

CHAPTER 10

MAINTENANCE OF HOTELS AND
MULTIPLE DWELLINGS

Authority

N.J.S.A. 55:13A-6(e) and 55:13A-7 et seq.

Source and Effective Date

R.1993 d.464, effective August 26, 1993.
See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

Executive Order No. 66(1978) Expiration Date

Chapter 10, Maintenance of Hotels and Multiple Dwellings, expires on August 26, 1998.

Chapter Historical Note

All provisions of this chapter became effective prior to September 1, 1969.

1971 Revisions: Amendments to construction rules became effective April 23, 1971 as R.1971 d.60. See: 3 N.J.R. 77(a). Subchapter 19 was amended effective June 29, 1971 as R.1971 d.101. See: 1 N.J.R. 28(a), 3 N.J.R. 147(e).

1972 Revisions: Subchapter 19 was amended effective April 4, 1972 as R.1972 d.66A. See: 4 N.J.R. 95(a).

1973 Revisions: Amendments to construction rules became effective December 18, 1973 as R.1973 d.357. See: 5 N.J.R. 217(a), 6 N.J.R. 5(b).

1974 Revisions: Amendments to subchapter 19 became effective January 21, 1974 as R.1974 d.14. See: 6 N.J.R. 55(a). Amendments to construction rules became effective July 24, 1974 as R.1974 d.206. See: 6 N.J.R. 171(a), 6 N.J.R. 301(a).

1976 Revisions: Amendments concerning construction rules became effective July 1, 1976 as R.1976 d.160. See: 8 N.J.R. 9(d), 8 N.J.R. 272(a).

1977 Revisions: Amendments to subchapter 19 became effective September 1, 1977 as R.1977 d.305. See: 9 N.J.R. 257(a), 9 N.J.R. 414(a).

1978 Revisions: Rules involving construction were repealed effective August 17, 1978 as R.1978 d.289. See: 10 N.J.R. 222(a), 10 N.J.R. 378(b).

1979 Revisions: Amendments became effective July 1, 1979 as R.1979 d.259. See: 11 N.J.R. 164(a), 11 N.J.R. 366(b).

1980 Revisions: Amendment to subchapter 19 became effective November 12, 1980 as R.1980 d.500. See: 12 N.J.R. 384(a), 13 N.J.R. 7(c). Further amendments to subchapter 19 became effective December 11, 1980 as R.1980 d.536. See: 13 N.J.R. 7(f).

1981 Revisions: This chapter was substantially amended and recodified effective April 9, 1981 as R.1981 d.95. See: 12 N.J.R. 383(d), 13 N.J.R. 189(d). Further amendments became effective October 8, 1981 as R.1981 d.363. See: 13 N.J.R. 387(b), 13 N.J.R. 704(a).

1982 Revisions: Amendments became effective August 16, 1982 as R.1982 d.253. See: 14 N.J.R. 119(a), 14 N.J.R. 910(a). Further amendments became effective September 20, 1982 as R.1982 d.334. See: 14 N.J.R. 909(b), 14 N.J.R. 1089(c).

1983 Revisions: Amendments became effective September 19, 1983 as R.1983 d.389. See: 15 N.J.R. 1054(a), 15 N.J.R. 1575(c). This chapter was readopted effective December 23, 1983 as R.1983 d.629. See: 15 N.J.R. 727(a), 16 N.J.R. 128(b).

1986 Revisions: Amendments became effective March 17, 1986 as R.1986 d.61. See: 18 N.J.R. 16(a), 18 N.J.R. 555(b).

Pursuant to Executive Order No. 66(1978), Chapter 10 was readopted as R.1988 d.572, effective November 17, 1988. See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a). Subchapter 25, Fire Protection, was repealed by R.1988 d.572, effective December 19, 1988, operative June 16, 1989. See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Subchapter 25, "Methods, Devices and Systems for Indirect Apportionment of Heating Costs in Multiple Dwellings," was adopted as R.1992 d.390, effective October 5, 1992. See: 24 N.J.R. 1844(a), 24 N.J.R. 3515(b).

Pursuant to Executive Order No. 66(1978), Chapter 10 was readopted as R.1993 d.464. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

5:10-1.1 Title

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

5:10-1.2 Purpose

(a) The purpose of this chapter is to provide reasonable minimum requirements and standards, based upon current scientific and engineering knowledge, experience and techniques, and the utilization of modern machinery, equipment, materials, and form and methods of maintenance for the regulations of the maintenance of hotels and multiple dwellings in the State of New Jersey in the interest of public safety, health and welfare.

(b) The Bureau shall have discretion not to enforce any maintenance requirement herein set forth in a particular case if it determines that the violation of such requirement in such case, if allowed to continue, would not jeopardize the health, safety or welfare of occupants or intended occupants or of the public generally. In no case, however, shall the Bureau fail to enforce any standards or requirements pertaining to fire safety, building security, occupancy, health or providing of required facilities or equipment except pursuant to an exception granted in accordance with N.J.S.A. 55:13A-11.

5:10-1.3 Administration and enforcement

(a) The Bureau of Housing Inspection shall administer and enforce these regulations.

(b) Each municipality and county of this State may be authorized by the Commissioner to enforce the provisions of this chapter within the corporate limits thereof, subject to the control and supervision of the Commissioner. Any such authorization shall be in accordance with the following terms and conditions:

1. The municipality or county shall comply with all provisions of the Act and regulations and with all directives of the Bureau issued pursuant thereto.

2. The Bureau shall create a reservation for the purchase of inspection services, from the municipality or county during each period from July 1 to the following December 31 and from January 1 to the following June 30 and shall give notice to the municipality or county of the amount of such reservation for each such period. The municipality or county may make requisitions against this reservation in amounts not to exceed credits earned up to the time of requisition. Said reservation may be decreased by the Bureau, if, in its sole discretion, it determines that the municipality or county cannot reasonably be expected to do enough work satisfactory to the Bureau to earn the full amount of the reservation before the end of the State's fiscal year.

3. The municipality or county shall identify all unregistered buildings within its jurisdiction. A separate information form prescribed by the Bureau shall be completed and promptly forwarded to the Bureau for each such building.

4. The municipality or county shall be obligated to keep the local registry accurate by promptly reporting to the Bureau all transfers of ownership, demolitions, alterations, and construction of buildings within its jurisdiction and by reporting all errors that may appear.

5. The municipality or county shall inspect, in each State fiscal year, one-fifth of all the multiple dwellings and hotels and units of dwellings space therein.

6. Twenty-five percent of the inspections required to be performed pursuant to (b)5 above shall be completed prior to October 1 of each State fiscal year, 50 percent prior to January 1 of each State fiscal year and 75 percent prior to May 1 of each State fiscal year.

7. All buildings are to be inspected in accordance with the most recently promulgated regulations.

8. The municipality or county shall, in addition to whatever local procedures it chooses to adopt, make an inspection report concerning each inspected building upon forms prescribed by the Bureau.

i. All inspection and reinspection reports submitted to the Bureau shall be signed by the local program official(s) designated by the municipality or county and approved by the Bureau.

ii. Such reports shall include the name of the inspector who performed the inspection and shall be submitted to the Bureau not less frequently than once per month.

iii. In the event that an inspection of a building discloses a violation of the regulations constituting an imminent hazard to the health, safety or welfare of its occupants, the municipality or county shall, without

delay, transmit its inspection report and findings to the Bureau for appropriate action.

iv. All reports submitted to the Bureau which disclose violations shall be clearly segregated from reports which disclose no violations.

9. When specifically requested by the Bureau, the municipality or county shall conduct, within one week of the request, reinspection of those buildings where violations were discovered at the time of the original inspection.

i. The municipality or county shall make a reinspection report concerning such building upon forms prescribed by the Bureau and forward such reports to the Bureau upon completion thereof.

ii. No reinspection reports will be accepted for credit unless all original reported violations have been reinspected.

iii. The Bureau shall be responsible for notifying the municipality or county when such reinspections are to be conducted.

iv. The municipality or county shall be responsible for any other functions of the enforcement procedure which can be undertaken on a local level.

v. Extensions of time to complete abatement shall be granted only by the Bureau.

10. The municipality or county shall provide the Department with such information as may be necessary to determine the eligibility of the municipality or county for funds that may be requisitioned by it, including, without limitation, copies of past, current and projected operation budgets and tables of organization for the agency undertaking inspection and related duties.

i. The municipality or county shall also supply the Bureau with a list of appropriate totals of those buildings within its boundaries which are not registered or inspected by the end of each State Fiscal Year.

11. The municipality or county shall be solely responsible for compliance with local, State, and Federal law pertaining to the dislocation and relocation of individuals, families and businesses, provided, however, that the municipality or county may apply to the Department for relocation assistance as it may deem necessary.

12. The municipality or county shall perform, within its jurisdiction, inspections of those buildings that are the subject of complaints received by the Bureau.

i. Such inspections shall be complete and performed in accordance with (b)7 above and included in the regular cycle of inspections.

ii. However, in the event that the building that is the subject of the complaint has been issued a valid Certificate of Inspection by the Bureau, the first inspection and reinspection shall be limited to the subject matter of the complaint.

13. All inspections performed pursuant hereto shall be performed by inspectors acceptable to the Bureau.

i. The municipality or county shall provide to the Bureau resumes of all inspectors whom the municipality or county intends to assign to the performance of inspections pursuant hereto.

ii. No inspector disapproved by the Bureau shall perform any inspections pursuant hereto.

iii. Upon request of the Bureau, the municipality or county shall provide to the Bureau such further information concerning any inspector whom the municipality or county assigns or intends to assign to perform inspections pursuant hereto as the Bureau may require.

iv. In the event that the Bureau deems the quality of an inspector's work to be unsatisfactory and so advises the municipality or county, then the municipality or county shall immediately cease to assign inspections required to be performed pursuant hereto to the said inspector.

v. All inspectors assigned by the municipality or county to perform inspections pursuant hereto shall attend, and shall be required by the municipality or county to attend, training sessions scheduled by the Bureau when such attendance is required by the Bureau and any such inspector is not specifically excused by the Bureau.

14. The Bureau shall supply the municipality or county with a listing of all buildings within its jurisdiction registered or on file with the Bureau, and such other information regarding inspection and enforcement activities of the municipality or county and the Bureau as may reasonably be required.

15. The Bureau shall furnish to the municipality or county all forms or documents which are or may become necessary to carry out the duties assumed hereunder.

16. The Bureau, upon receipt of each inspection report disclosing a violation or violations, may initiate whatever enforcement or compliance proceedings as it deems fit and appropriate.

17. The Bureau shall credit the municipality or county in accordance with the following formula:

i. Upon formal registration of each building not now registered, the municipality or county shall be credited with an amount of \$10.00.

ii. In the event of administrative hearings and/or court appearances, the Bureau shall credit the municipality or county with a maximum of \$25.00 per full day for each local witness required to appear. Without prior permission, local attendance at administrative hearings shall be limited to one person per day.

iii. The municipality or county shall be credited with \$10.00 for each transfer of ownership, or creation of a building when the municipality or county is responsible for such information reaching the Bureau in the first instance.

iv. The Bureau shall annually establish and distribute to authorized municipalities a regular inspection payment schedule which shall set forth the payments to be made by the Bureau to each municipality or county for each unit inspected and reinspected and for inspection and reinspection of common areas. Maximum payments per building or per project may be established. The regular inspection payment schedule established each year shall be uniform for all counties and municipalities and notice of it shall be published annually in the New Jersey Register.

v. The municipality or county shall be credited with an amount of \$10.00 for each first inspection and \$10.00 for each reinspection when the inspection is performed as a result of a complaint received by the Bureau, and when the building that is the subject of the complaint has been issued a valid Certificate of Inspection by the Bureau. In the event that the building complained of has not been issued a Certificate of Inspection, the municipality will be credited in accordance with the regular inspection payment schedule.

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

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

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

Bureau's inspection at such times as the Bureau shall require.

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

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

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

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

i. Failure for any reason of the municipality or county to fulfill in a timely and proper manner any of the conditions herein set forth;

ii. Submission of reports by the municipality or county to the Bureau that are incorrect or incomplete in any material respect;

iii. Improper use of funds provided pursuant hereto;

iv. Any conduct on the part of a local employee which would constitute a violation of the New Jersey Conflict of Interest Law, N.J.S.A. 52:13D-12 et seq., if that conduct were engaged in by a State employee.

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

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

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

27. Any municipality or county acting under an authorization granted by the Bureau pursuant to this subsection shall be solely responsible for, and shall keep, save and hold the Department of Community Affairs, Division of Housing, the Bureau of Housing Inspection and their

officers, directors, employees, agents and servants harmless from, all claims, loss, liability, expense, damage and judgments, including all legal expenses incurred, resulting from any and all injury, and damage to agents or employees or anyone connected with performance pursuant to the authorization or to any other persons caused by any and all acts of the municipality or any of its officers, directors, employees, agents, or any person or persons in connection with the performance of this agreement, or from any and all injury and damage to any property caused by any and all acts of the municipality or county or any of its officers, directors, employees, agents and servants or any other person or persons in connection with performance pursuant to this authorization:

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

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

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

(c) The Construction Official in each municipality is hereby designated as an agent of the Bureau of Housing Inspection for the purpose of inspecting newly constructed or altered hotels and multiple dwellings in order to enforce the provisions of these regulations. Responsibility for inspection may be delegated to the appropriate subcode official(s).

