

CHAPTER 10

REGULATIONS FOR THE MAINTENANCE OF
HOTELS AND MULTIPLE DWELLINGS

Authority

N.J.S.A. 52:27D-133.4, 55:13A-6(e), 55:13A-7 et seq. and
55:13A-13; and P.L. 1999, c.15, section 6.

Source and Effective Date

R.2004 d.58, effective January 9, 2004.
See: 35 N.J.R. 1175(a), 36 N.J.R. 648(a).

Chapter Expiration Date

Chapter 10, Regulations for the Maintenance of Hotels and Multiple
Dwellings, expires on January 9, 2009.

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Subchapter 25, Fire Protection, was repealed by R.1988 d.572,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 Apportion-
ment 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).

Subchapter 27, Child-Protection Window Guards, was adopted as new
rules by R.1995 d.586, effective November 20, 1995. See: 27 N.J.R.
3149(a), 27 N.J.R. 4695(b).

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: 30 N.J.R. 1462(b), 30 N.J.R. 3068(a).

Subchapter 28, Carbon Monoxide Alarms, was adopted by R.1999
d.259, effective August 16, 1999. See: 31 N.J.R. 825(a), 31 N.J.R.
2330(a).

Subchapter 1A, Local Enforcing Agencies and Subchapter 1B, In-
spector Licensing, were adopted as R.2001 d.468, effective December
17, 2001 (operative July 1, 2002). See: 33 N.J.R. 1983(a), 33 N.J.R.
4311(a).

Chapter 10, Maintenance of Hotels and Multiple Dwellings, was re-
adopted as R.2004 d.58, effective January 9, 2004. See: Source and
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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.

(h) Inspection fees shall be as follows:

1. For each hotel, there shall be a fee as follows: \$20.00 per unit for the first 20 units in any building or project, \$16.00 per unit for the 21st through 100th unit in any building or project, \$10.00 per unit for the 101st through 250th unit in any building or project, and \$7.00 per unit for all units over 250 in any building or project. Additionally, there shall be a reinspection fee for hotels in the amount of \$13.00 for each dwelling unit reinspected.

2. For each multiple dwelling, there shall be a fee as follows: \$43.00 per unit for the first seven units in any building or project, \$27.00 per unit for the eighth through 24th unit in any building or project, \$23.00 per unit for the 25th through 48th unit in any building or project, and \$16.00 per unit for all units over 48 in any building or project; provided that the maximum total fee for inspection of three- and four-unit multiple dwellings owned and occupied by persons having a household income that is less than 80 percent of the median income for households of similar size in the county shall be limited to \$85.00 for a three-unit multiple dwelling and \$104.00 for a four-unit multiple dwelling. Additionally, there shall be a reinspection fee for multiple dwellings in the amount of \$52.00 for each unit reinspected, but only after the first reinspection.

3. The fee for the issuance of a certificate of acceptance for self-inspection by a condominium association of a building that is not more than three stories, was constructed after 1976, is certified as being in compliance with the Uniform Fire Code and in which at least 80 percent of the units are owner-occupied shall be \$32.00.

4. In addition to the fee determined pursuant to (h)2 or 3 above, there shall be an additional inspection fee for multiple dwellings in the amount of \$20.00 per unit; provided, however, that this additional fee shall not be charged for units registered with the Bureau as being in any of the following categories:

- i. Constructed after 1977;
- ii. Certified by a certified inspector as being either free of lead-based paint or having a lead-free interior;
- iii. Seasonal rental units rented for less than six months' duration during each year;
- iv. Occupied by the owner of the dwelling unit as his or her residence; or

v. Housing for the elderly, or a residential property designated exclusively for persons with disabilities; except this exemption shall not apply if a child less than age six resides or is expected to reside in the dwelling unit.

5. In the case of a condominium or horizontal property regime, the additional inspection fee assessed pursuant to (h)4 above shall be paid by the owner of the unit; provided, however, that the association or council of co-owners, as the case may be, shall be deemed to be the agent of the owner for purposes of receiving notices and orders issued by the Bureau, shall have the duty to deliver any such notice or order to the unit owner and shall promptly notify the Bureau of the name and address of any unit owner who is liable for the additional inspection fee. If the association or council of co-owners fails or refuses to provide the name and address of the owner of a unit, it shall be presumed to be the owner of the unit and shall be liable for the additional inspection fee.

