal fibers;

25. Storage of matches with 50 or more cases in the aggregate;

26. Storage of fireworks, explosives or blasting agents in a type 1 magazine;

NOTE: Type 2 and 3 magazines are portable and intended only for the temporary storage of explosives and blasting agents, and as such, must be covered by a permit.

27. Above ground storage of 10,000 or more but less than 100,000 gallons of Class I flammable liquids;

28.-29. (Reserved)

30. Factories and other industrial uses of Use Group F-1, not otherwise classified, of 24,000 or more, but less than 50,000 square feet, in gross floor area;

31. Warehouses, storehouses and freight depots, used for the storage and handling of ordinary combustible materials, not otherwise classified, of 24,000 or more, but less than 50,000, square feet in gross floor area.

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

1. Prisons and other facilities of 100 or more but fewer than 200 beds where residents, occupants, or inmates are kept under restraint;

2. Hotels or motels which exceed five stories, and which have 100 rooms or more, with any interior exit-ways;

3. The manufacture, processing or blending of more than 10,000 but less than 100,000 gallons of Class II and/or IIIA combustible liquids in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery;

4. Any installation of liquefied petroleum gas or liquefied natural gas utilizing storage containers of over 4,000 gallons aggregate water capacity.

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

1. Prisons and other facilities of 200 beds or more where residents, occupants, or inmates are kept under restraint;

2. Factories and other industrial uses of Use Group F-1, not otherwise classified, of 50,000 or more, but less than 100,000 square feet in gross floor area;

3. Warehouses, storehouses and freight depots, used for the storage and handling of ordinary combustible materi-

als, not otherwise classified, of 50,000 or more, but less than 100,000 square feet in gross floor area.

(j) Type Bj life hazard uses are as follows:

1. Any high-rise structure of 10 or more but fewer than 20 stories;

2. Free-standing institutional and similar facilities including, but not limited to, outpatient surgery facilities, renal dialysis facilities, abortion clinics, and birthing centers, in buildings of 10,000 square feet or more;

3. (Reserved)

4. Retail stores and other mercantile uses of 48,000 square feet or more in gross floor area;

5. Stadiums, race tracks and other similar exterior places of amusement with enclosed interior spaces, with a maximum permitted occupancy of fewer than 5,000 persons;

6. Spraying or dip operations, as regulated by the State Fire Prevention Code, Chapter 13, as amended by N.J.A.C. 5:70-3.2(a)13i through xvi, in all approved areas of 1,000 square feet or more, as defined in the State Fire Prevention Code, Section F-1302.1;

7. Equipment, processes, and operations involving dust which, if mixed with air, become explosive including, but not limited to, grain bleachers or elevators; flour, starch or feed mills; malt houses; wood floor manufacturing plants; or plants that pulverize aluminum, coal, cocoa, magnesium, spices, or sugar in all buildings or structures of 100,000 square feet or more;

8. Crop ripening or coloring processes in all buildings or structures of 100,000 square feet or more;

9. Lumber yards and/or woodworking plants in which 500,000 board feet or more of lumber is to be stored;

10. Tire recapping or rebuilding plants in buildings or structures of 100,000 square feet or more;

11. Manufacturing of articles of cellulose nitrate plastics including the use of cellulose nitrate plastics in the manufacture or assembly of other articles in all buildings or structures of 100,000 square feet or more;

12. Processing, handling or use of 500 or more but less than 2,500 cubic feet of loose combustible vegetable or animal fibers, including, but not limited to, readily ignitable and free burning fibers such as cotton, sisal, henequen, ixtel, jute, hemp, tow, cocoa fiber, oakum, baled waste, baled waste paper, kapok, hay, straw, Spanish moss, excelsior, certain synthetic fibers, and cloth in the form of scraps and clippings;

13. The manufacture of matches in all buildings or structures of 100,000 square feet or more;

14. The manufacture of fireworks, explosives or blasting agents in all buildings or structures of 100,000 square feet or more;

15. The manufacture, processing or blending of more than 10,000 but less than 100,000 gallons of Class I flammable liquids in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery;

16.-18. (Reserved)

19. Storage of 500 or more but less than 2,500 cubic feet of loose combustible vegetable or animal fibers;

20. Above ground aggregate storage of 1,000,000 or more but less than 5,000,000 gallons of Class II or IIIA combustible liquids, or above ground storage of 100,000 or more but less than 1,000,000 gallons of Class I flammable liquids;

21. Buildings with atrium spaces three or more stories in height in buildings which exceed 12,000 square feet in gross floor area.

