

5:70-4.6 Pre-existing violations

No violation committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred, prior to the repeal or revision of any regulation or any part thereof by the enactment of this subchapter, shall be discharged, released or affected by the repeal or revision of the regulation or part thereof under which such offense, liability, penalty or forfeiture was incurred, and indictments, prosecutions and actions for such offenses, liabilities, penalties or forfeitures

committed or incurred, prior to the effective date of this subchapter, shall be commenced or continued and be proceeded with in all respects as if the regulation or part thereof had not been repealed or revised.

Case Notes

Safety violations in multiple dwelling continued to exist where repairs did not meet state standards. 101 Lincoln Street, Jersey City v. Bureau of Housing Inspection, 96 N.J.A.R.2d (CAF) 87.

5:70-4.7 Fire suppression systems

(a) All buildings of Use Group A-2 (nightclubs) or portions thereof when separated in accordance with (1) below shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code where any of the conditions in (a)1, 2 or 3 below exist:

1. The A-2 (nightclub) Use or portion thereof is located on a floor other than the level of exit discharge. For purposes of applying this paragraph, the level of exit discharge shall be defined as having all exits discharging not more than five feet above, nor more than two feet below, the adjacent grade;

2. The building or portion thereof has an occupant load of 300 or more;

i. Voluntarily limiting occupant load in a space that will accommodate a greater number shall not be permitted for purposes of determining whether suppression is required. The nightclub space itself may be reduced to a size such that the occupant load calculated in accordance with Table 5:70-4.11(f)3 at N.J.A.C. 5:70-4.11(f)3 is fewer than 300. If this option is chosen, then the following conditions shall apply:

(1) The nightclub space shall be separated from other portions of the building through the use of one hour fire resistance rated assemblies constructed in accordance with the building subcode of the Uniform Construction Code (N.J.A.C. 5:23-3.14);

(2) Opening protectives constructed in accordance with the building subcode shall be required for all openings between accessory use areas and the nightclub space. For purposes of applying these requirements, accessory use areas shall include, but not be limited to, all back of house spaces, storage rooms, offices, kitchens and coatrooms. Accessory use areas shall not include any assembly spaces;

(3) No openings shall be permitted between any non-accessory use areas and the nightclub;

(4) The separated, non-accessory portions of the building shall not contain any assembly uses; and

(5) The means of egress serving any separated, non-accessory portions of the building and the means of egress serving the nightclub shall be totally independent of one another.

(A) Exception: Means of egress shared between a nightclub and a separated, non-accessory space shall be permitted for nightclubs located in buildings of Use Group R-1; or

3. The building or portion thereof exceeds 5,000 square feet.

4. The automatic fire suppression system shall be tied to the performance sound system and to the house lights in such a way that activation of the fire suppression system mutes the performance sound system and restores the intensity of illumination to that required by N.J.A.C. 5:70-4.11(i)2.

(b) All buildings of Use Group I-1 or portions thereof when separated in accordance with (I) below greater than two stories in height above grade or having an occupant load greater than 20 excluding staff shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code.

(c) All buildings of Use Group I-2 or portions thereof when separated in accordance with (I) below shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code.

1. The following are exceptions to (c) above:

i. Buildings of Type 1 or Type 2A construction of any height or of Type 2B construction not over one story in height as defined in the Uniform Construction Code.

ii. Day nurseries serving children below 2½ years of age, provided that all the children under 2½ years of age are cared for on the first floor in a room(s) having direct access to approved exits discharging directly to the exterior.

2. By January 2, 2010, all nursing homes shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code. The exception contained in (c)1i above shall not apply to nursing homes.

(d) All buildings of Use Group I-3 or portions thereof when separated in accordance with (I) below with an occupant load of six or more shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code or shall be in compliance with all applicable provisions of Chapter 15 "Existing Detention and Correctional Occupancies" of the Life Safety Code, NFPA 101, 1985 edition.