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).

Amended by R.2001 d.468, effective December 17, 2001 (operative July 1, 2002).

See: 33 N.J.R. 1983(a), 33 N.J.R. 4311(a).

In (a), rewrote the introductory paragraph.

Amended by R.2002 d.260, effective August 5, 2002.

See: 34 N.J.R. 1572(a), 34 N.J.R. 2781(c).

In (c), substituted "(h) below" for "N.J.S.A. 55:13A-13(b)"; added (h).

Amended by R.2005 d.144, effective May 16, 2005.

See: 36 N.J.R. 2106(a), 37 N.J.R. 1754(c).

In (h), added 4 and 5.

Amended by R.2006 d.177, effective May 15, 2006.

See: 37 N.J.R. 1698(a), 37 N.J.R. 1931(a), 38 N.J.R. 2115(b).

Deleted "or" from the end of (h)4iii; substituted "; or" for a period at the end of (h)4iv; and added (h)4v.

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 a determination by the Bureau of Housing Inspection or its authorized representatives or a local enforcing agency that violations of the provisions of this chapter

exist and that such violations result in an imminent hazard 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 and/or ordering that the violation be corrected within the period specified in 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 stating the reasons for the issuance of the order and the conditions under which occupancy may take place.

(c) When any owner to whom an order has been issued pursuant to (a) above denies that any violation justifying such order exists, such owner may apply for an administrative

hearing. Any such hearing shall be held, and a decision rendered, within 48 hours of receipt by the Department of the hearing request.

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.

Amended by R.2001 d.468, effective December 17, 2001 (operative July 1, 2002).

See: 33 N.J.R. 1983(a), 33 N.J.R. 4311(a).

In (a), inserted "or a local enforcing agency" following "authorized representatives"; in (b), deleted "by the Bureau of Housing Inspection".

Amended by R.2006 d.161, effective May 1, 2006.

See: 38 N.J.R. 373(a), 38 N.J.R. 1823(b).

In (a), substituted "a determination by" for "notice from," "an imminent hazard" for "risk" and added "and/or ordering that the violation be corrected within the period specified in the order"; and added (c).

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 or the local enforcing agency 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.

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

Amended by R.2001 d.468, effective December 17, 2001 (operative July 1, 2002).

See: 33 N.J.R. 1983(a), 33 N.J.R. 4311(a).

In (a), inserted "or the local enforcing agency" following "the Bureau"; in (b), deleted "by the Bureau".

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 1A. LOCAL ENFORCING AGENCIES
5:10-1A.1 Local enforcing agencies; establishment and organization

(a) A municipality which elects to establish a local enforcing agency shall do so by ordinance in conformity with the following requirements:

1. A housing code official shall serve as the chief administrator of the local enforcing agency and shall establish the day to day operating procedures of the agency and shall be responsible for the activities of the inspectors and trainees. He or she shall be qualified and licensed as a housing code official in accordance with these rules.

2. Inspectors, sufficient in number to perform the inspections required, shall be appointed. All inspectors shall be qualified and licensed as inspectors in accordance with these rules.

3. The appointing authority may appoint persons to the position of trainee. All persons so appointed shall be qualified and licensed as trainees in accordance with these rules.

4. In the event the local enforcing agency shall consist of only one position, that position shall be filled by someone qualified and licensed as a housing code official.

5:10-1A.2 County enforcement; establishment and organization

A county local enforcing agency shall only be created by an ordinance or resolution of the Board of Chosen Free-

holders and shall be organized in the same manner as a municipal agency.

5:10-1A.3 Joint local enforcing agencies; establishment and organization

(a) Two or more municipalities, or at least one municipality and a county, may by ordinance of all, or by resolution in the case of a county not authorized by law to adopt ordinances, join to administer and enforce the Act and the rules. The joint local enforcing agency shall be organized in the same manner as municipal local enforcing agencies are organized.