(k) Type Bk life hazard uses are as follows:

1. Any high-rise structure of 20 or more but fewer than 30 stories;

2. Processing, handling or use of 2,500 cubic feet or more of loose combustible vegetable or animal fibers, including, but not limited to, readily ignitable and fire burning fibers such as cotton, sisal, henequen, ixtel, jute, hemp, tow, cocoa fiber, oakum, baled waste, baled waste paper, kapok, hay, straw, Spanish moss, excelsior, certain synthetic fibers, and cloth in the form of scraps and clippings;

3. Storage of 2,500 cubic feet or more of loose combustible vegetable or animal fibers;

4. Above ground aggregate storage of 5,000,000 gallons or more of Class II and/or IIIA combustible liquids.

5. Factories and other industrial uses of Use Group F-1, not otherwise classified, of 100,000 or more, but less than 150,000 square feet in gross floor area.

6. Warehouses, storehouses and freight depots, used for the storage and handling of ordinary combustible materials, not otherwise classified, of 100,000 or more, but less than 150,000 square feet in gross floor area.

(l) Type Bl life hazard uses are as follows:

1. Any high-rise structure of 30 stories or more;

2. The manufacture, processing or blending of more than 100,000 but less than 1,000,000 gallons of Class II and/or IIIA combustible liquids in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery.

3. Factories and other industrial uses of Use Group F-1, not otherwise classified, of 150,000 or more, but less than 200,000 square feet in gross floor area.

4. Warehouses, storehouses and freight depots, used for the storage and handling of ordinary combustible materials, not otherwise classified, of 150,000 or more, but less than 200,000 square feet in gross floor area.

(m) Type Bm life hazard uses are as follows:

1. Stadiums, race tracks and other similar exterior places of amusement with enclosed interior spaces, with a maximum permitted occupancy of 5,000 or more but fewer than 10,000 persons;

2. The manufacture, processing or blending of more than 100,000 but less than 1,000,000 gallons of Class I flammable liquids in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery;

3. Above ground aggregate storage of 1,000,000 gallons or more but less than 5,000,000 gallons of Class I flammable liquids.

4. Factories and other industrial uses of Use Group F-1, not otherwise classified, of 200,000 or more square feet in gross floor area;

5. Warehouses, storehouses and freight depots, used for the storage and handling of ordinary combustible materials, not otherwise classified, of 200,000 or more square feet in gross floor area.

(n) Type Bn life hazard uses are as follows:

1. The manufacture, processing or blending of 1,000,000 gallons or more of Class I, II and/or IIIA flammable or combustible liquids in any one working day. Blending must be in a vessel, not in piping at or near the point of delivery;

2. Above ground aggregate storage of 5,000,000 gallons or more of Class I flammable liquids.

(o) Type Bo life hazard uses are as follows:

1. Stadiums, race tracks and other similar exterior places of amusement with enclosed interior spaces, with a maximum permitted occupancy of 10,000 or more persons;

2. Refining of flammable and combustible liquids.

(p) Type Bp life hazard uses are as follows:

1. Spraying or dip operations, as regulated by the State Fire Prevention Code, Chapter 13, as amended by N.J.A.C. 5:70-3.2(a)13i through xvi, in all approved areas of 500 square feet or more, but less than 1,000 square feet, as defined in the State Fire Prevention Code, Section F-1302.15.

2. Welding or cutting operations using flammable gases on a regular basis in buildings or structures of 50,000 square feet or more.