(d) The local enforcing agency, as the term is defined in N.J.A.C. 5:18-1.5, authorized to enforce the Uniform Fire Code in each municipality is hereby designated as the agent of the Bureau for the purpose of inspecting existing buildings in order to enforce all provisions of the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq., and the Uniform Fire Code, N.J.A.C. 5:18, applicable to hotels and multiple dwellings; provided, however, that such provisions shall continue to be enforced by the Bureau in multiple dwellings and hotels that are not life hazard uses, as defined in N.J.A.C. 5:18-2.4A or 2.4B, until such time as the Bureau has been advised by the Division of Fire Safety that the local enforcing agency has agreed to accept responsibility for periodic fire safety inspections in such buildings.

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

See: 12 N.J.R. 383(d), 13 N.J.R. 189(d).
Amended by R.1981 d.363, effective October 8, 1981.

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

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

(d) added.

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

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

Added 28 to (b).

Amended by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989).

See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Subsection (d) substantially amended.

Notice of Correction, effective May 4, 1992.

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

Amended by R.1993 d.464, effective September 20, 1993.

See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

Case Notes

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

Authority to promulgate regulations; regulations reasonably necessary and appropriate. *Rumson Country Club v. Commissioner of Community Affairs*, 134 N.J.Super. 54 (App.Div.1975) certification denied 68 N.J. 482, 338 A.2d 219.

Smoke detector compliance; penalty for failure to install in common areas; penalty policy unenforceable as not promulgated as a rule. *Bureau of Housing Inspection v. Roger Gardens, Inc.*, 5 N.J.A.R. 120 (1983).

5:10-1.4 Scope

(a) This chapter shall apply to the repair, demolition, removal, maintenance, occupancy and use of new and existing hotels and multiple dwellings in the State of New Jersey.

(b) A building section containing not more than two dwelling units shall not be considered to be a portion of a multiple dwelling if it:

1. Is held under a condominium or cooperative form of ownership or by a mutual housing corporation;

2. Has no dwelling units not occupied by unit owners, if a condominium, or by shareholders, if a cooperative or mutual housing corporation;

3. Has at least two exterior walls unattached to any adjoining building section; and

4. Is attached to any adjoining building sections exclusively by fire walls having a two-hour fire resistant rating and/or by fire separation walls having a 1½ hour fire resistant rating.

Amended by R.1983 d.156, effective May 16, 1983.

See: 15 N.J.R. 375(a), 15 N.J.R. 803(a).

Added (b).

Amended by R.1983 d.388, effective September 19, 1983.

See: 15 N.J.R. 1054(b), 15 N.J.R. 1576(a).

Added "fire separation walls housing 1½ hour resistant rating" to (b)4.

Case Notes

Ordinance valid requiring certificate of substantial compliance accompany rent increase application. *Orange Taxpayers Council, Inc. v. Orange*, 83 N.J. 246, 416 A.2d 353 (1980).

Violation of maintenance regulation evidence of negligence in action against landlord for injuries. *Trentacost v. Brussel*, 82 N.J. 214, 412 A.2d 436 (1980).

5:10-1.5 Interpretation

(a) This chapter shall be liberally interpreted to secure the beneficial purposes thereof.

(b) Any conflict or inconsistency between the requirements of these regulations and applicable local and Federal laws and regulations shall be resolved in favor of the more restrictive requirements.

(c) Whenever any standard or code is referred to in this chapter the most recent edition of such standard or code shall be deemed to be incorporated herein by reference, notwithstanding the fact that such edition may have been published subsequent to enactment of the regulation in which the reference to such standard or code is contained.

Administrative Correction to (b).
See: 22 N.J.R. 921(a).

5:10-1.6 Maintenance requirements

(a) All buildings and all parts thereof shall be maintained as required by this chapter and by the Uniform Fire Code, N.J.A.C. 5:18.

(b) All service equipment, means of egress, devices, and safeguards that are required in a building by the provisions of these regulations, or that were required by the law when the building was erected, altered, or repaired, shall be maintained in good working order.

(c) The owner shall be responsible at all times for the safe maintenance of the building and its facilities as prescribed in this chapter.

(d) A nonprofit corporation owning or controlling buildings of three stories or less in a retirement community, which are excluded from the definition of "multiple dwelling" pursuant to P.L. 1983, c.154, shall maintain all such buildings in compliance with the Uniform Fire Code, N.J.A.C. 5:18.

(e) All buildings in compliance with the Uniform Fire Code shall be deemed to be in compliance with the Act insofar as issues of fire safety are concerned.

(f) Where not otherwise indicated, all rules in this chapter that are applicable to hotels shall be applicable to retreat lodging facilities except as follows:

1. N.J.A.C. 5:10-19.1(a)1 and 2; and

2. Any regulation that is not substantially related to the protection of the health, safety or welfare of the occupants of the facility or of the public generally.

Recodified April 9, 1981 from N.J.A.C. 5:10-1.22.

Amended by R.1983 d.388, effective September 19, 1983.
See: 15 N.J.R. 1054(b), 15 N.J.R. 1576(a).

Added (d).
Amended by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989).
See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Added text to (a) and (d) "and by the Uniform Fire Code, N.J.A.C. 5:18"; added (e).

Amended by R.1990 d.230, effective May 7, 1990.

See: 22 N.J.R. 275(b), 22 N.J.R. 1354(a).

Application of rules extended to cover retreat lodging facilities.
Amended by R.1993 d.464, effective September 20, 1993.
See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

5:10-1.7 Force and effect of regulations

This chapter shall have the force and effect of law until revised, repealed, or amended by the Commissioner of the Department of Community Affairs and shall be enforced by the Commissioner pursuant to the provisions of N.J.S.A. 55:13A-1 et seq.

Case Notes

Regulations have full force and effect of law pursuant to statute. *Trentacost v. Brussel*, 82 N.J. 214, 412 A.2d 436 (1980).

5:10-1.8 Matters covered

(a) The provisions of this chapter shall cover all matters affecting or relating to buildings, as set forth in N.J.A.C. 5:10-1.4, and shall extend to all hotels and multiple dwellings and their appurtenant constructions, together with all surface and subsurface construction.

(b) Any matter or requirement essential for the fire or structural safety of a new or existing building or essential for the safety or health of the occupants or users thereof or the public, and which is not covered by the provisions of this chapter shall be the subject of determination by the Bureau of Housing Inspection in specific cases.

Administrative Correction to (b).
See: 22 N.J.R. 921(a).

5:10-1.9 Continuation of lawful existing use

The lawful occupancy and use of any building may be continued unless a change is specifically required by the provisions of this chapter.

5:10-1.10 Bureau inspections

(a) The Bureau of Housing Inspection or an authorized representative in the discharge of their duties shall have authority to enter upon and examine and inspect at all reasonable times any building, enclosure, or premises, or any part thereof or service equipment attached thereto or contained therein for the purpose of determining compliance with the provisions of this chapter. Officers and employees of the Bureau of Housing Inspection in the discharge of their duties, shall identify themselves by exhibiting their authority in writing signed by the Commissioner.

(b) The Bureau of Housing Inspection shall cause inspections to be made periodically of completed buildings. Each multiple dwelling and each hotel shall be inspected once in every five years.

(c) All inspection reports submitted to the Bureau shall be in writing and signed by the inspector making the inspection and a record of all inspections shall be kept by the Bureau of Housing Inspection.

(d) Inspection of private living quarters shall require the consent of the occupant of the premises, except as hereunder described:

1. In case of emergencies where facts known to Bureau of Housing Inspection personnel or statements of persons having personal knowledge thereof indicate that conditions exist on any premises subject to the jurisdiction of the Bureau which are either an immediate threat to the safety or health of persons using or in near proximity to the premises or of such a nature that the delay necessary to secure a warrant would render the inspection of no value in confirming the existence of the suspected violation, an inspection may be demanded and, if possible without the use of force, made to determine whether or not a violation of the law or regulations in fact exists.

2. Where access to any premises where inspection is desired to implement the policy of the Bureau of Housing Inspection and the Department of Community Affairs and such access has been refused, then such refusal shall be reported to the Bureau and a search warrant shall be obtained upon one or more the following grounds:

- i. An inspection is required as part of the procedures authorized by law and implemented by regulations.

- ii. There is evidence of or indication of a violation of the law or this chapter requiring an examination to determine whether the violation in fact exists.

- iii. The inspection is part of an area wide inspection to upgrade properties in a given area.

- iv. The inspection is part of a systematic inspection of buildings falling into a particular class or category composed in order to provide adequate protection to the public health, safety and welfare.

(e) It shall be the duty of every owner or managing agent of a hotel or multiple dwelling, upon receipt of notice from the Bureau that his property is scheduled to be inspected, to notify each occupant, other than a hotel guest having a permanent residence elsewhere, of the time of such scheduled inspection and to request that each such occupant either admit the inspector representing the Bureau to his dwelling unit or authorize the owner or managing agent to do so. Any occupant who has been so notified, has allowed the owner or managing agent to retain a key to his dwelling unit and has not expressed any objection in writing to the inspector's entering his dwelling unit either to the Bureau or its representative or to the owner or managing agent shall be deemed to have consented to the inspection of his dwelling unit by the Bureau. Any occupant consenting to an inspection who is unable to be present or to have a representative present at the time of such inspection shall, upon notice from either the Bureau or the owner, or the representative of either one of them, give a key to the dwelling unit to the owner or managing agent. Such key shall be returned to the occupant within 24 hours after the inspection. It shall be the further duty of the owner and of any managing agent to provide such assistance as may be reasonable and necessary to enable the inspector to gain access to all areas of the property being inspected and, upon request of the Bureau or the inspector, to accompany the inspector during his inspection of the exterior and common areas and of all units the occupants of which are not present at the time of the inspection.

(f) Upon reasonable request of the Bureau, the owner of any hotel or multiple dwelling in which any major structural deficiency constituting a violation of this chapter has been found to exist, and the correction of which would require the issuance of a building permit by the construction official having jurisdiction, shall provide to the Bureau, at the sole cost and expense of such owner, an analysis and report, prepared by a licensed professional engineer or registered architect, which specifies the work necessary to correct such violation and the manner in which it should be accomplished, and certification by a licensed professional engineer or registered architect that such violation has been properly corrected and that any hazard that may have been created by such violation has been eliminated.

(g) If, in the course of inspecting any hotel or multiple dwelling, any inspector performing inspections for the Bureau shall find a condition which is, or appears to be, in violation of the Uniform Fire Code, N.J.A.C. 5:18, the inspector shall give prompt notice of that condition to the Bureau, which shall promptly notify the Division of Fire Safety.

Amended by R.1971 d.60, effective April 23, 1971.

See: 3 N.J.R. 77(a).

Amended by R.1978 d.289, effective August 17, 1978.

See: 10 N.J.R. 222(a), 10 N.J.R. 378(b).

Recodified April 9, 1981 from N.J.A.C. 5:10-1.26.

Amended by R.1988 d.572, effective December 19, 1988.

See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Added (g).
 Administrative Correction to (d)1.
 See: 22 N.J.R. 921(a).
 Amended by R.1993 d.464, effective September 20, 1993.
 See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

5:10-1.11 Certificate of registration

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

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

(c) Each certificate shall state:

1. The name, address and telephone number of said owner;
2. Such description of each hotel, retreat lodging facility or multiple dwelling, by street number or otherwise, as will enable the Bureau easily to locate the same;
3. The name, address and telephone number of the agent appointed by said owner pursuant to (f) below for the purpose of receiving service of process and other orders or notices;
4. The name, address and telephone number of the person, association or corporation, if any, which manages or operates such hotel, retreat lodging facility or multiple dwelling for or on behalf of said owner;
5. The name and address of any mortgage holder of record;
6. Whether or not the property is being registered for the first time and, if not, the date of transfer to the present owner;
7. Whether the owner is a corporation, partnership, individual(s), or some other entity;
8. Whether the building is a hotel, a retreat lodging facility or a multiple dwelling;
9. The construction class;
10. The number of dwelling units in the building;
11. The number of stories;
12. The year, or approximate year, of construction;
13. The municipality and county in which the property is located;
14. The name and address of any person other than the record owner of the property who controls the property pursuant to a net lease or otherwise;
15. If the record owner is a corporation, the name and address of the registered agent and of each corporate officer;
16. If the record owner is a partnership, the name and address of each partner who is not exclusively a limited partner;
17. The name and address of a person who resides or has an office in the county in which the property is

located who is authorized to accept notices from tenants and to issue receipts therefor and to accept service of process on behalf of the record owner;

18. The name and address, including the dwelling unit, apartment or room number, of any person employed by the owner or managing agent to provide regular maintenance service;

19. The name, address and telephone number of an individual representative of the owner or managing agent who may be contacted at any time and who has authority to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith; and

20. The name and address of the fuel oil supplier, if any, and the grade of fuel oil used.

(d) Upon the receipt of said certificate and fee, the Bureau shall forthwith issue to the owner of such hotel, retreat lodging facility or multiple dwelling a validated copy of the certificate of registration, which validated copy of the certificate of registration shall be kept posted by the owner of such hotel, retreat lodging facility or multiple dwelling in a conspicuous location therein.

