

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.1998 d.425, effective July 24, 1998.
See: 30 N.J.R. 1462(b), 30 N.J.R. 3068(a).

Executive Order No. 66(1978) Expiration Date

Chapter 10, Maintenance of Hotels and Multiple Dwellings, expires on July 24, 2003.

Chapter Historical Note

Chapter 10, Maintenance of Hotels and Multiple Dwellings, became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 10, Maintenance of Hotels and Multiple Dwellings, was readopted as R.1983 d.629, effective December 23, 1983. See: 15 N.J.R. 727(a), 16 N.J.R. 128(b).

Pursuant to Executive Order No. 66(1978), Chapter 10, Maintenance of Hotels and Multiple Dwellings, 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Subchapter 25, Fire Protection, was repealed by R.1988 d.572, effective December 19, 1988, operative June 16, 1989.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, Maintenance of Hotels and Multiple Dwellings, was readopted as R.1993 d.464, effective August 26, 1993. See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

Pursuant to Executive Order No. 66(1978), Chapter 10, Maintenance of Hotels and Multiple Dwellings, was readopted as R.1998 d.425, effective July 24, 1998. See: Source and Effective Date. See, also, section annotations.

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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 the State may be authorized by the Commissioner to enforce the provisions of this chapter within the corporate limits thereof, subject to the supervision and control 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, all of the multiple dwellings and hotels and units of dwelling space therein which the Bureau determines to be subject to cyclical inspection in that fiscal year.

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, 75 percent prior to April 1 of each State fiscal year and 100 percent on or before June 30 of each State fiscal year. In the event that any of these percentages cannot be met based on the number of cyclical inspections that are due during a portion of a year, this requirement shall be deemed satisfied if all buildings that can be scheduled for cyclical inspections are inspected.

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, the Division of Codes and Standards and 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 performance under this authorization, 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. 5:70-1.5, 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. 5:70, 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. 5:70-2.4A 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).

Administrative change.

See: 31 N.J.R. 35(a).

Amended by R.1999 d.104, effective April 5, 1999.

See: 31 N.J.R. 121(a), 31 N.J.R. 851(b).

In (b), rewrote 5 and 6, and substituted a reference to the Division of Codes and Standards for a reference to the Division of Housing in 27.

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.

Penalty assessment compromise accepted for corrections of violations. *Paganelli v. Bureau of Housing Inspection, Department of Community Affairs*, 97 N.J.A.R.2d (CAF) 86.

Numerous unabated safety violations in apartment building, including unrepaired stairways, ceilings, walls and window screens, defective smoke detectors and roach infestations, warranted penalty assessment. *Bureau of Housing Inspection v. Scott*, 96 N.J.A.R.2d (CAF) 119.

Owner of multiple dwelling who failed to prove correction of past fire safety violations was subject to penalty assessment. *Bureau of Housing Inspection v. Taylor*, 96 N.J.A.R.2d (CAF) 80.

Condominium association qualifies as owner subject to Hotel and Multiple Dwelling Law. *Three Hundred Twenty Five Saw Mill Road v. Bureau of Housing Inspection*, 96 N.J.A.R.2d (CAF) 69.

Reinspection of defective premises was required to establish continuing violations for possible penalties. *20 President Street v. Department of Community Affairs*, 95 N.J.A.R.2d (CAF) 101.

Failure to abate all outstanding building violations as agreed rendered owner liable for higher penalty assessment. *Gertner v. Department of Community Affairs*, 95 N.J.A.R.2d (CAF) 65.

Failure to pay reinspection fee once building violations were abated warranted imposition of minimum \$50 penalty. *Department of Community Affairs v. 19 Bruen Avenue*, 95 N.J.A.R.2d (CAF) 54.

Building owner required to pay penalty for violations of building code was not entitled to a reduction in the fine. *Radzik v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 26.

Multiple dwelling owner with address and phone number in another state is not in compliance with the statute which requires an "in-county agent". In the Matter of 1151 Washington Street, 93 N.J.A.R.2d (CAF) 62.

Penalty was due to the unabated violations at reinspection and was not based on the unabated screening violations at the time of reinspection. *Romano v. Department of Community Affairs*, 93 N.J.A.R. 2d (CAF) 49.

Inspection report and issuance of green card in 1983 did not prevent the enforcement of requirements for installation of self-closing/self-locking doors and installation of doorbells. *Department of Community Affairs v. Bistricher*, 93 N.J.A.R.2d (CAF) 43.

Landlords' failure to correct code violations; imposition of fine. *142 Mill Street, Paterson, New Jersey (Bonafield) v. Department of Community Affairs, Bureau of Housing Inspection*, 93 N.J.A.R.2d (CAF) 31.