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 (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).

Administrative correction.

See: 35 N.J.R. 219(d).

#### 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.

#### 5:70-2.4C 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 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. (Reserved)

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.

Amended by R.1997 d.247, effective June 16, 1997.

See: 29 N.J.R. 967(a), 29 N.J.R. 2653(b).

In (f)1, deleted reference to a maximum permitted occupancy of fewer than 200 persons; and deleted (g)2, relating to places of amusement.

#### 5:70-2.4D 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.

#### 5:70-2.5 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 Bp 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: one every three months.

i. 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).

i. Bowling lane resurfacing and bowling pin refinishing involving the use and application of flammable liquids or materials;

ii. Fumigation or thermal insecticide fogging;

iii. Carnivals and circuses employing mobile enclosed structures used for human occupancy;

iv. The use of a covered mall in any of the following manners:

(1) Placing or constructing temporary kiosks, display booths, concession equipment or the like in more than 25 percent of the common area of the mall;

(2) Temporarily using the mall as a place of assembly;

(3) Using open flame or flame devices;

(4) Displaying liquid or gas fuel powered equipment; or

(5) Using liquefied petroleum gas, liquefied natural gas or compressed flammable gas in containers exceeding five pound capacity.

v. Storage outside of buildings of LP-gas cylinders when a part of a cylinder exchange program.

#### 5. Type 3 permit:

i. Industrial processing ovens or furnaces operating at approximately atmospheric pressures and temperatures not exceeding 1,400 degrees Fahrenheit which are heated with oil or gas fuel or which contain flammable vapors from the product being processed;

ii. Wrecking yards, junk yards, outdoor used tire storage, waste material handling plants, and outside storage of forest products not otherwise classified; or

iii. The storage or discharging of fireworks.

#### 6. Type 4 permit:

i. Storage or use at normal temperature and pressure of more than 2,000 cubic feet of flammable compressed gas or 6,000 cubic feet of nonflammable compressed gas;

ii. The production or sale of cryogenic liquids; the storage or use of more than 10 gallons of liquid oxygen, flammable cryogenic liquids or cryogenic oxidizers; or the storage of more than 500 gallons of nonflammable, non-toxic cryogenic liquids;

iii. The storage, handling, and processing of flammable, combustible, and unstable liquids in closed containers and portable tanks in aggregate amounts of more than 660 gallons;

iv. To store or handle (except medicines, beverages, foodstuffs, cosmetics, and other common consumer

items, when packaged according to commonly accepted practices):

(1) More than 55 gallons of corrosive liquids;

(2) More than 500 pounds of oxidizing materials;

(3) More than 10 pounds of organic peroxides;

(4) More than 500 pounds of nitromethane;

(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; and

iii. A Type 1 permit for group overnight stays shall be required for each non-consecutive overnight stay.

(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. 5:70-1.5, if the carnival has not been registered in accordance with N.J.A.C. 5:70- 2.22.

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).

Amended by R.1998 d.495, effective October 5, 1998.

See: 30 N.J.R. 2328(a), 30 N.J.R. 3641(a).

In (a)3, inserted text of viii.

Amended by R.2000 d.30, effective January 18, 2000.

See: 31 N.J.R. 3257(a), 32 N.J.R. 273(c).

Amended by R.2001 d.134, effective May 7, 2001.

See: 32 N.J.R. 4163(a), 33 N.J.R. 1402(a).

Rewrote (a)3iii; in (g), added 1iii.

Amended by R.2002 d.372, effective November 18, 2002.

See: 34 N.J.R. 2636(a), 34 N.J.R. 3958(a).

In (a), added 4v.

Administrative correction.

See: 35 N.J.R. 219(d).

### 5:70-2.8 (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.

### 5:70-2.9 Fees: registration, certificate of smoke detector and carbon monoxide alarm compliance (CSDCMAC); 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—\$450.00 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 and carbon monoxide alarm compliance (CSDCMAC), as required by N.J.A.C. 5:70-2.3, shall be \$20.00.

(e) The annual 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).