(e) The certificate of registration shall be in such form as may be prescribed by the Bureau of Housing Inspection.

(f) The owner of each hotel, retreat lodging facility or multiple dwelling shall appoint an agent for the purpose of receiving service of process and such orders or notices as may be issued by the Bureau of Housing Inspection pursuant to the Act. Each such agent so appointed shall be a resident of the county in which the hotel or multiple dwelling is located or shall have an office in the county. If the agent is a corporation, it shall be licensed to do business in this State.

(g) In the case of any transfer of the ownership of any hotel, retreat lodging facility or multiple dwelling, whether by sale, assignment, gift, intestate succession, testate devolution, reorganization, receivership, foreclosure or execution process, it shall be the duty of the new owner thereof to file with the Bureau of Housing Inspection, within 20 days of said transfer, an application for a certificate of registration pursuant to (a) above and to appoint an agent for the service of process pursuant to (f) above. The transferrer shall, within 30 days of such transfer, return to the Bureau of Housing Inspection his validated copy of the certificate of registration, indicating thereon the name and address of the new owner.

(h) In the event that the number of dwelling units in a registered hotel, retreat lodging facility, or multiple dwelling, or any other information required to be set forth in a certificate of registration, is changed, the owner of the said hotel, retreat lodging facility or multiple dwelling shall file an amended certificate of registration within 30 days of such change. No fee shall be charged for the filing of such amended certificate.

(i) Within 30 days of the issuance of a certificate of occupancy for any newly constructed hotel, retreat lodging facility or multiple dwelling subject to the Act, the owner thereof shall file with the commissioner, upon forms provided by the commissioner a certificate of registration pursuant to N.J.S.A. 55:13A-12.

(j) A separate application for a certificate of registration shall be filed for each building in a project.

(k) Every application for a certificate of registration shall be signed by at least one individual owner or, in the case of a partnership, corporation or other entity, by a duly authorized representative of the owner, in which case the signer's relationship to the owner shall be stated. The name of the person signing shall be printed or typed beneath the signature in a legible manner.

Amended by R.1971 d.60, effective April 23, 1971.

See: 3 N.J.R. 77(a).

Amended by R.1978 d.289, effective August 17, 1978.

See: 10 N.J.R. 222(a), 10 N.J.R. 378(b).

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

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

Recodified April 9, 1981 from N.J.A.C. 5:10-1.28.

Administrative Correction to (g).

See: 22 N.J.R. 921(a).

Amended by R.1990 d.230, effective May 7, 1990.

See: 22 N.J.R. 275(b), 22 N.J.R. 1354(a).

Application of rule extended to cover retreat lodging facilities; references to application deleted.

Amended by R.1993 d.464, effective September 20, 1993.

See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

5:10-1.12 Certificate of inspection

(a) Within 90 days of the most recent inspection by the Bureau of Housing Inspection of any hotel, retreat lodging facility or multiple dwelling, the owner thereof shall file with the Bureau of Housing Inspection, upon forms which shall have been provided by the Bureau, an application for a certificate of inspection.

(b) Said application shall state:

1. The name of the owner;
2. Such description of the hotel, retreat lodging facility or multiple dwelling, by street number or otherwise, as will enable the Bureau easily to locate the same.

(c) Said application shall be accompanied by a fee as required by N.J.S.A. 55:13A-13(b), except that no fee shall be required for a retreat lodging facility.

(d) Every application for a certificate of inspection shall be signed by at least one individual owner or, in the case of a partnership, corporation or other entity, by a duly authorized representative of the owner, in which case the signer's relationship to the owner shall be stated. The name of the person signing shall be printed or typed beneath the signature in a legible manner.

(e) The following relates to Uniform Fire Code inspections:

1. No certificate of inspection shall be issued for any hotel, retreat lodging facility or multiple dwelling subject to inspection, pursuant to the Uniform Fire Safety Act, by a local enforcing agency or by the Division of Fire Safety, either as a life hazard use or pursuant to a notice given by the local enforcing agency to the Division of Fire Safety, unless and until the Bureau shall have received from the local enforcing agency or from the Division of Fire Safety a certification that the building does not have any outstanding violations of the Uniform Fire Code, N.J.A.C. 5:18, or the Bureau's representative has, while at the premises, examined a current certificate of inspection issued pursuant to the Uniform Fire Safety Act.

2. The owner of a building subject to the Act, that is deemed a life hazard use pursuant to N.J.A.C. 5:18-2.4 through 2.4D, shall have a copy of the current certificate of inspection issued pursuant to the Uniform Fire Safety Act posted in a conspicuous location on the premises at all times.

3. No certificate of inspection shall be issued pursuant to N.J.S.A. 55:13A-13 for any building that is deemed a life hazard use pursuant to N.J.A.C. 5:18-2.4 through 2.4D, unless the owner of the building has a current certificate of inspection issued pursuant to the Uniform Fire Safety Act on the premises.

(f) A certificate of occupancy issued by the local construction official for a newly-constructed building, pursuant to N.J.A.C. 5:23, shall be equivalent to a certificate of inspection. A certificate of inspection, and the fees therefor, shall not be required until five years after the date of issuance of the certificate of occupancy.

(g) An owner shall have the option, in accordance with the provisions of this subsection, of paying an annual fee in lieu of the inspection fee otherwise payable as a condition of the issuance of a certificate of inspection for the hotel or multiple dwelling.

1. The annual fee shall be in the amount of 20 percent of the current inspection fee chargeable for the hotel or multiple dwelling.

2. The annual fee shall be payable every year for five years on the anniversary date of the last previous inspection; provided, however, that the first annual fee paid for a hotel or multiple dwelling shall be in an amount equal to 20 percent of the current inspection fee times the number of years that shall have elapsed since the last previous inspection, but not more than five years. If, at the time of an inspection, there have been paid fewer than five annual fees, or the equivalent paid in a first annual fee, the balance shall be paid at the rate of 20 percent of the current inspection fee for each unpaid annual fee.

3. The total amount of the annual fees required to be paid for a hotel or multiple dwelling shall in no case exceed the amount of the inspection fee that would be required if the annual fee option had not been chosen. In the event that the amount of the inspection fee chargeable for the hotel or multiple dwelling is increased by rule during the period between inspections, the increase shall not be retroactive to annual fees already paid.

Recodified April 9, 1981 from N.J.A.C. 5:10-1.29.
Amended by R.1988 d.572, effective December 19, 1988.
See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Added (e).
Amended by R.1990 d.230, effective May 7, 1990.
See: 22 N.J.R. 275(b), 22 N.J.R. 1354(a).
Application of rule extended to cover retreat lodging facilities; exception to fee requirements granted such facilities.
Administrative Correction.
See: 23 N.J.R. 1410(b).
Amended by R.1993 d.464, effective September 20, 1993.
See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).
Administrative Correction.
See: 25 N.J.R. 4901(a).

5:10-1.13 Unsafe building notice and order

(a) Upon notice from the Bureau of Housing Inspection or its authorized representatives that violations of the provisions of this chapter exist and that such violations result in risk to the safety and welfare of the occupants, an order shall be issued to the owner forbidding occupation of any dwelling units then vacated or to be vacated during the life of the order.

(b) The notice shall be given to the owner or lessee of the property involved, or to the agents of either of them, and may be contained in an order to declare building unsafe issued by the Bureau of Housing Inspection stating the reasons for the issuance of the order and the conditions under which occupancy may take place.

Amended by R.1971 d.60, effective April 23, 1971.
See: 3 N.J.R. 77(a).
Recodified April 9, 1981 from N.J.A.C. 5:10-1.33.

5:10-1.14 Delegation of powers

(a) The power to issue rules and regulations pursuant to N.J.S.A. 55:13A-7 and N.J.S.A. 55:13A-8 shall be exercised by the Commissioner, either directly or through the Deputy Commissioner or an Assistant Commissioner.

(b) The following powers of the Commissioner under the Act shall be exercised by the Director:

1. Issuance of subpoenas, pursuant to N.J.S.A. 55:13A-6(d);
2. Application ex parte for Superior Court orders, pursuant to N.J.S.A. 55:13A-6(d);
3. Adoption, rejection and modification of hearing decisions, pursuant to N.J.S.A. 55:13A-18; and
4. Granting of stays or rulings, actions, orders and notices, pursuant to N.J.S.A. 55:13A-18.

(c) All other powers of the Commissioner under the Act shall be exercised by the Chief of the Bureau either directly or through such employees and agents as he may designate.

5:10-1.15 Applications for exceptions

(a) Any application for an exception pursuant to N.J.S.A. 55:13A-11 must be filed with the Bureau within 30 days of the receipt by the applicant of the ruling, action, order or notice requiring compliance with the regulation from which an exception is sought.

(b) An application for an exception shall be filed in triplicate upon forms provided by the Bureau.

(c) The time period set forth in (a) above may be extended by the Bureau upon a showing of good cause.

5:10-1.16 Separability clause

If any provisions of this chapter shall be held invalid or ineffective in whole or in part, or inapplicable to any person or situation, it is the purpose and intent of this chapter that all other provisions thereof shall nevertheless be separately and fully effective, and that the application of any such provision to other persons or situations shall not be affected.

Recodified April 9, 1981 from N.J.A.C. 5:10-1.34.

5:10-1.17 (Reserved)

Amended by R.1982 d.334, effective September 20, 1982.
See: 14 N.J.R. 909(b), 14 N.J.R. 1089(c).
Originally filed as an emergency adoption (R.1982 d.259) on July 22, 1982. Readopted as R.1982 d.334.
Repealed by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989).
See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).
Section concerned Inspection fees.

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

5:10-1.30 (Reserved)

Amended by R.1971 d.60, effective April 23, 1971.
See: 3 N.J.R. 77(a).
Amended by R.1978 d.289, effective August 17, 1978.
See: 10 N.J.R. 222(a), 10 N.J.R. 378(b).

5:10-1.31 (Reserved)

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

5:10-1.32 (Reserved)

Amended by R.1971 d.60, effective April 23, 1971.
See: 3 N.J.R. 77(a).
Amended by R.1978 d.289, effective August 17, 1978.
See: 10 N.J.R. 222(a), 10 N.J.R. 378(b).

5:10-1.33 through 5:10-1.34 (Reserved)

SUBCHAPTER 2. DEFINITIONS

5:10-2.1 Tense, gender and number

Words used in the present tense include the future; words used in the masculine gender include the feminine

and neuter; words used in the singular include the plural and the plural the singular.

5:10-2.2 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Building” means a structure built, erected and framed of component structural parts designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind which is enclosed within exterior walls on all sides.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Director" means the Director of the Division of Housing and Development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Foundation wall” means a wall extending below grade.

“Fresh air” means outdoor air.

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

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

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

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

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

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

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

“Hotel” means any building, including but not limited to any related structure, accessory building and land appurtenant thereto, and any part thereof, which contains ten or more dwelling units or has sleeping facilities for 25 or more persons and is kept, used, maintained, advertised as, or held out to be, a place where sleeping or dwelling accommodations are available to guests. “Hotel” also means any facility that is commonly regarded as a hotel, motor hotel, motel or established guesthouse in the community in which it is located. “Hotel” does not include those facilities that are excluded by statute. (See N.J.S.A. 55:13A-3(j).)

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

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

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

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

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

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

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

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

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

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

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

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

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

"NFPA" means the National Fire Protection Association.

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

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

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

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

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

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

"Plumbing" means the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, equipment and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and the public or private water supply systems, within or adjacent to any building; also the practice and materials used in

the installation, maintenance, extension, or alteration of storm water, liquid waste, or sewerage, and water-supply systems of any premises and their connection with any point or public disposal or other acceptable terminal.

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

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

"Premises" means land, improvements thereon, or any part thereof.

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

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

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

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

"Regulations" means the rules contained in this chapter.

"Repair" means the replacement of existing work with equivalent materials for the purpose of its maintenance, but not including additional work that would affect safety, or affect required exit facilities, or a vital element of an elevator, plumbing, gas piping, wiring, ventilating, or heating installation, or any work that would be in violation of a provision of this code or any other law governing building construction.

"Required" means required by the provisions of these regulations.

"Retreat lodging facility" means a building or structure, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, owned by a nonprofit corporation or association which has tax-exempt charitable status under the Federal Internal Revenue Code and which has sleeping facilities used exclu-

sively on a transient basis by persons participating in programs of a religious, cultural or educational nature, conducted under the sole auspices or one or more corporations or associations having tax-exempt charitable status under the Federal Internal Revenue Code, which are made available without any mandatory charge to such participants. (See N.J.S.A. 55:13A-3(s).)

"Roof" means the topmost slab or deck of a building, either flat or sloping with its supporting members, not including vertical supports.

"Rooming unit" means a unit of dwelling space located within a multiple dwelling or a hotel, forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

"Rubbish" means nonputrescible solid waste consisting of both combustible and noncombustible waste, such as paper, wrappings, cigarettes, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

"Sanitary system" means either the public system for disposal of sewage from the premises or, in the absence of such system, any private system available to the premises for the disposal of sewage.

"Self-closing", as applied to an opening protective, means a door, window, damper, or other device and its assembly that is normally kept in a closed position and that is equipped with an approved device to insure immediate closing after having been opened for use.