1. Exception to (d) above: All buildings of Use Group I-3 not required to be equipped throughout with suppression by these provisions shall be equipped with suppression in all padded cells, boiler rooms, storage and workshop rooms 24 square feet and larger, mechanical equipment and similar rooms.

(e) All buildings of Use Group H or portions thereof when separated in accordance with (I) below shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code.

1. All spraying 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, shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code.

2. Dip operations as defined by the State Fire Prevention Code, Section F-1302.1 and as outlined in (e)2i through iii below shall be equipped with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code.

i. Dip tanks of over 150 gallons capacity or 10 square feet liquid surface area;

ii. Dip tanks containing a liquid with a flash point below 110 degrees F., when used in such manner that the liquid temperature may equal or be greater than its flash point from artificial or natural causes when having both a capacity of more than 10 gallons and a liquid surface area of more than four square feet; and

iii. Hardening and tempering tanks of over 500 gallons capacity or 25 square feet liquid surface area.

(f) All ballrooms, exhibit areas and accessory spaces of Use Group A-3 which exceed 12,000 square feet and are located in buildings of Use Groups R-1 and R-2, shall be equipped with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code.

1. The following are exceptions to (f) above:

i. Such assembly uses may be subdivided into fire areas not exceeding 12,000 square feet using permanent two-hour fire separation walls with 1½ hour opening protectives. Such walls shall be continuous from the floor to the deck above except that the wall may terminate at the ceiling if the ceiling is part of a fire-resistance rated floor/ceiling or roof/ceiling assembly.

ii. A-3 uses which are completely separated both horizontally and vertically from R-1 and R-2 uses by fire separation walls and floor/ceiling assemblies having a fire-resistance rating of not less than two hours with approved opening protectives having a fire-resistance rating of not less than 1½ hours. Walls shall be continuous from the floor to the deck above except that the walls shall be permitted to terminate at the ceiling if the ceiling is part of a fire-resistance rated assembly.

(g) All cooking operations that produce grease laden vapors shall be equipped with a ventilating hood, duct, and automatic fire suppression system designed and installed in accordance with the New Jersey Uniform Construction Code.

1. This subsection shall not apply to buildings in Use Groups R-2 or R-3.

2. Exception to (g) above: Ventilating hoods, ducts, and suppression shall not be required for completely en-

closed ovens, steam tables, or auxiliary equipment that does not produce grease laden vapors.

(h) In all buildings, any windowless basement or story located below the seventh story shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code.

1. Stories or basements shall not be considered windowless when there is provided on at least one side of such story or basement fire fighter access through openings, such as windows, doors or access panels, that are located entirely above the adjoining grade level.

2. Such openings shall be at least:

i. 32 inches by 48 inches in size, spaced not more than 100 feet apart in each story or basement; or

ii. 22 inches by 42 inches in size, spaced not more than 30 feet apart in each story or basement.

3. All openings for fire fighter access shall conform to all the following:

i. Openings shall be unobstructed to allow fire fighting and rescue operations from the exterior; and

ii. Openings in stories at or above grade shall have a sill height of not more than 36 inches as measured from the finished floor level. Openings in basements shall have no sill height restrictions; and

iii. Openings shall be readily identifiable and openable from the outside or shall be glazed with plain flat glass.

4. When openings in a story are provided on only one side and the opposite wall of such story is more than 75 feet from such openings, the story shall be considered windowless unless openings as specified above are provided on at least two sides of the exterior walls of the story.

5. If any portion of a basement is located more than 75 feet from openings as specified above, the basement shall be considered windowless.

6. Windowless basements not exceeding 3,000 square feet in area shall be exempt from this automatic suppression requirement, provided a supervised automatic fire alarm system shall be installed in accordance with the New Jersey Uniform Construction Code.

7. In windowless basements greater than 3,000 square feet, but not exceeding 10,000 square feet in area, the required suppression system need not be connected to a water supply other than an existing domestic supply if the following conditions are met:

i. The suppression system shall be provided with a fire department connection, which shall be marked with a sign reading "Basement Area Sprinkler Water Supply"; and

ii. A supervised automatic fire alarm system shall be installed in accordance with the New Jersey Uniform Construction Code.