Amended by R.1997 d.247, effective June 16, 1997.

See: 29 N.J.R. 967(a), 29 N.J.R. 2653(b).

In (a)32, changed fee from \$1,378 to \$450.  
Amended by R.2003 d.137, effective April 7, 2003.  
See: 34 N.J.R. 4277(a), 35 N.J.R. 1558(c).

In (d), substituted "smoke detector and carbon monoxide alarm compliance (CSDCMAC)" for "smoke detector compliance".

### 5:70-2.10 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. 5:70-2.19.

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

1. For any violation of N.J.A.C. 5:70-3, 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. 5:70-4, 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. 5:70-2.16 or to the revocation of permits in accordance with N.J.A.C. 5:70-2.7(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. 5:70-2.12. 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.

### 5:70-2.11 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.

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

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

Fire official to serve as the chief administrator of the local enforcing authority.

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

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

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

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

#### 5:71-2.4 Fire districts

(a) If a fire district designated as a local enforcing agency under this subchapter is dissolved, the fire department within the territorial area of the dissolved district shall have the option, within 30 days of the dissolution, to assume the local enforcing agency responsibilities. If the fire department does not exercise the option, it shall pass to another district within the municipality, and if not exercised by another district shall pass to the municipality itself. The district and municipality shall each have 15 days in which to decide the matter.

1. If the dissolved district has combined with another district or districts, the remaining district(s) shall have the option, within 30 days of the dissolution, to assume local enforcing agency responsibilities. If this option is not exercised, it shall pass to the fire department within the territorial area of the dissolved districts and, if not exercised, shall pass to the municipality. The department and municipality shall each have 15 days in which to decide the matter.

2. Exercise of the option shall be evidenced by a written notice signed by the party authorized to act on behalf of the entity. This notice shall be delivered to the municipal governing body which enacted the ordinance authorizing local enforcement. In addition, a copy shall immediately be forwarded to the Division.

3. The local enabling ordinance governing the local enforcing agency shall be modified if necessary and promptly filed with the Division. The new local enforcing agency shall promptly assume local enforcing agency responsibilities and notify the Division.

4. If, within 60 days of dissolution, the Division has not received proper written notice of the assumption of a dissolved district's obligations, the Division shall assume responsibility.

(b) Fire districts created after June 18, 1985, shall have 60 days from the date of the first meeting of the Board of Commissioners in which to request designation as a local enforcing agency in accordance with the provisions set forth in this subchapter. If such a request is made and a local enforcing agency exists, the district and such agency shall cooperate in transferring the local enforcing agency responsibilities.

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

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

(c)4 deleted; (c)5 renumbered as (c)4.

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

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

#### 5:71-2.5 State enforcing agency; establishment

The Division is constituted as the State enforcing agency for the purpose of administering and enforcing the Code in those areas where a local enforcing agency has not been established or designated for the inspection of life hazard uses and as provided in N.J.A.C. 5:71-2.2(b)3.

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).

Administrative correction.

See: 35 N.J.R. 219(d).

#### 5:71-2.6 Collection of and accounting for fees and penalties

(a) Collection of registration fees:

1. The Division shall annually bill for and take such steps as may be necessary to collect or provide for the collection of the annual registration fees provided for by the Code. No fee shall be assessed against premises owned by the agency enforcing the Code.

2. The Division shall remit 65 percent of the amount collected, unless indicated otherwise below, to the local enforcing agency established for the inspection of life hazard uses. This payment shall be disbursed by the end of the quarter next succeeding the one in which fees were collected.

i. In those cases in which a fee has been reduced effective November 1, 1996, and that reduction would result in the loss of revenue to a local enforcing agency for life hazard uses registered prior to that date, the Division shall adjust upward from 65 percent the percentage remitted in order to eliminate or reduce that loss.

ii. In no case shall the percentage remitted exceed 100 percent of the amount collected.

iii. No later than 30 days following the end of the calendar year (December 31), the local enforcing agency shall forward to the Division a form verifying the status of all life hazard use inspections performed during the year. The agency shall utilize a Division-approved format which satisfies the following requirements:

(1) The form shall be signed by both the fire official and the chief administrative officer of the municipality or the fire district, as the case may be;

(2) Signatures shall be notarized; and

(3) The form shall detail the total number of life hazard uses, specify the number of uses and number of inspections required annually and indicate the number of inspections performed during the reporting period.

iv. In those cases where all annual life hazard use inspections have not been completed, the Division shall deduct an amount, equal to the registration fees attributable to those uses, from the amount of the life hazard use registration fees disbursed during the next quarter, or as many subsequent quarters are necessary.

3. The local share shall not be considered State funds but rather local funds held in trust by the State.

4. Where a local enforcing agency has been assigned a certificate of judgment in accordance with N.J.A.C. 5:70-2.6(g)1, it shall remit 35 percent of the net amount collected to the Division by the end of the quarter next succeeding the one in which the fees were collected unless, however, the fee collected is one where the Division has adjusted upward the percentage to be remitted, in which case the amount remitted to the Division shall be the difference between the adjusted percentage and 100 percent.

i. The local enforcing agency may deduct the costs of collection from the total amount collected provided an accounting of the costs is included with the remittance. Any such deduction shall be made prior to calculating the required remittance.

(b) Permit fees and other fees provided for or allowed by the Code or any local ordinance or any penalties shall be collected and retained fully on behalf of the enforcement agency having jurisdiction. Penalties collected by the Division for failure to register or for late payment of fees shall be retained fully by the Division.

(c) All revenues collected by the Division shall be deposited in the Fire Safety Revolving Fund created by the Treasurer of the State of New Jersey. Expenditures may be made from the fund to carry out any of the responsibilities of the Division.

(d) All revenues generated pursuant to the Act or local implementing ordinance which are collected by or provided to a county or municipality shall be appropriated by the local governing body to the local enforcing agency for the purpose of enforcing the Code, operating the local enforcing agency and advancing local fire prevention interests.

(e) The Division shall have no obligation to a local enforcing agency in respect of fees due but not collected in any given quarter.

(f) When the fire official fails to submit the certification required pursuant to (a) above or makes a false or misleading written statement concerning the certification or the inspection records, the Division shall notify the agency and shall thereafter assume responsibility for all inspection and enforcement with respect to life hazard uses within the jurisdiction of the local enforcing agency.

1. All fees and penalties associated with the enforcement of the Code in life hazard uses shall from that date forward be paid to the Division.

2. The local enforcing agency shall forfeit authority for enforcement of the Code with respect to life hazard uses within the jurisdiction of the local enforcing agency for a period of at least five years.

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

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

(b) deleted; (c)-(e) renumbered (b)-(d).

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

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

In (a)2 and 3: changed "80 percent" to "70 percent".

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

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

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

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

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

Local enforcing agency to receive 65% of fees.

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

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

Text on collection of judgements added at (a); stylistic changes.

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).

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

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

Amended by R.2001 d.136, effective May 7, 2001.

See: 32 N.J.R. 3363(a), 33 N.J.R. 1403(a).

In (a), added 2iii and 2iv; added (f).

### 5:71-2.7 Registry of agencies

(a) Each municipality that passes an ordinance establishing a local enforcing agency shall file a copy of same with the Division within two weeks of final adoption. Each county that passes an ordinance or resolution establishing a county enforcing agency shall file a copy of same with the Division within two weeks of adoption.

1. Any municipality or county that later amends a resolution or an ordinance that established an enforcing agency shall file a copy of the amendments with the Division within two weeks of adoption.

2. A municipality or county that does not file an ordinance or resolution shall be deemed not to have passed one, in which case, the Division shall enforce the Code in that jurisdiction.

(b) The Division shall compile those ordinances and resolutions and shall issue quarterly a Registry of Enforcing Agencies. The Registry shall be made available to the general public and shall show what agency is responsible to enforce the Code and what agency is responsible to inspect life hazard uses in every area of the State.