"Sewage" means any liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

"Shaft" means a vertical, inclined or offset passage, duct or hoistway, penetrating through two or more floors of a building or through a floor and roof, for the transmission of light, air, materials or persons, or the passage of pipes or other mechanical facilities.

"Shall", as used in this chapter, is always to be construed as mandatory.

"Sink" means a plumbing fixture located in a kitchen area and used exclusively for food preparation operations.

"Story" means that portion of a building that is between a floor level and the next higher level or roof above.

"Street" means a thoroughfare dedicated or devoted to public use by legal mapping or other lawful means.

"Structure" means an assembly of materials forming a construction for occupancy or use, including among others: buildings, stadia, tents, reviewing stands, platforms, stagings, observation towers, radio towers, tanks, trestles, open sheds, coal pockets, shelters, fences and display signs.

"Transient," as applied to occupancy, means occupancy for not more than 90 days by a person having a principal residence elsewhere.

"Unemancipated minor" means any person under the age of 18 who is not an "emancipated minor" as defined herein.

"Unit of dwelling space", see "Dwelling unit" of this section. (See N.J.S.A. 55:13A-3(h).)

"Use (used)" means the purpose for which a building, structure, or space is occupied or utilized, unless otherwise indicated by the text. Use (used) shall be construed as if followed by the words "or is intended, arranged, or designed to be used".

"Useable floor area" means that part of the floor area within a unit of dwelling space that can be considered useable for general living purposes, excluding areas devoted to built-in equipment, such as, wardrobes, cabinets, closets, kitchen units, and equipment or fixtures which are not readily available for use as floor area.

"Ventilation" means the supply and removal of air to and from any space by natural or mechanical means. (See also N.J.A.C. 5:10-2.2, definitions of "Mechanical ventilation" and "Natural ventilation".)

"Water distribution piping" means the pipes in a building or premises that convey water from the water service pipe to the plumbing fixtures and other water outlets.

"Water service pipe" means the pipe from the water (street) main or other source of water supply to the building served.

"Water (street) main" means a water supply pipe for public or community use controlled by public authority.

"Water supply system" means the water service pipe, the water distribution piping, and all of the necessary connecting pipes, fittings, control valves, and appurtenances used for conveying water in the plumbing system.

Amended by R.1971 d.101, effective June 29, 1971.

See: 1 N.J.R. 28(a), 3 N.J.R. 147(e).

Amended by R.1973 d.310, effective October 26, 1973.

See: 5 N.J.R. 259(c), 5 N.J.R. 369(a).

Amended by R.1973 d.357, effective December 18, 1973.

See: 5 N.J.R. 217(a), 6 N.J.R. 5(b).

Amended by R.1976 d.160, effective July 1, 1976.

See: 8 N.J.R. 9(d), 8 N.J.R. 272(a).

Amended by R.1977 d.305, effective September 1, 1977.

See: 9 N.J.R. 257(a), 9 N.J.R. 414(a).

Amended by R.1978 d.289, effective August 17, 1978.

See: 10 N.J.R. 222(a), 10 N.J.R. 378(b).

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

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

"Common area" and "Fire wall" redefined.

Amended by R.1982 d.253, effective August 16, 1982.

See: 14 N.J.R. 119(a), 14 N.J.R. 910(a).

Added definition of "attic" and "crawl space". Amended definition of "common area", "occupiable room" and "tag".

Amended by R.1990 d.230, effective May 7, 1990.

See: 22 N.J.R. 275(b), 22 N.J.R. 1354(a).
 Definition of retreat lodging facility added.
 Amended by R.1993 d.464, effective September 20, 1993.
 See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

Case Notes

Citation to building definition. *Bunting v. Sheehan*, 156 N.J.Super. 14, 383 A.2d 429 (App.Div.1976).

Premises a multiple dwelling despite lack of kitchen facilities and former tax assessment as two buildings. *Bunting v. Sheehan*, 156 N.J.Super. 14, 383 A.2d 429 (App.Div.1976).

School dormitories subject to registry and inspection under former definition of hotel. *Blair Academy v. Sheehan*, 149 N.J.Super. 113, 373 A.2d 418 (App.Div.1977).

Clubhouse with dwelling units is multiple dwelling. *Rumson Country Club v. Commissioner of Community Affairs*, 134 N.J.Super. 54 (App. Div.1975) certification denied 68 N.J. 482, 338 A.2d 219.

Citation to building and structure definitions. 43-45 Forrest Street, North Arlington v. Dept. of Community Affairs, 3 N.J.A.R. 291 (1981).

SUBCHAPTER 3. HOTEL AND MULTIPLE DWELLING HEALTH AND SAFETY BOARD

5:10-3.1 Organizational meetings; officers

(a) The organizational meeting of the Board shall be held on the second Tuesday of June in each year at 10:00 A.M. in the building in which the office of the Director is located.

(b) A majority of the members of the Board shall constitute a quorum. However, even in the absence of a quorum, a majority of the members of the Board who are present, shall have the power to adjourn the meeting until a specified future time.

(c) The Board shall, at its organizational meeting, elect a Chairman, a Vice-Chairman, a Secretary and such other officers as it may deem appropriate. All officers shall serve until the next organizational meeting or until their successors shall have qualified.

(d) All officers other than the Secretary shall be elected from among the members of the Board. The Secretary may be either a member of the Board or an employee of the Division. If an employee of the Division, he shall not enter upon the office of Secretary without the consent of the Director and shall serve at the pleasure of the Director.

(e) A vacancy in any office shall be filled by the Board for the remaining unexpired term. If any member of the Board who is an officer ceases to be a member of the Board, his office shall forthwith be deemed vacant.

5:10-3.2 Special meetings

(a) A special meeting of the Board may be called at any time by the Commissioner, the Director, the Chairman of the Board or by petition of any three members of the Board.

(b) The person or persons calling the special meeting shall give written notice to the Secretary stating the purpose of the meeting and the time and place at which it is to be held. No meeting shall be held in any place other than the building in which the office of the Director is located without the consent of either the Commissioner or the Director.

(c) The Secretary shall give written notice of the time and place of the special meeting to all members of the Board, the Commissioner, the Director and the Chief of the Bureau at least 10 days prior to such a meeting.

5:10-3.3 Rules of procedure

All business of the Board shall be conducted in accordance with the current edition of Robert's Rules of Order (Revised), except insofar as such rules may conflict with provisions of the Act or of this chapter. Officers shall have the duties prescribed in said rules.

5:10-3.4 Transmittal and consideration of proposed regulations

(a) Proposed regulations required pursuant to the Act to be transmitted to the Board shall be transmitted by the Director to all members of the Board.

(b) The Director may call a special meeting of the Board to consider proposed regulations transmitted to the Board but shall have discretion not to do so.

(c) In the event that the Director transmits any proposed regulations to the Board without calling a special meeting, either the Chairman of the Board or any three members of the Board may call a special meeting pursuant to N.J.A.C. 5:10-3.2.

(d) In the event that no special meeting is called, each member of the Board shall individually submit to the Director such comments and recommendations as he may have within 30 days of his receipt of a copy of the proposed regulations. Upon receipt of any member's comments and recommendations, the Director shall promptly provide copies thereof to all other members.

Case Notes

Former regulation regarding use group classifications for hotels applied to school dormitories. *Blair Academy v. Sheehan*, 149 N.J.Super. 113, 373 A.2d 418 (App.Div.1977).

SUBCHAPTER 4. DUTIES OF OWNERS AND OCCUPANTS

5:10-4.1 Concurrent responsibilities

(a) Owners, including agents of owners, managing agents and superintendents shall have the general duties outlined

herein for the maintenance of the premises, and no such person shall be relieved from any such responsibility hereunder by reason of the fact that an occupant or other person shall have similar responsibilities or shall have failed to report any violation, nor shall any such person be relieved of any responsibility by the terms or provisions of any lease, contract or agreement.

(b) Occupants, and to the extent provided herein, members of their families, or other persons living on the premises shall have the general duties outlined herein for occupants for the maintenance of the premises, and no such person shall be relieved from any such responsibility by reason of the fact that any owner or operator shall have similar responsibilities, nor shall any person be relieved of any responsibility by the terms or provisions of any contract, lease or agreement.

(c) In any premises subject to either the Horizontal Property Act (N.J.S. 46:8A-1 et seq.) or the Condominium Act (N.J.S. 46:8B-1 et seq.), the council of co-owners or condominium association, as the case may be, shall have the duties of an owner as set forth in these regulations. However, any such council or association shall only be required to abate those violations which pertain either to the common areas or common elements or which it has the right, pursuant to contract or otherwise, to require the owner of the individual dwelling unit to abate. Owners of individual dwelling units shall be responsible for the abatement of violations pertaining only to each such unit, provided, however, that the responsibilities of the dwelling unit owner and of the council or association may be concurrent.

Case Notes

Owner of multiple dwelling required to maintain in accordance with regulations; penalty policy unenforceable as not promulgated as a rule. Bureau of Housing Inspection v. Roger Gardens, Inc., 5 N.J.A.R. 120 (1983).

Under former N.J.A.C. 5:10-19.2, common elements to be repaired by condominium association following code violations include wiring and plumbing in dwelling units and smoke detector installation; repair assessment to owners permitted. Florence Condominium Assn. v. Bureau of Housing Inspection, 5 N.J.A.R. 5 (1983).

5:10-4.2 Discontinuation of services

(a) No person shall intentionally cause any service, facility, equipment or utility which is required to be supplied under this chapter to be removed, shut off or discontinued, or knowingly allow such condition to continue, when the condition affects any occupied unit of dwelling space.

1. This section shall not be applicable to such temporary interruption as may be necessary when actual repairs or alterations are in process or during temporary emergencies when discontinuance of services is caused by any public utility or public agency or is approved by the bureau.

(b) In the event of any discontinuation of services, repairs shall be performed expeditiously to minimize inconvenience to occupants and, to the greatest extent possible, temporary or alternate service shall be provided until permanent service can be restored.

New Rule, R.1981 d.95, effective April 9, 1981.

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

Amended by R.1993 d.464, effective September 20, 1993.

See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

SUBCHAPTER 5. DUTIES OF OCCUPANTS

5:10-5.1 Responsibility of occupants

(a) An occupant shall in addition to complying with all provisions of this chapter applicable to him, be responsible for violations of this chapter to the extent that he has the power to prevent the occurrence of a violation or assist in abating the violation. An occupant has the power to prevent the occurrence of a violation if:

1. It is caused by his own willful act or the willful act of a member of his family or household, or of his guest; or

2. It is the result of his gross negligence, neglect or abuse, or the gross negligence, neglect or abuse of a member of his family or household, or his guest.

(b) The occupant, any member of his family or household, or his guest shall, with respect to the public parts of the premises, be liable if a violation is caused by his own willful act, gross negligence, neglect or abuse.

(c) Every occupant of each unit of dwelling space shall give the owner thereof or his agent or employees access to any part of the unit of dwelling space upon reasonable notification, which under ordinary circumstances shall be one day for multiple dwellings, except immediately for hotels, for the purpose of making such inspection and such repairs or alterations as are necessary to effect compliance with the law and this chapter. In case of safety or structural emergencies immediate access shall be given.

(d) All items stored by occupants in any area provided for common storage by occupants of more than one unit of dwelling space shall bear the name and dwelling unit number of the occupant storing the said item or items. It shall be the responsibility of the occupant to label each item and maintain it labeled. Materials stored in such areas shall be secured against becoming sources of infestation and shall not be placed so as to create a hazard.

Amended by R.1993 d.464, effective September 20, 1993.

See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

5:10-5.2 Reporting of violations

Upon discovery by an occupant of any conditions on the premises, failure of service, or defect in any equipment, which constitutes a violation hereof, the occupant shall report same promptly to the owner or to the superintendent having charge of the premises.

5:10-5.3 Prohibited acts

(a) No occupant or other person shall:

1. Create or maintain any condition constituting a violation of the Uniform Fire Code, N.J.A.C. 5:18;
2. Take down, obscure, alter, destroy, or in any way deface any notice, certificate or sign required by this chapter to be displayed; or
3. Destroy or damage protective equipment.

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

5:10-5.4 Unsafe and unsanitary conditions

(a) Occupants shall place all garbage within the receptacles provided for garbage disposal. Where janitorial service is not required, they shall place all containers with sufficient frequency to avoid an insanitary accumulation in the exterior area or areas set aside for the same. Garbage, rubbish and other refuse shall not be thrown out of windows or down dumbwaiters, nor shall garbage and refuse be set out on stairways or fire escapes or in common hallways.

(b) Occupants of each unit of dwelling space shall be responsible to the extent of their own use and activities for keeping the interior thereof safe and sanitary. Occupants shall prevent any accumulation of garbage or waste matter which may become a source of infestation.

(c) Every occupant shall maintain all plumbing fixtures used by him in a clean and sanitary condition, shall not deposit any material in any fixture or sewer system which would cause stoppage of or damage to properly maintained fixture or sewer systems and shall be responsible for the exercise of reasonable care in the proper use and operation of such fixtures.

(d) Occupants shall not damage, remove or destroy screens needed for the building.

(e) Every occupant of any unit of dwelling space shall be responsible for removing conditions resulting from the occupants own activities or which may result in infestation conditions which are subject to and under his exclusive control.