(i) In all buildings of Use Group R-1 or portions thereof when separated in accordance with (l) below, not required by N.J.A.C. 5:70-4.17 to have a complete automatic fire suppression system, all storage and workshop rooms and rubbish, laundry and similar rooms shall be equipped with a suppression system or smoke detector system connected to an approved continuously staffed location in the building or supervised employing one of the methods identified in N.J.A.C. 5:70-4.9(c)1 through 3. Such systems shall be installed in accordance with the New Jersey Uniform Construction Code.

(j) All dormitories, as defined in this chapter at N.J.A.C. 5:70-1.5, or portions thereof when separated in accordance with (l) below, shall be equipped throughout with an automatic fire sprinkler system installed in accordance with the New Jersey Uniform Construction Code.

(k) Fire suppression systems required by this Code shall be supervised by one of the following methods as determined by the fire official:

1. Approved central station system in accordance with NFIPA 71;
2. Approved proprietary system in accordance with NFIPA 72D;
3. Approved remote station system of the jurisdiction in accordance with NFIPA 72C; or
4. Approved local alarm service which will cause the sounding of an alarm in accordance with NFIPA 72A;
5. The following are exceptions to (k) above:
 - i. Underground gate valves with roadway boxes;
 - ii. Halogenated extinguishing systems;
 - iii. Carbon dioxide extinguishing systems;
 - iv. Dry chemical extinguishing systems; and
 - v. Limited area sprinkler systems.

(l) In buildings containing mixed uses, one or more of which requires automatic suppression in accordance with this section, suppression will not be required throughout the building, provided that the uses requiring suppression are separated from those not requiring suppression by fire resistive construction having a minimum one hour rating. In Use Group H, the rating is to be increased to two hours.

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

New (b) through (k) added with (h) reserved.
Correction to rule, see 19 N.J.R. 1190(a).

Amended by R.1987 d.373, effective September 21, 1987.
See: 19 N.J.R. 1023(a), 19 N.J.R. 1720(a).

(b): deleted condition concerning resident access to rooms above second story.

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

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

Ventilating hood and duct added at (g), supervised system installation requirements added at (h).

Amended by R.1992 d.405, effective October 19, 1992.
See: 24 N.J.R. 1938(a), 24 N.J.R. 3723(b).

Exceptions to A-2 with load over 50 added at li and ii.
Amended by R.1993 d.197, effective May 3, 1993.

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

Added (a)2; deleted (c)9 and added new text.
Emergency amendment, R.2000 d.402, effective September 8, 2000 (to expire November 7, 2000).

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

Added (j); recodified former (j) and (k) as (k) and (l); and amended internal references throughout.

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 without change.

Administrative correction.

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

Amended by R.2007 d.2, effective January 2, 2007.

See: 38 N.J.R. 3377(a), 39 N.J.R. 28(b).

Added (c)2.

Amended by R.2007 d.51, effective February 5, 2007.

See: 38 N.J.R. 375(a), 39 N.J.R. 371(a).

In the introductory paragraph of (a), inserted "(nightclubs)", substituted "where any of the conditions in (a)1, 2 or 3 below exist:" for the period at the end, rewrote (a)1, and added (a)2 through (a)4.

Amended by R.2007 d.60, effective February 20, 2007.

See: 38 N.J.R. 3727(a), 39 N.J.R. 651(a).

In (i), inserted "or supervised employing one of the methods identified in N.J.A.C. 5:70-4.9(c)1 through 3".

Case Notes

Owner of a property that was subject to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq., and thus regulated by N.J.A.C. 5:10-1.6(a), was required to install an automatic fire suppression system in a windowless basement that did not exceed 3,000 square feet. The owner's failure to do so and her cognate failure to prove that the property was excepted from the regulatory requirements meant that she was in violation of N.J.A.C. 5:70-4.7(h)(6) and was properly ordered to abate the violation and to pay a fine. Dep't of Community Affairs v. 793 Broadway, Bayonne (Ruth B. Yao), OAL DKT. NO. CAF 05239-14, AGENCY DKT. NO. BHI-209-14/0901-13442-C, 2014 N.J. AGEN LEXIS 487, Initial Decision (August 13, 2014).