Rapid abatement efforts following citation; reduction in fine. *N.J.S.A. 55:13A-6(g). Baijnath v. Department of Community Affairs, Bureau of Housing Inspection*, 93 N.J.A.R.2d (CAF) 30.

Failure to abate violations of the Hotel and Multiple Dwelling Law justified monetary penalty. *17-19 Calhoun Street v. Department of Community Affairs*, 93 N.J.A.R.2d (CAF) 15.

Owner of apartment buildings was subject to penalties of \$21,550 for continuing violations of Hotel and Multiple Dwelling Law. *Department of Community Affairs, Bureau of Housing Inspection v. Salsburg*, 92 N.J.A.R.2d (CAF) 91.

Violations unabated as of reinspection date were not deemed abated by subsequent action. *Bureau of Housing Inspection v. 1000-58 Cincinnati Ave., Egg Harbor City*, 92 N.J.A.R.2d (CAF) 51.

Penalty for failure to timely correct building code violations would not be reduced by prior repairs. *N.J.S.A. 55:13A-19. 22 South Illinois Ave. v. Department of Community Affairs*, 91 N.J.A.R.2d (CAF) 7.

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

5:10-1.4 Scope

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

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

(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.

1. Any owner who shall fail to comply with the requirements of this subsection and/or of (c) below shall be subject to a penalty in the amount of 50 percent of the unpaid fee, but not less than \$50.00 nor more than \$500.00 for each such unpaid fee.

2. Any owner to whom a penalty notice has been issued pursuant to (a)1 above who shall fail to comply with any order to comply the requirements of this subsection and/or of (c) below that is issued either together with or subsequent to the penalty notice shall be subject to a

penalty of \$500.00 for each failure to comply within 30 days with any such order.

(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. 5:70, 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. 5:70-2.4 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. 5:70-2.4 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).
Amended by R.1997 d.344, effective August 18, 1997.
See: 29 N.J.R. 1437(a), 29 N.J.R. 3720(a).

Added (a)1 and 2.
Administrative change.
See: 31 N.J.R. 35(a).

Case Notes

Property owner must pay statutorily mandated fees for reinspection following settlement agreement concerning abatement of violations. Department of Community Affairs v. Scillieri Investment Corp., 96 N.J.A.R.2d (CAF) 16.

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.

“Child-protection window guard” or “window guard” means a bar, screen or grille assembly designed to prevent a child from falling out of a window.

installed in a window for the purpose of preventing accidental fall or ejection of a child through the window.

“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 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.

“Fuel-burning appliance” means a device or apparatus which is designed to utilize natural gas, manufactured gas, mixed gas, liquefied petroleum products, solid fuel, oil or any gas as a fuel for heating, cooling, hot water, cooking, generating light or power or for aesthetics.

“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. "Owner" also means and includes any person who owns, purports to own, or exercises control over three or more dwelling units within a multiple dwelling.

"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 exclusively on a transient basis by persons participating in programs of a religious, cultural or educational nature, conducted under the sole auspices of 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.

“Window guard” see “Child-protection window guard.”

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).

Amended by R.1995 d.586, effective November 20, 1995.

See: 27 N.J.R. 3149(a), 27 N.J.R. 4695(b).

Amended by R.1999 d.259, effective August 16, 1999.

See: 31 N.J.R. 825(a), 31 N.J.R. 2330(a).

Added definition of “Fuel-burning appliance”.

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

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

In “Owner”, added a second sentence.

Case Notes

Guests who resided at hotel for three years with no present intention of seeking other accommodations were “tenants”; protection from lockout by Anti-Eviction Act, even though motel was not registered or regulated by state as rooming or boarding house. *McNeill v. Estate of Lachmann*, 285 N.J.Super. 212, 666 A.2d 996 (A.D.1995).

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.

Case Notes

Multiple dwelling building penalized for failure to register as rooming house. *DeGrazia v. Department of Community Affairs, Bureau of Rooming and Boarding House Standards*, 97 N.J.A.R.2d (CAF) 66.

Denial of rooming and boarding house licensure due to code violations affirmed. *Vignanelli v. Keansburg Borough*, 97 N.J.A.R.2d (CAF) 63.

Denial of rooming house licensure for failure to complete application modified. *Tuli v. Township of Weehawken*, 97 N.J.A.R.2d (CAF) 60.

Reasonable penalty for failure to correct code violations found appropriate. *Bureau of Housing Inspection v. Murnick*, 97 N.J.A.R.2d (CAF) 50.

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.