(f) No occupant shall cause excessive grease, soot or other foreign matter to accumulate on side walls, ceilings or other exposed room surfaces by improper use of heating or cooking equipment. Cooking equipment shall be kept clean, free of garbage, food particles and grease.

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

5:10-5.5 Willful damage

Every occupant shall be liable for willfully or maliciously causing damage to any part of the premises which results in a violation of this chapter. Any adult occupants shall be responsible and liable for any violation of this section caused by minors under their care or custody occupying the same unit of dwelling space if the violations were created or permitted to continue with the knowledge or acquiescence or consent of said adult member.

5:10-5.6 Heating by occupant

(a) Where any occupant undertakes by contract, or as a condition of his lease to supply his own heat through a furnace or boiler which also heats any unit of dwelling space occupied by other persons, the said occupant shall be responsible in the same manner as the owner for supplying heat in accordance with the provisions of this chapter.

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

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

5:10-5.7 Occupancy violations

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

5:10-5.8 Storage

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

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

SUBCHAPTER 6. GENERAL MAINTENANCE**5:10-6.1 Elimination of hazards**

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

Case Notes

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

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

5:10-6.2 Nuisances

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

Case Notes

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

5:10-6.3 Maintenance of dwelling units

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

5:10-6.4 Maintenance of exterior

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

1. Brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash, refuse and debris;
2. Dead and dying trees and limbs or other natural growth which by reason of rotting or deteriorating conditions or storm damage constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions;
3. Loose and overhanging objects and accumulations of ice and snow which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof;
4. Holes, excavations, breaks, projections, obstructions, litter, icy conditions, uncleared snow and excretion of pets and other animals on paths, walks, driveways, parking lots and parking areas and other parts of the premises. Holes and excavations shall be filled and repaired, walks and steps replaced and other conditions removed where necessary to eliminate hazards or insanitary conditions with reasonable dispatch upon their discovery;

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

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

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

1. Parts of the premises regularly used by occupants shall drain within one hour of the termination of any storm creating surface waters;
2. Other parts of the premises not covered under paragraph 1 of this subsection shall drain within six hours of the cessation of any such storm.

Case Notes

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

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

5:10-6.5 Outdoor pools

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

SUBCHAPTER 7. STRUCTURAL MAINTENANCE**5:10-7.1 Bearing of loads**

Buildings and parts thereof shall be maintained so as to be capable of sustaining safely their own weight and the loads to which they may be subject so that loads are transmitted to the soil without undue differential settlement, unsafe deformation or movement of the building or any structural part thereof.

5:10-7.2 Foundations

Foundations of all structures shall be kept, maintained and repaired to eliminate all exposed holes, cracks and other defects so that the foundation shall be at all times capable of resisting the penetration of liquids into the building and be weathertight and serve to protect the building against infestation. They shall also be maintained to prevent or correct erosion around footings.

5:10-7.3 Exterior surfaces

(a) The exterior of every structure or accessory structure, fence or other improvement on the premises shall be kept in good repair and all exposed surfaces thereof subject to deterioration shall be protected against weathering or deterioration by a protective coating appropriate for the particular material involved as needed.

(b) All exterior windows and window frames shall be painted with at least one coat of suitable exterior paint or other preservative as needed except where constructed of an approved atmospheric corrosion-resistant metal or other equivalent material.

(c) The exterior surfaces shall be maintained to eliminate conditions reflective of deterioration or inadequate maintenance, such as broken glass, loose shingles, crumbling stone or brick or excessive peeling of paint.

(d) The exterior of the building shall be free of loose material that may create a hazard by falling on persons utilizing the premises.

5:10-7.4 Leakage, drafts and infestation

All exterior walls, roofs, windows, window frames, doors, door frames, skylights, foundations and other parts of the structure shall be maintained as to keep water from entering the structure, to prevent excessive drafts or heat loss during cold or inclement weather and to provide a barrier against infestation. Damaged or badly worn material shall be repaired or replaced, and places showing signs of rot, leakage, deterioration or corrosion shall be treated or restored to prevent weathering or seepage.

5:10-7.5 Leaders and drainpipes

Leaders and drainpipes shall be securely fastened to the building and maintained in good condition, free of leaks, kept clean and free of obstructions and shall direct storm waters into draining systems and away from the foundation walls of the structure.

5:10-7.6 (Reserved)

Repealed by R.1993 d.464, effective September 20, 1993.
See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).
Section was "Chimneys, flues and vent attachments".

5:10-7.7 Railings

(a) Handrails: All interior stairways having three or more risers, and all exterior steps having a drop of at least 24 inches to ground level or having at least four risers, shall have handrails which are to be securely fastened to walls or guard rails, and, unless continuous, shall be returned to the enclosure walls or posts at the end of the stairs.

1. All stairways 44 inches or more in width shall have continuous handrails on both sides; stairs less than 44 inches wide may have a handrail on one side only. In assembly occupancies, when the stairway width exceeds 88 inches, the stairways shall be provided with intermediate handrails dividing the stairway in approximately equal widths with a maximum lateral spacing of 66 inches.

2. The height of the handrail shall not be less than 30 inches and shall not project more than 34 inches above the nosing of treads.

3. Handrails shall provide a finger clearance of 1 1/2 inches and shall not project more than 3 1/2 inches into the required stair width.

(b) Guard rails shall be provided on exterior corridors, balconies, landings or porches having more than a three-foot drop to the adjoining level and on the exposed side of any interior or exterior stairway. The height of the guard rail shall not be less than 30 inches.

1. Exception: In an instance of a rail protecting a level 35 feet or less above exterior grade where a special case can be made that the existing rail is sufficient to protect the safety of persons, the department may permit a rail less than 30 inches in height.

2. Guards shall be constructed so that the area in the plane of the guard, from the top of the tread to the top of the guard, is subdivided or filled in one of the following methods:

i. A sufficient number of intermediate longitudinal rails constructed so that the clear distance between rails (measured at right angles to the rail) does not exceed 16 inches (measured vertically) from the tread nosing; or

ii. Balusters spaced not more than eight inches apart; or

iii. Panels of wire mesh, or expanded metal, or ornamental grills which provide protection equivalent to that provided by the intermediate rails or balusters specified in the two preceding paragraphs; or

iv. Walls; or

v. Any combination of the foregoing.

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

Case Notes

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

SUBCHAPTER 8. MAINTENANCE OF INTERIOR**5:10-8.1 Basements, cellars and crawl spaces**

(a) Basements, cellars and crawl spaces are to be free of moisture resulting from liquid penetration from the exterior and shall be provided with ventilation as required herein to prevent accumulations of moisture and dampness.

(b) Floors of basements and cellars shall have a permanent surface that is water resistant and capable of being kept broom-clean so as not to create a safety hazard. Subcellars and crawl spaces which are neither usable nor occupiable need not be permanently surfaced.

Case Notes

Violations; exemptions denied under former N.J.A.C. 5:10-19.4 regarding permanent basement floors. *Lobsenz & Lobsenz v. Dept. of Community Affairs*, 3 N.J.A.R. 92 (1981).

5:10-8.2 Interior surfaces

(a) All floors, walls, ceilings and other surfaces shall be kept in good repair, that is, free from cracks, breaks, split or splintering boards or woodwork, loose plaster, flaking or peeling paint or other materials. Loose or defective sections shall be removed and replaced so that the joint between the repair and the sound material is made flush and smooth.

(b) Floors, walls, ceilings and other exposed surfaces shall be kept clean, free from visible foreign matter, sanitary and well-maintained at all times. If necessary to accomplish the foregoing, these surfaces shall be kept painted, whitewashed, papered, covered or treated with sealing materials or other protective coatings as needed.

(c) Interior walls, ceilings and other exposed surfaces in units of dwelling space shall be kept smooth, clean, free of flaking, loose or peeling paint, plaster or paper and capable of being maintained free of visible foreign matter and of vermin, and in a sanitary condition. If and when necessary to accomplish the foregoing or any part thereof, such interior surfaces shall be spackled, painted, papered or otherwise provided with a protective coating appropriate for the surface material and this shall be done at least once every three years unless it is clearly unnecessary. Painting or other provision of a protective coating shall be the responsibility of the occupant and not of the owner when required more frequently than once every three years as a result of the acts or omissions of the occupant, a member of his family or household or his guest.

(d) Owners shall maintain records indicating the date on which any dwelling unit or part thereof was painted or otherwise provided with a protective coating for six years. Said records shall also indicate the name and address of the person who did the work, the nature of the work done and the cost. Said records shall be made available upon request to the Bureau or to any inspector performing an inspection of the premises on behalf of the Bureau.

(e) Except where housekeeping services are provided, normal housekeeping as required for the maintenance of cleanliness and sanitation within individual units of dwelling space of multiple dwellings shall be the responsibility of the occupants and shall not, unless a hazard to the health, safety or welfare of persons other than the occupants of the dwelling unit is thereby created, be the responsibility of the owner.

5:10-8.3 Stairways and common areas

(a) Stairways shall be maintained to support a live load of 100 pounds per square foot and walking surfaces shall be maintained free of hazards, such as loose steps, loose or uneven treads, torn carpeting, raised strips and nonuniform risers.

(b) Hallways, fire escapes, stairs, landings and passages and other common areas shall be kept open for unrestricted passage.

(c) There shall be a railing to provide support and protect persons from falling off the stairways or landings. Such railings shall meet the requirement of N.J.A.C. 5:10-7.7.

Case Notes

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

5:10-8.4 Doors

All doors shall be so maintained that they can be readily opened and closed.

SUBCHAPTER 9. WASTE DISPOSAL**5:10-9.1 Receptacles**

(a) Except where an alternative method providing equivalent health and safety methods is utilized, such as incineration or compaction, there shall be provided for each multiple dwelling noncorrosive, impervious and noncombustible receptacles sufficient in size and number to contain waste accumulated in each separate building, pending collection, either in conformance with the municipal collection schedule or in the absence thereof, twice weekly. The receptacles shall be so constructed as to hold their contents without leakage and shall be provided with tight-fitting covers and handles.

(b) Receptacles for the collection of garbage shall be located so as not to constitute a hazard and located so as to be accessible to the collecting agency.

(c) Garbage collection receptacles shall be kept covered, shall be maintained in good repair and shall be kept in the area designated for storage of such receptacles. All such receptacles shall be cleaned and disinfected at least once a week.

5:10-9.2 Materials requiring separate disposal

(a) Disposal of materials not fitting into or appropriate for receptacles, such as newspapers, wrapping paper and other inorganic wastes which are likely to be blown or scattered about the streets, shall be secured to prevent littering.

(b) Other objects and material, which because of bulk or size do not fit into receptacles, shall be placed out for collection only at such places as are designated for that purpose and at such times as shall assure their prompt removal by the collection service available to the building.

5:10-9.3 Dumbwaiters

(a) Dumbwaiters where existing shall be kept operable and available as part of the garbage disposal system which would be rendered more serviceable by their use.

(b) Every existing device shall be maintained and inspected in accordance with N.J.A.C. 5:23-12.1 et seq.

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

SUBCHAPTER 10. SCREENS AND INFESTATION

5:10-10.1 Screens

(a) Screens suited to protect the interior of the building against mosquitoes, flies and other undesirable insects shall be provided and kept in good repair for each exterior door (except as otherwise provided in exception 2 below) and each openable window in habitable and occupiable rooms and common areas. Screens shall be installed and maintained by the owner on all such doors and windows at least from May 1 to October 1 of each year. All screens required pursuant hereto shall be affixed either to the window frame or to the upper sash and the window frame. Fixed windows need not be provided with screens.

1. Exception 1: In transient nonresidential hotels in coastal areas where it is demonstrated to the department that screens are not necessary above the ground floor.

2. Exception 2: Exterior doors which do not provide any portion of the minimum ventilation area of at least

four percent of the floor area of the room or space ventilated.

3. Exception 3: Screens shall not be required for dwelling units or common areas on the sixth floor and above.

4. Exception 4: Screens are not required on windows or exterior doors in areas and spaces where a central mechanical ventilation system is provided which conforms to applicable construction codes of the New Jersey Uniform Construction Code.

5. Exception 5: In areas used for storage purposes only.

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

5:10-10.2 Elimination of infestation

(a) Every owner shall be responsible for the eradication of any insects, rats or other pests when the infestation exists in two or more units of dwelling space or in common areas. All buildings subject to this chapter shall be made ratproof and shall be maintained in a condition free from infestation. Such ratproofing and pest extermination shall include but is not limited to the following:

1. Prevention of entrance by blocking off or stopping up at passages by which rats may secure entry from the exterior with rat impervious material;
2. Prevention of interior infestation by elimination of sources of food and access thereto;
3. Prevention of any vertical travel of vermin through pipe chases or other similar methods of travel.

(b) All hotels and multiple dwellings shall be subject to periodic procedures for the prevention and elimination of infestation by persons qualified to conduct such procedures no less frequently than once annually and more frequently where there is recurring evidence of infestation.

SUBCHAPTER 11. MANAGERIAL AND MAINTENANCE PERSONNEL

5:10-11.1 Duties of owner

(a) The owner shall have the positive responsibility of providing, either by his own direct efforts or by hiring others qualified to so serve, a person or persons qualified by training or experience to discharge the duties and responsibilities outlined for owners under these regulations.