Property owner won a ruling mitigating fines imposed by N.J.A.C. 5:10-1.17(c) for its failure to comply with the requirement in N.J.A.C. 5:70-4.7(j) that all dormitories shall be equipped throughout with an automatic fire sprinkler system. The owner showed that two of the three buildings found to constitute dormitories were no longer used in such a manner. Given that fact, a \$500 fine was imposed as to the building that was still used in such a manner but a reduced fine of \$250 was imposed on the two buildings that were no longer so used. OAL Dkt. Nos. CAF 8670-07, CAF 8671-07, CAF 8672-07, CAF 4321-08, CAF 4322-08, CAF 4323-08, CAF 4677-08, CAF 4678-08 AND CAF 4679-08, AGENCY Dkt. Nos. DFS633-06A, DFS633-06, DFS633-06B, DFS263-08B, DFS633-08, DFS633-08A, BHI360-08, BHI358-08 and BHI359-08, 2013 N.J. AGEN LEXIS 462, Initial Decision (January 23, 2013).

Penalties were reduced on properties where automatic sprinkler systems were not installed as required by N.J.A.C. 5:70-4.7(j) because the properties were no longer used as dormitories. New Jersey Div. of Fire Safety v. Mesivta Keser Toral of Cent. Jersey and Belmar Prop. Holding Co., OAL DKT. Nos. CAF 8670-07, CAF 8671-07, CAF 8672-07, CAF 4321-08, CAF 4322-08, CAF 4323-08, CAF 4677-08, CAF 4678-08, CAF 4679-08, 2013 N.J. AGEN LEXIS 368, Initial Decision (January 23, 2013).

Initial Decision (2007 N.J. AGEN LEXIS 635) adopted, which concluded that, although the financial impact on the restaurant owner to bring the premises into compliance with N.J.A.C. 5:70-4.7(g) was unfortunate, the safety of the public was paramount; owner's contention that a 2000 violation notice and handwritten note showed the State in 2000 approved changes made then to be in compliance with the fire code was not persuasive since he was not the owner of the premises at the time, it was not clear who wrote the note, and there was no credible proof the State approved any improvements in lieu of those required by the regulation. *Div. of Fire Safety v. Heary, T/A Surfside Steak & Tacos*, OAL Dkt. No. CAF 6377-07, 2007 N.J. AGEN LEXIS 952, Final Decision (October 3, 2007).

New construction code requirement for automatic fire suppression system applies to automotive spray paint booth. *Sweeney's Auto Body Inc. v. Division of Fire Safety*, 96 N.J.A.R.2d (CAF) 37.

5:70-4.8 Standpipe system

(a) All buildings having floors used for human occupancy located more than six stories above grade shall be equipped with wet standpipes. Standpipes shall be located and installed in accordance with the New Jersey Uniform Construction Code except as follows:

1. Standpipes shall be capable of accepting a delivery by fire department apparatus of a minimum of 250 gpm at 65 psi to the topmost remote standpipe outlet in buildings equipped throughout with an automatic fire suppression system or a minimum of 500 gpm at 65 psi to the topmost remote standpipe outlet in all other buildings.

2. Hose and hose cabinets shall not be required.

5:70-4.9 Automatic fire alarms

(a) An automatic fire alarm system shall be installed as required below in accordance with the New Jersey Uniform Construction Code.

1. In all buildings of Use Group I:

i. Alarm systems in buildings of Use Group I must be supervised.

ii. In buildings of Use Group I-1, smoke detectors that are to be located closer than five feet to a kitchen or bathroom area shall be of photoelectric type only.