(b) Any managing agent, in charge of the leasing or renting of space and the general management and operation of the premises, shall be competent to provide supervision

of the management and operation of the building in accordance with this chapter.

(c) In a multiple dwelling of nine or more dwelling units, the owner shall either perform the janitorial services himself, if he is a resident owner, or provide a janitor, or provide janitorial services to be performed, on a 24-hour a day basis in a manner approved by the bureau.

(d) Unless either the owner or the janitor resides on the premises, the owner of a multiple dwelling or his managing agent in control shall post and maintain in such dwelling a legible sign, conspicuously displayed, containing the janitor's name, address (including apartment number) and telephone number. A new identification sign shall be posted and maintained within five days following a change of janitor.

(e) The person who performs janitorial services for a multiple dwelling of nine or more dwelling units (other than where janitorial services are performed on a 24-hour a day basis under (c) above) shall reside in or within a distance of one block or 200 feet from the dwelling, whichever is greater, unless the owner resides in the multiple dwelling.

(f) Where necessary to assure compliance with this chapter and other provisions of law affecting multiple dwellings and hotels, there shall be a full-time person or employee responsible for providing janitorial services as defined herein. The owner shall provide additional personnel as may be required to assure proper maintenance and compliance with this chapter.

(g) All personnel responsible for enabling the owner to meet the requirements of this chapter shall be by reason of training or experience competent to perform the duties entrusted to him, familiar with the requirements contained herein and not unable or unwilling to discharge the said duties by reason of any physical or mental incapacity or disability or personal habits inconsistent with such duties.

(h) The following shall serve as a guide to adequacy of personnel for maintenance of a typical multiple dwelling not having any unusual or special labor-saving features:

Units of Dwelling Space	Full-Time Personnel or Equivalent
70-100	one
101-150	two
151-225	three
226-325 (and each additional 100 units)	four, plus one for each 100 additional units of dwelling space over 325

Correction: The word "basis" added to the phrase ... 24-hour a day basis ... at (c).

See: 21 N.J.R. 1123(a).

5:10-11.2 Duties of manager and superintendent

(a) Without relieving the owner of any responsibility placed by these regulations on the owner, any person undertaking for and in behalf of the owner any responsibilities for the operation and maintenance of the premises shall thereby assume concurrently with the owner, responsibilities for the premises and be subject to penalty for failure to comply with any regulation or order relating to any item or matter within the responsibilities so assumed.

(b) Where the owner has vested any other person with active management or control of the property and the owner either by his physical absence or unavailability to the premises has left such person in charge thereof, or by reason of any other arrangement with such person the owner does not actively engage in the day-to-day conduct or operation of the premises, then such person assuming management shall be responsible as the agent of the owner for compliance thereto.

(c) Where there is present on the premises or available to the premises a person whose duties and authority do not comprise overall control of the management of the premises, but such person is designated by the owner as the person responsible for the day-to-day physical upkeep and maintenance of the premises, then such person shall be liable concurrently and jointly with the owner and any managing agent for such matters as shall constitute routine maintenance and upkeep of the premises, for any other matters pertaining to the maintenance of the premises entrusted to such person by the owner or management, and for apprising the owner or managing agent promptly of any other and further matters such as major repairs, structural improvements and capital investments which are beyond such person's authority and competence to undertake, and which, if not done, constitute violations of this chapter or hazards to the health, safety or well-being of occupants.

5:10-11.3 Janitorial services required

(a) The person in regular attendance on the premises and responsible for providing janitorial or maintenance duties as required by this subchapter shall provide the following services:

1. Setting out and returning waste disposal receptacles and avoiding leaving receptacles on days when there is no pickup;
2. Providing regular daily care for all common areas including removal of garbage, litter or other accumulations;
3. Attending to sidewalks, pedestrian walkways, parking areas and driveways and, in case of snow or ice, to permit safe passage in and out of the premises for vehicles and pedestrians;
4. Operating of the equipment designed to provide heat as required under these regulations; and
5. Such other and further routine operational and maintenance service as is required of the owner to comply with this chapter.

Case Notes

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

SUBCHAPTER 12. ELEVATORS

5:10-12.1 Standard of maintenance

(a) All elevators shall be so maintained as to meet the standards established and set forth in N.J.A.C. 5:23-12.1 et seq. The elevator doors, flooring, safety devices and operating mechanisms shall be maintained in good working order and free of hazards.

(b) The owner or the agent of the owner of a building containing one or more elevators shall have, and shall provide for inspection by the Bureau's representative, a current certificate of compliance, issued pursuant to N.J.A.C. 5:23-2.23(j), for each such elevator.

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

5:10-12.2 Preventive maintenance

All elevators and elevator equipment and accessory devices shall be provided with preventive maintenance and inspections as required by N.J.A.C. 5:23-12.1 et seq.

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

5:10-12.3 Suspension of service

Elevator service shall not be suspended except where unavoidable or where necessary to provide servicing or repairs and then only for the minimum period of time necessary to effectuate such servicing or repairs. Where the owner has knowledge in advance of such suspension, he shall post a notice of the same advising all occupants of the time and duration of any such suspension and the reason therefor.

Case Notes

Statute governing injuries from unsafe condition of improvement to real property applied to installation of real property. *Hall v. Luby Corp.*, 232 N.J.Super. 337, 556 A.2d 1317 (L.1989).

5:10-12.4 Mirrors

In all hotels and multiple dwellings in which there are one or more self-service elevators, there shall be affixed and maintained in each elevator a mirror that will enable persons, prior to entering into such elevator, to view the inside thereof to determine whether any person is in such elevator.

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

SUBCHAPTER 13. ELECTRICAL SERVICE AND LIGHTING

5:10-13.1 Electrical service

(a) There shall be maintained in good operational condition in every multiple dwelling and hotel, electrical service which shall comply with the electrical requirements in effect at the time the structure first became a multiple dwelling or hotel.

(b) The following electrical installations shall be provided and hereafter properly maintained in all hotels and multiple dwellings:

1. All entrances and exits shall be illuminated by exterior lights sufficient to provide safe passage for persons of normal vision. Exterior lighting fixtures shall be controlled by interior wall switches, located for convenient and readily accessible use except if such lights are controlled by an automatic timer or photoelectric control device.

2. Every kitchen shall be provided with a minimum of two duplex receptacle outlets.

3. Each basement shall be wired for a minimum of one lighting fixture for use as general illumination. All enclosed areas to which occupants of the building have access shall be provided with at least one lighting fixture. Stairwell and laundry area lighting fixtures shall not be counted as part of the required basement lighting fixtures.

4. Laundry areas shall be provided with illumination. The laundry circuit shall be an individual circuit. A wall-mounted grounding type duplex receptacle outlet shall be provided, located near the laundry equipment.

5. Heating equipment requiring electrical energy for operation or control shall be provided with an individual circuit.

6. Service and circuiting shall be adequate for the electrical load being served. If the electrical load in a building is excessive, the load shall be reduced or service shall be increased so as to be adequate.

7. Existing wiring and equipment shall be kept in good repair.

(c) Over-current protection devices shall be provided. Under no circumstances shall the capacity of over-current protection devices exceed the rated capacity of all connected wiring as determined by the National Electrical Code.

(d) No extension lines shall be utilized except in conformity with the following standards:

1. No cords shall be used which are not listed by Underwriters Laboratories, Inc.

2. Maximum length shall not exceed eight feet and minimum wire size shall not be less than No. 18 (AWG).

3. No extension cord shall be used that is rated for a lower current carrying capacity than is required by the appliance(s) to which it is connected.

4. No extension cord shall pass under any rug or carpet or across any path of travel or be used in any other location where it would create a hazardous condition.

5. No frayed, worn or otherwise damaged extension cord shall be used.

(e) There shall be available in each habitable room sufficient electrical outlets to enable occupants to utilize the room for function for which it is designed without use of loose cords or extension lines prohibited in (d)4 above.

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

5:10-13.2 Exterior lighting

(a) Every garage or other accessory structure utilized by occupants after dark shall be equipped with artificial lighting which shall be maintained and operated so as to render all parts of the garage that are unlocked and accessible, visible to occupants and also to illuminate all areas commonly used by occupants sufficiently to enable persons of normal vision to traverse from such areas safely to the point of egress from the garage.

(b) In garages or structures not kept locked, lighting as required herein shall be kept on continually from one-half hour before sunset to one-half hour after sunrise unless the lighting is connected to a dusk to dawn photoelectric control device.

(c) In garages or structures which are locked at all entrances, lighting may be provided which is operated manually by individual occupants in lieu of continual night lighting, and in such case the lighting fixtures shall be operable from a switch located near the point of ingress into the interior of the space to be lighted.

(d) Illumination of common areas shall be situated so as not to shine into adjacent dwelling units.

(e) Exterior parking areas, pedestrian walkways or other portions of the premises subject to regular and recurrent use by occupants at night shall be illuminated continually from one-half hour before sunset to one-half hour after sunrise, unless the lighting is connected to a dusk to dawn photoelectric device to enable safe passage of persons of normal vision.

5:10-13.3 Artificial lighting

(a) All interior common areas on the premises utilized by occupants are likely to be used by persons frequenting the premises shall be equipped with lighting so that during periods of darkness, all such parts and areas shall be sufficiently illuminated to enable persons of normal vision to traverse such areas safely and to perform therein the functions for which the parts or areas are designed.

(b) Light switches in exit ways, including corridors, hallways, landings, stairways and vestibules shall be of a type that may not be operated by occupants or persons frequenting the premises.

(c) Lighting fixtures, wall plates and other electrical facilities in bathrooms and toilet rooms shall be of the type or so located and maintained that there will be no danger of short circuiting from splashing of water from any facility therein. No such fixtures shall be located so as to be reached from a bathtub or shower enclosure.

(d) Every habitable or occupiable room shall have light available at all times, with an illumination of at least six foot-candles. Such light shall be measured 30 inches from the floor at the center of the room.

(e) Every bathroom and toilet room shall have light available at all times, with an illumination of at least three foot-candles. Such light shall be measured 30 inches from the floor at the center of the room.

(f) The foregoing provisions notwithstanding, it shall not be the responsibility of a multiple dwelling owner to provide lamps or lighting fixtures in dwelling units other than kitchen and bathroom ceiling or wall fixtures or to supply replacement bulbs.

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

Case Notes

Citation of former lighting regulations N.J.A.C. 5:10-9.4 and 6.7 as examples of reasonable standards compared to municipal ordinance. Hudson Circle Servicer, Inc. v. Kearney, 70 N.J. 289, 359 A.2d 862 (1976).

5:10-13.4 Electrical hazards near swimming pools

No overhead electrical conductors shall be within 15 feet of any swimming pool. All metal fences, enclosures or railings that might become electrically charged as a result of contact with broken overhead conductors or from any other cause near, or adjacent to, a swimming pool shall be grounded in accordance with the provisions of the National Electrical Code.

5:10-13.5 (Reserved)

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

SUBCHAPTER 14. HEATING

5:10-14.1 Standard of performance

Every unit of dwelling space shall contain facilities to provide heat sufficient to maintain a minimum inside temperature 68 degrees Fahrenheit in all habitable rooms, measured at least one foot away from any surface at the coldest portion of the space subject to regular use by occupants of any such room when the outside temperature is at design winter conditions. This provision shall not apply to units of dwelling space which are neither occupied nor intended to be occupied between October 1 and the next succeeding May 1.

Case Notes

Commissioner authorized to act to ensure adequate heat in multiple dwelling; tenant cannot request local health board action to obtain adequate heat without prior municipal action based on enabling statute (citing former N.J.A.C. 5:10-19.4). *Jones v. Buford*, 71 N.J. 433, 365 A.2d 1364 (1976).

5:10-14.2 Corrective measures

Where the bureau determines that the facilities are of inadequate size or capacity to accomplish the foregoing, the owner may be ordered to either increase the capacity of the heating system, provide additional insulation or take such other or further steps as will enable the heating system of the unit to satisfy this requirement; provided, however, nothing herein shall be construed as authorizing loss of habitable space to an extent that would create a violation of this chapter.

5:10-14.3 Standards of maintenance

(a) The heating equipment, facilities and system and all parts thereof shall be kept in good operating condition, free of defects, corrosion and deterioration at all times.

(b) Heating equipment shall be installed and maintained in such a manner as to avoid leakage of or concentration of liquids, gases and solid matters which may constitute hazards or violations of this chapter.

(c) Heating equipment shall not be operated in such a manner as to impair its ability to perform as required hereunder or create a hazard anywhere in the system due to excessive temperature.

(d) The heating system, including such parts as heating risers, ducts and hot water lines, shall be covered with an insulating material or guard to protect occupants and other persons on the premises from receiving burns due to chance contact.

(e) Any pressure relief valve on any type of heating unit shall be connected to a pipe that discharges either vertically toward the floor to a maximum distance of 20 inches from that floor surface or in a manner conforming to the plumbing subcode of the Uniform Construction Code.

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

Case Notes

Insulation of heating pipes is design situation; municipal housing authority immune from liability for injury from public structure design which met applicable standards at time of construction (citing former N.J.A.C. 5:10-19.4). *Rodgers v. Passaic Housing Authority*, 139 N.J.Super. 569, 364 A.2d 1069 (App.Div.1976) certification denied 71 N.J. 337, 364 A.2d 1069 (1976).

5:10-14.4 Minimum temperature

(a) From October 1 of each year to the next succeeding May 1, every unit of dwelling space and every habitable room therein shall be maintained at a temperature of at least 68 degrees Fahrenheit between the hours of 6:00 A.M. and 11:00 P.M. and at least 65 degrees Fahrenheit between the hours of 11:00 P.M. and 6:00 A.M. The heating system shall be capable of maintaining the minimum required temperature in all habitable rooms without the necessity of heating adjoining rooms more than five degrees higher than said minimum required temperature. The design of the heating system shall conform to the ASHRAE Guide and Data Book. The heating standard herein set forth may be modified by the Commissioner by emergency rule.

(b) In meeting the aforesaid standards, the owner shall not be responsible for heat loss and the consequent drop in the interior temperature arising out of action by the occupants in leaving windows or doors open to the exterior of the building.

(c) The owner shall be obligated to supply required fuel or energy and maintain the heating system in good operating condition so that it can supply heat as required herein, notwithstanding any contractual provision seeking to delegate or shift responsibility to the occupant or third person, except that the owner shall not be required to supply fuel or energy for heating purposes to any unit where the occupant thereof agrees in writing to supply heat to his own unit of dwelling space and the said unit is served by its own exclusive heating equipment for which the source of heat can be separately computed and billed.

5:10-14.5 Space heaters

(a) Space heaters shall be so installed, located and maintained so as to exhaust the products of combustion to the outside air, to prevent a fire hazard by being sufficiently removed or insulated from surrounding material, to be permanently affixed so that the heater cannot be moved by occupants, and not to constitute a hazard to persons using the premises in close proximity to the heater by reason of chance contact or by reason of lack of fresh air supply.

(b) Space heaters shall be installed in such a manner that all habitable rooms will be heated to the required temperature, with no room more than five degrees Fahrenheit higher in temperature than the other rooms. If the temperature varies over five degrees Fahrenheit, other heaters must be installed to give uniform heating of all habitable rooms.

(c) Electric and gas space heaters shall be permitted providing they meet standards established by the Underwriters' Laboratories.

5:10-14.6 (Reserved)

Repealed by R.1993 d.464, effective September 20, 1993.

See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

Section was "Fuel storage".

5:10-14.7 Annual inspection

(a) The heating system as herein defined shall be inspected annually. Such inspection shall be for the following purposes:

1. To insure that the system is being maintained in accordance with the standards applicable to the system as of the time of installation;
2. To locate and remove hazards or conditions that may, if not corrected, foreseeably develop into hazards or become violations of these regulations;
3. To confirm the ability of the system to fulfill the heating requirements provided hereunder.

SUBCHAPTER 15. WATER SUPPLY

5:10-15.1 Sufficiency of source and system

Every multiple dwelling and hotel shall be connected to a source of and system for delivery of potable water sufficient to meet the requirements for hot and cold water at all connected fixtures.

5:10-15.2 Connection of fixtures

Every kitchen sink, bathroom or toilet room, sink, basin, tub or shower shall be connected to both hot and cold water lines and be provided with both hot and cold water.

5:10-15.3 Hot water

(a) Each building shall be served by a hot water heater and hot water distribution system capable of operating even when the heating system itself is not in operation and of providing all units of dwelling space and facilities therein requiring hot water with water at the outlets at a minimum temperature of 120 degrees Fahrenheit and a maximum temperature of 160 degrees Fahrenheit at all times in accordance with anticipated need resulting from the number of fixtures and use of the building.

(b) The use of sidearm water heaters shall be prohibited.

5:10-15.4 Flow of water

All plumbing fixtures and equipment for the supply and drainage of running water shall be maintained so that the rate of flow shall be of sufficient volume and at pressures adequate to enable them to function properly. The pipes conveying the water shall be of sufficient size to provide the water required without undue pressure reduction and without undue noise under all normal conditions of use.

SUBCHAPTER 16. NATURAL LIGHT, VENTILATION AND REPLACEMENT GLAZING

5:10-16.1 Natural light

(a) Every habitable room shall have at least one window or skylight or transparent or translucent panel facing the exterior of the premises directly or through an open porch into the room, equal in area to at least eight percent of the floor area of such room.

(b) Wherever walls or other portions of a structure or other opaque barriers face a window surface and are less than three feet distant from such window surface and where the projected plane of any such wall, surface or barrier shall obscure more than one half of the window surface, then such shall not be included in the calculation as contributing to meet the minimum requirements hereof.

5:10-16.2 Natural ventilation

(a) Every habitable room, bathroom, toilet room or enclosed kitchenette shall have a means of natural ventilation unless there is supplied some other device affording adequate ventilation and exchange of air. Natural ventilation as required hereunder shall be directly to the exterior through an opening of at least three square feet or through a porch having access and exposure to fresh air from the exterior. The total of openable window or skylight area in each such room shall be equal to at least 50 percent of the minimum window or skylight area required for natural light under N.J.A.C. 5:10-16.1.

(b) Every such window or skylight shall be equipped with the necessary hardware or other means so that it can be readily opened and closed by occupants from the interior of the dwelling space.

5:10-16.3 Mechanical ventilation

(a) Where the required natural ventilation is not provided, there shall be ventilation by mechanical means, conforming to the following requirements:

1. Kitchens and kitchenettes shall be ventilated by mechanical means so as to exhaust at least two cubic feet of air per minute per square foot of floor area directly to the outdoors or by means of a properly installed and maintained electrically-powered non-ducted range hood equipped with an activated charcoal filter for the elimination of cooking odors;

2. For commercial kitchens see N.J.A.C. 5:18-4.7(g);

3. Bathrooms and toilet rooms containing only one water closet or urinal shall be mechanically vented by an exhaust system that exhausts at least 50 cubic feet of air per minute. Means shall be provided for air ingress by louvers in the door, by undercutting the door or by transfer ducts, grilles or other openings.

4. Bathrooms and toilet rooms containing more than one water closet or urinal shall be mechanically vented by an independent exhaust system that exhausts at least 40 cubic feet of air per minute per water closet or urinal.

Administrative Correction to (a)3.

See: 22 N.J.R. 921(a).

Amended by R.1993 d.464, effective September 20, 1993.

See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

5:10-16.4 Replacement glazing

All replacement glazing shall conform to the applicable construction codes of the New Jersey Uniform Construction Code for glazing requirements for specific hazardous locations.

SUBCHAPTER 17. STORAGE AND CLOSET FACILITIES

5:10-17.1 Storage of occupants' property

(a) Any storage area available to or used by occupants in common areas shall have each space within the area separately designated for each unit of dwelling space and a list identifying each such space shall be retained by the person in charge of the premises or, if the space is used in common by occupants of more than one unit of dwelling space, then all items so stored shall bear the identification of the occupant storing the item or items.

(b) The owner shall not permit unmarked items to be stored in a common storage area and shall have a procedure for notifying each tenant, in writing, before removal and disposal of same.

(c) Materials stored in such areas shall be secured against becoming sources of infestation and shall be protected against fire hazards caused by ignition from electrical or heating devices or equipment of similar possible sources of fire.

Amended by R.1993 d.464, effective September 20, 1993.

See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

5:10-17.2 No smoking signs

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

5:10-17.3 Limitations on storage space

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

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

5:10-17.4 Refrigerators and similar equipment

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

5:10-17.5 (Reserved)

Repealed by R.1993 d.464, effective September 20, 1993.

See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

Section was "Closets under stairs".

SUBCHAPTER 18. MAILBOXES AND IDENTIFICATION SIGNS

5:10-18.1 Mailboxes and directories

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

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

5:10-18.2 Identification signs

(a) Every unit of dwelling space in hotels and multiple dwellings shall have some permanent and legible identification by letter, number or other symbol at or near the front entrance thereof.

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

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

SUBCHAPTER 19. BUILDING SECURITY

5:10-19.1 Hotels

(a) The following provisions apply to hotels.

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

2. Such entrance doors shall also be equipped with either a viewing device installed on the designated main entrance door to the dwelling unit located so as to enable a person on the inside of the entrance door to view a person immediately outside, or with a chain door guard so installed as to permit partial opening of the door.

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

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

5:10-19.2 Multiple dwellings

(a) The following provisions apply to multiple dwellings.

1. Every building entrance door or other exterior door permitting access to two or more units of dwelling space shall be equipped with heavy duty dead latching locksets (series 161, FF-H-106a, minimum, with a minimum 7/8 inch by 5/8 inch with 1/2 inch minimum throw latch bolt with automatic dead-locking plunger). Outside cylinders of main entrance door locks shall be operated by the tenant's key, which shall not be keyed to also open the tenant's dwelling unit entrance door.

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

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

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

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

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

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

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

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

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

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

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

Case Notes

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

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

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

SUBCHAPTER 20. COOKING FACILITIES

5:10-20.1 Required facilities

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

1. A kitchen sink of nonabsorbent impervious material and drainboard of appropriate materials, connected to and having available at all times a supply of hot and cold water under sufficient pressure as required under N.J.A.C. 5:10-15. The kitchen sink shall be connected to a sanitary disposal or sewer system;
2. Cooking and preparation of food shall be undertaken only in areas designated therefor;
3. Means of natural ventilation or mechanical ventilation sufficient to remove promptly cooking odors to the exterior of the premises without first circulating them within the interior habitable space of the unit;
4. Place for storage of food free from infestation;
5. Facilities for refrigeration in good operating condition for protection of food from spoilage permitting maintenance of temperatures for storage above 32 degrees and below 50 degrees without regard to outside temperature;
6. A cooking facility which, if electrical, is connected with safety to an electrical system of sufficient capacity, or if gas, connected by permanent fixtures and tubing to avoid leakage of gas. The use of gasoline stoves or other similar fuel-burning appliances using highly flammable liquids and the use of portable kerosene stoves or other similar fuel-burning portable appliances for cooking is prohibited;
7. Cabinets or drawers or other storage areas for utensils, dishes and other cooking and eating equipment;

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

SUBCHAPTER 21. SANITARY FACILITIES

5:10-21.1 Required facilities

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

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

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

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

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

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

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

5:10-21.2 Rooming units

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

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

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

5:10-21.3 Dormitories

Rules on dormitories are outlined in the following table:

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

1 Drinking fountain for each 75 persons

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

SUBCHAPTER 22. OCCUPANCY STANDARDS

5:10-22.1 Basements and cellars

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

1. The entire area constituting the dwelling unit must comply with all requirements set forth in this chapter applicable to habitable rooms or areas and to all requirements set forth in N.J.A.C. 5:18 applicable to dwelling units in basements or stories below grade; and

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

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

5:10-22.2 Unemancipated minors

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

5:10-22.3 Floor area

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

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

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

Case Notes

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

Landlord may require tenants in violation of occupancy limits to sign leases containing those limits. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Landlord seeking to enforce occupancy limits against tenants who are in violation of limits may be liable for same or similar benefits as tenants would be entitled to receive if they were removed as result of building code enforcement proceedings. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Landlord may not remove tenant to correct illegal occupancy until there has been compliance with provisions of relocation assistance laws. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Tenant evicted as result of enforcement of occupancy limit regulations may claim relocation assistance benefits unless tenant's own conduct was primary cause of overcrowding. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Tenants are not to be deprived of relocation assistance by landlord enforcing occupancy limits through renewal leases; Anti-Eviction Act subsection authorizes landlord to establish reasonable rules and regulations governing conduct of its tenants. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Landlord requiring tenant to sign renewal lease containing new occupancy limit which will force tenant or some members of tenant's household to relocate may be liable for relocation assistance. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Tenant responsible for overcrowding of apartment may be required to sign lease containing occupancy limit without being offered relocation assistance benefits. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

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

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

5:10-22.4 Prohibited sleeping areas

Kitchens, bathrooms, and toilet rooms shall not be used for sleeping purposes.

5:10-22.5 Required ceiling height

(a) Except as otherwise provided in (a)1 and 2 below, no room or space or portion of a room or space shall be considered habitable unless that room or space or portion of a room or space has a clear ceiling height of at least seven feet, zero inches.

1. Rooms, spaces, and portions of rooms and spaces in hotels that are open and operating less than six months of each year, are located in municipalities bordering on the Atlantic Ocean and are used exclusively for transient occupancy, and were so used prior to November 5, 1990 in conformity with any applicable mercantile license requirement, shall be deemed to be habitable regardless of ceiling height unless there is a clear and present danger to the health or safety of the occupants.

2. Dwelling units and portions of dwelling units in multiple dwellings located in municipalities bordering on the Atlantic Ocean shall be deemed to be habitable with a ceiling height of less than seven feet, zero inches provided that the dwelling unit was occupied prior to the effective

date of this amendment and is in conformity with any applicable mercantile license requirement prior to May 27, 1991 and:

i. The ceiling height is less than seven feet, zero inches but at least six feet, four inches and there is no clear and present danger to the health or safety of the occupants;

ii. If the ceiling height is less than six feet, four inches but at least five feet, 10 inches, there is no clear and present danger to the health or safety of the occupants and the volume of the unit, as measured in cubic feet, is at least seven times the minimum square footage required for the number of occupants in the unit; or

iii. If the ceiling height is less than five feet, 10 inches, an exception is granted by the Bureau in accordance with N.J.S.A. 55:13A-11 and N.J.A.C. 5:10-1.15.