2. In all buildings of Use Group R-1 and in R-3 bed and breakfast homestays:

i. In dwelling units or guestrooms, battery-powered single station detectors may be installed, provided that the detectors are maintained in accordance with N.J.A.C. 5:70-3.2(a)5xii, F-515.2.1.

ii. In bed and breakfast homestays of Use Group R-3, the system shall not be required to be supervised or connected to an emergency power supply.

iii. All buildings of Use Group R-1, regardless of the number of units, shall have available at least one portable visual alarm type smoke detector for the deaf or hearing impaired for each 50 units or fraction thereof. The owner may require a refundable deposit for such

portable smoke detector not to exceed the value of the smoke detector. Notification of the availability of such devices shall be provided to each occupant.

3. In all buildings of Use Group R-2 as follows:

i. All buildings of Use Group R-2, including multiple dwellings and rooming houses with six or more occupants, shall have approved smoke detection systems located in all interior common areas. Such systems shall be powered by an alternating current (AC) constantly active electric circuit that cannot be deactivated by the operation of any interconnected switching device and shall comply with NFPA 70-93 (National Electrical Code) requirements, except as otherwise provided in this section. Such systems shall be on circuitry that is connected into the building owner's electric meter.

(1) In multiple dwellings six stories or more in height and having 30 or more dwelling units, such systems:

(A) Shall be connected to a supervisory type listed control panel conforming to U.L. 864 requirements and NFPA 72-90 standards, except as otherwise provided in this section;

(B) Shall be powered by an approved emergency power source installed in conformance with NFPA 70-93 (National Electrical Code); and

(C) Shall have a control panel of the multi-zoned type that will visually indicate the floor or zone from which the alarm is activated, which panel shall be located in accordance with NFPA 72-90 standards or as directed by the local fire subcode official.

ii. A pre-signal alarm feature is not permitted.

iii. The separate zoning of floors in high rise buildings for selective floor evacuation is permitted at the discretion of the fire official.

iv. Alarms shall be located so as to be effectively heard above all other sounds, by all the occupants, in every occupied space within the building not separated by fire walls having a fire-resistance rating of at least two hours.

v. In dwelling units, approved battery-powered single station detectors may be installed, provided that the detectors are maintained in accordance with N.J.A.C. 5:70-3.2(a)5xii, F-515.2.1.

vi. Smoke detectors that are to be located closer than five feet to a kitchen or bathroom area shall be photoelectric type only.

vii. At the request of a tenant of a unit in which a person who is deaf or hearing-impaired resides, the owner shall provide and install a visual alarm type smoke detector for that unit or, in the case of a rooming

or boarding house resident, for that resident's sleeping area.

4. With the approval of the fire protection subcode official, fixed temperature or combination rate-of-rise and fixed temperature heat detectors may be substituted for smoke detectors in those locations where frequent nuisance alarms would be likely to occur. Such building spaces include, but are not limited to, garages, crawl spaces, uninhabitable attics, heater and boiler rooms, laundry rooms, kitchens, restaurant service areas, and other rooms where the ambient temperatures are below 40 degrees Fahrenheit or are above 100 degrees Fahrenheit and/or have a relative humidity either below 20 percent or above 85 percent or where environmental conditions are likely to produce nuisance alarms.

5. Existing common area smoke detection systems that were installed in compliance with this subchapter or with the Regulations Governing Rooming and Boarding Houses or Regulations for the Maintenance of Hotels and Multiple

Dwellings and maintained in accordance with N.J.A.C. 5:70-3, for which a construction permit was issued subject to plan review approval, shall be accepted as conforming to this section.

6. In any municipality that enacted an ordinance requiring the installation of smoke detectors in multiple dwellings prior to November 11, 1980, a building fully conforming to the requirements of such ordinance prior to November 12, 1980, shall be deemed to be in either full or partial compliance with the requirements of this section if the fire official determines that the provisions of such ordinance provide reasonable life safety protection to the occupants and that replacement of equipment already installed in conformity with such ordinance would be an undue hardship for property owners.

i. A general determination pursuant to this subsection shall be made by the fire official upon review of the ordinance and separate exceptions shall not then be