(b) Read in context with the definition of habitable room and the occupancy standards found in this subchapter, this section requires an attic apartment to contain at least 150 square feet of floor space having a ceiling height of seven feet, zero inches, and that every attic room have at least 59 square feet of floor area having a ceiling height of at least seven feet, zero inches. While additional floor area having less than seven feet, zero inches ceiling height is permitted, it cannot be counted for purposes of determining habitability.

Amended by R.1990 d.544, effective November 5, 1990.
See: 22 N.J.R. 2207(a), 22 N.J.R. 3363(b).

Shore hotels permitted to use rooms and spaces with ceilings less than seven feet.

Amended by R.1991 d.59, effective February 19, 1991.
See: 22 N.J.R. 3430(a), 23 N.J.R. 405(a).

Exception to ceiling height requirement added for certain Atlantic Shore multiple dwellings.

SUBCHAPTER 23. SPECIAL PROVISIONS FOR HOTELS AND MULTIPLE DWELLINGS WITH ROOMING UNITS

5:10-23.1 Registry and rate-posting

(a) Every hotel and multiple dwelling containing rooming units shall:

1. Maintain at all times a registry identifying the name of each occupant of each rooming unit, together with the principal residence address of each such occupant and the date upon which his occupancy of such rooming unit commenced, which registry shall be signed by the person renting the rooming unit.

2. Not have posted on any advertising sign, or placed before the public in any advertising matter or information pertaining to such hotel or multiple dwelling, any rates for

accommodation in such hotel or multiple dwelling unless there are available therein, when vacant, accommodations for immediate occupancy at the advertised rate.

3. Have posted in a conspicuous place or manner in each rooming unit a statement of the range of rates charged by the hotel or multiple dwelling, including seasonal rates, and a legible printed copy of P.L. 1967, c.95 (N.J.S.A. 29:4-5 et seq.).

5:10-23.2 Linen, towels and housekeeping services

(a) The owner or operator of every hotel or dwelling space for which housekeeping services are provided shall:

1. Supply a fresh change of bed linen and towels, all of which shall be in good condition, at least once a week or when there is a change of occupancy of the unit;

2. Provide housekeeping and interior maintenance on a daily basis if a hotel, or weekly basis if a rooming house, but under any circumstances each such unit shall be completely inspected and cleaned where the occupancy thereof is changed.

SUBCHAPTER 24. PARKING AREAS AND DRIVEWAYS

5:10-24.1 Design requirements

(a) Driveways shall have two traffic lanes for their entire length, in addition to any parking space, except that a single lane may be used for short straight service driveways where two-way traffic is not anticipated.

(b) Buildings, walls, fences, planting and other sight obstructions shall be so located and designed that a driver backing out of a garage, carport or parking space can see approaching traffic speed and volume.

5:10-24.2 Maintenance requirements

Driveways and parking areas shall be maintained free of potholes or other unsafe or unsanitary conditions.

5:10-24.3 Parking in approach drives

No parking will be permitted in approach drives to parking areas where such parking will obstruct ingress of fire-fighting equipment.

5:10-24.4 Parking for handicapped residents

(a) Any owner of a multiple dwelling with five or more dwelling units which provides parking to the occupants thereof, and in which a handicapped person resides, shall provide parking spaces for occupants who are handicapped located at the closest possible proximity to the principal accesses of the multiple dwelling.

(b) A minimum of one percent of the total number of parking spaces provided for the occupants of the multiple dwelling, but not less than one parking space, shall be set aside as parking for the handicapped.

1. Each space or group of spaces shall be identified with a clearly visible sign displaying the International Symbol of Access along with the following words: "This space reserved for physically handicapped drivers."

2. Each reserved space shall be 12 feet wide to allow room for a person in a wheelchair or on braces or crutches to get in and out of either side of an automobile onto a level, paved surface suitable for wheeling and walking and shall be located so that a person in a wheelchair or using braces or crutches is not compelled to wheel or walk behind parked cars.

3. Where applicable, curb ramps shall be provided to permit a handicapped person access from the parking area to the sidewalk.

(c) For purposes of this section "handicapped" means a physical impairment which confines a person to a wheelchair; causes a person to walk with difficulty or insecurity; affects the sight or hearing to the extent that a person functioning in public areas is insecure or exposed to danger; causes faulty coordination; or reduces mobility, flexibility, coordination and perceptiveness to the extent that facilities are needed to provide for the safety of that person.

New Rule R.1986 d.61, effective March 17, 1986.
See: 18 N.J.R. 16(a), 18 N.J.R. 555(b).

SUBCHAPTER 25. METHODS, DEVICES AND SYSTEMS FOR INDIRECT APPORTIONMENT OF HEATING COSTS IN MULTIPLE DWELLINGS

5:10-25.1 Scope

(a) This subchapter establishes standards and procedures for the Bureau of Housing Inspection's approval of methods and devices for indirect apportionment of heating costs in multiple dwellings, in accordance with P.L. 1991, c.453.

(b) No method, device or system of devices for apportionment of heating costs in multiple family dwellings shall be used without prior approval of the Bureau pursuant to this subchapter, except that methods or devices in use on April 17, 1992 may continue in use pending application for and issuance of approval by the Bureau, until not later than October 17, 1992, unless an application for approval is filed by January 19, 1993. Any system not approved by the Department by April 19, 1993, or undergoing testing or other procedures required by the Department as part of the approval process as of that date, shall be removed or permanently shut out of service.

(c) This subchapter shall not apply to devices for direct apportionment of heating costs that are approved by the Board of Regulatory Commissioners.

(d) This subchapter shall not apply to any charges for the separate heating of domestic hot water, charges for cooking fuel or charges for the heating of common areas in buildings. Charges for any such energy uses are not covered by this subchapter.

(e) This subchapter shall apply to all multiple dwellings, including, without limitation, condominiums, cooperatives and mutual housing corporations that are not excluded from jurisdiction under the act in accordance with N.J.S.A. 55:13A-3(k).

5:10-25.2 Application to the Department

(a) Any manufacturer, distributor or other person seeking approval for use of a device or system of devices for indirect apportionment of heating costs in a multiple dwelling shall submit two copies of the following information, as well as the appropriate fee, at such time as the fee shall be determined in accordance with N.J.A.C. 5:23-4.20(d), to the Construction Code Element, CN 805, Trenton, NJ 08625. The Construction Code Element will forward one copy of the information document to the Bureau:

1. The name and address and social security or taxpayer identification number of the applicant for approval;
2. The name and address of the general partner(s) or corporate officer(s), if applicable;
3. A description of the device or system of devices, including a narrative description, schematics, and any test certifications or listings of components;
4. A description of the method for computing energy consumption based on measurements recorded by the device or system of devices, using commonly recognized standard American units;
5. A description of any calculations used to convert standard units and any subsequent calculations used to arrive at occupant usage; and
6. A description of any calculations used to arrive at a unit cost charged occupants.

(b) Approved devices and systems shall be placed on a list to be maintained by the Construction Code Element. The list shall be made available to any interested party on request.

1. An owner of a multiple dwelling shall not submit an application for use of such a device or system to the Bureau unless the device or system is on the Department's list of approved devices and systems.

(c) An owner of a multiple dwelling who proposes to institute a method or system for indirect apportionment of

heating costs shall provide the following information to the Bureau:

1. The make and identifying number of the device or system for indirect apportionment of heating costs that is proposed to be installed;
2. The name, address and social security or taxpayer identification number of the owner of the building;
3. The name and address of the building manager, if applicable;
4. The address and registration number of the multiple dwelling;
5. The number of dwelling units;
6. A copy of all written information related to heating costs that is provided to existing or prospective occupants, including applicable lease terms;
7. A copy of the billing format used or proposed to be used to bill unit occupants for apportioned heating costs, which shall include, but not be limited to, the following:
 - i. Billing date;
 - ii. Billing period;
 - iii. Measurement units and formula used for calculating energy use, the energy usage calculated from that reading, and the charge per unit for energy;
 - iv. A statement that the bill is not from the utility;
 - v. A statement that the total of the bills for the dwelling units shall not exceed the cost for the heating of all dwelling units that is paid to the utility, and the amount of that total charge; and
 - vi. A local or toll-free number of the landlord or the landlord's authorized agent that an occupant can call to obtain information, to request service or maintenance, or to submit complaints.
8. A copy of information concerning indirect apportionment of heating costs, which shall be provided to existing and prospective occupants, including:
 - i. A statement of the range of accuracy of the system when it is functioning properly;
 - ii. Average square foot apportioned heating cost for the building over the last heating season, if the apportionment system was already installed, or an estimate based upon manufacturer's data or information from a similar installation;
 - iii. For each occupant, the square footage of that occupant's unit; and
 - iv. A statement of the maintenance schedule for the system;
9. A proposed schedule of inspection and maintenance of the indirect apportionment system.

Amended by R.1993 d.39, effective January 19, 1993.

See: 24 N.J.R. 3597(a), 25 N.J.R. 299(a).

Text added at (c)7 and 8 regarding billing format and information on direct apportionment.

5:10-25.3 Criteria for acceptance

(a) Before accepting a device or system of devices for indirect apportionment of heating costs for use in multiple dwellings, the Bureau, after consultation with the Construction Code Element, shall be satisfied that it is:

1. Reliable and accurate;
2. Subject to an appropriate inspection and maintenance schedule;
3. Capable of equitably measuring distribution of energy to all occupancies based on actual usage;
4. Equipped with individual thermostats for each dwelling unit;
5. Designed to produce itemized billing statements, or to produce data for itemized billing statements, based on actual use in each dwelling unit; and,
6. Not designed so as to include additional costs or usages, whether apportioned or not, in the data or billings for individual dwelling units.

(b) The Bureau, in consultation with the Construction Code Element, shall review testing records for all devices and systems, inspection and maintenance records for devices and systems previously in use and proposed schedules for inspection and maintenance.

(c) The following general classes of systems may be approved:

1. Gas, oil, or electric-fired furnace systems that monitor time of delivery of gas, or electricity or oil consumed, rate of consumption and accuracy of timer activation;
2. Hydronic heated/cooled systems that monitor changes in water temperature, volume of water, and time period of usage; and
3. Any other type of system that the Department approves in accordance with these rules.

(d) The following general classes of methods, devices and systems shall not be approved because of inherent inaccuracy:

1. Elapsed time monitors for hydronic systems;
2. Time/temperature monitors for hydronic systems which do not measure flow rate;
3. Systems for any heat source based solely on thermostat settings in individual dwelling units; and
4. Methods that rely on any means of calculation other than the use of approved devices or systems.

(e) The Bureau shall not reject, on technical grounds, any device or system that is approved by the Construction Code Element.

5:10-25.4 Approval of methods, devices and systems

(a) When the Construction Code Element is satisfied that a device or system proposed to be used complies with N.J.A.C. 5:10-25.3, it shall issue a letter of technical adequacy to the Bureau and shall place such device or system on the list that it maintains. When the Bureau has determined that all requirements of P.L. 1991, c.453 and of this subchapter are met, it shall issue to the applicant a notice of approval of the method, device or system; provided, however, that any such notice of approval shall be subject to, and contingent upon, receipt by the Bureau of a copy of the certificate of approval issued by the local construction official for the installation of the device or system.

(b) The Bureau, with the assistance of the Construction Code Element or of local construction officials, may make such inquiries and inspections regarding the use and installation of methods, devices and systems for indirect apportionment of heating costs in multiple dwellings as it may deem necessary in order to properly enforce P.L. 1991, c.453 and this subchapter.

(c) The Bureau shall revoke any notice of approval of a method, device or system for the indirect apportionment of heating costs if the use, installation or operation of such method, device or system is in violation of P.L. 1991, c.453 or of this subchapter.

5:10-25.5 Maintenance requirements

(a) The owner of a multiple dwelling in which a device or system for indirect apportionment of heating costs has been installed shall maintain the device or system, and cause it to be inspected, in accordance with the inspection and maintenance schedule filed as part of the application for approval and approved by the Bureau.

(b) The owner shall at all times have available for examination by the Bureau's representatives documentation evidencing the maintenance and inspection of the device or system in accordance with the approved schedule.

(c) Complaints concerning methods, devices or systems for indirect apportionment of heating costs in multiple dwellings may be filed with the Bureau. Any such complaint shall include all available relevant information.

SUBCHAPTER 26. VACANT BUILDINGS

5:10-26.1 Prevention of access

(a) In buildings where all dwelling units have been unoccupied for a period of 60 days or more, it shall be the duty of the owner to close all windows, doors and other openings with plywood or by other suitable means so that access into the buildings is prevented.

(b) The provisions of (a) above shall not apply to:

1. Any building which is unoccupied because of a current alteration being performed under application and plan approved by the construction official having jurisdiction;
2. Any building which is unoccupied because of being used exclusively as a seasonal resort building;
3. Dormitories which are not normally in use during a portion of the calendar year.

5:10-26.2 Buildings ordered vacated

In any building which has become unoccupied by reason of having been ordered vacated by the Bureau pursuant to N.J.S.A. 55:13A-17, it shall be unlawful for the owner thereof to cause or permit such building to be used in whole or in part for living purposes, other than by a janitor, superintendent or resident caretaker, until the violation(s) upon which the order to vacate was based shall have been abated.