(b) The procedures for the execution of any agreement to create a joint local enforcing agency shall be so set forth in the Interlocal Services Act, N.J.S.A. 40:8A-1 et seq.

5:10-1A.4 Local enforcing agencies; administration

(a) The local enforcing agency shall:

1. Identify all hotels and multiple dwellings within its jurisdiction;
2. Maintain a registry thereof;
3. Provide a copy of the registry to the Bureau; and
4. Promptly notify the Bureau of all changes.

(b) The local enforcing agency shall ensure that a comprehensive inspection is made of each multiple dwelling within its jurisdiction at least once in every five years and that a comprehensive inspection is made of each hotel within its jurisdiction at least once in every five years.

(c) The local enforcing agency shall cause an inspection report to be made that shows the results of the inspection. The report shall be prepared on forms prescribed by the Bureau, a copy of which shall be maintained by the local enforcing agency at least until the next inspection cycle.

(d) The local enforcing agency shall be responsible for the issuance of the written notice of violations as required by N.J.S.A. 55:13A-13, 55:13A-16 and 55:13A-17. Copies of all such notices issued shall be maintained by the enforcing agency for at least until the next inspection cycle.

5:10-1A.5 Departmental monitoring

(a) The Bureau of Housing Inspection shall institute a regular program of monitoring enforcing agencies to ensure that the Act and rules are being properly enforced. This monitoring program shall provide for random field visits as well as monitoring visits in response to complaints.

(b) When making a monitoring visit, the Bureau shall determine:

1. Whether the Housing Code Official and any inspectors or trainees are licensed in accordance with these rules;
2. Whether all required inspections and re-inspections are being made when required by the Act;
3. Whether inspection reports, notices of violations and penalty notices are being properly issued and maintained;
4. Whether the enforcing agency has sufficient staff; and
5. Whether the local enforcing agency or any of its employees are in violation of any requirement of the Act or these rules.

(c) If the Bureau determines that an enforcing agency has failed to properly enforce the Act or these rules, or is in violation of the rules, it shall notify the enforcing agency of the deficiencies and of the necessary corrective action.

(d) The enforcing agency shall have 15 days from the receipt of a notice to file written comments or objections with the Bureau who shall review the comments and objections and issue a final notice.

(e) When the enforcing agency fails to take corrective action or where a failure to enforce the Act and the rules is pervasive and substantial, the Bureau shall notify the enforcing agency of this finding and shall thereafter be responsible for enforcing the Act and rules.

(f) Where the Bureau has assumed responsibility pursuant to (e) above, the enforcing agency may petition the Commissioner for the return of jurisdiction. The petition shall indicate the corrective action taken or to be undertaken to ensure proper enforcement of the Act and rules. The Commissioner may return jurisdiction if he or she finds that the Act and rules will be properly enforced.

(g) In any case in which it may find it necessary to do so, the Bureau of Housing Inspection may supplant or replace a local enforcing agency for a specific project, without appeal.

5:10-1A.6 Appointment

(a) A housing code official or inspector in a non-civil service municipality shall not be subject to removal from the position for reasons having to do with technical, administrative or enforcement issues related to enforcement of the Hotel and Multiple Dwelling Law so long as he or she continues to hold licensure as a housing code official or inspector, as the case may be.

(b) The Department shall have the right to suspend or revoke the license of a housing code official or inspector or trainee who violates any provision of the Hotel and Multiple Dwelling Act or of these rules, or is grossly negligent in the performance of his or her duties, or fails to maintain a minimally acceptable level of competence.

(c) Municipal officials may determine salary, assign office space, require reports of activities and generally fix terms and conditions of employment. They may impose discipline for failure to maintain office hours, failure to maintain records, failure to serve the public courteously, or for dishonesty, intoxication or other forms of misbehavior not related to housing code enforcement.

SUBCHAPTER 1B. INSPECTOR LICENSING**5:10-1B.1 Authority; hearings**

(a) A candidate for a license issued pursuant to this subchapter shall submit an application to the Licensing Unit, Bureau of Code Services, Division of Codes and Standards, which shall review and process the application in accordance with applicable provisions of N.J.A.C. 5:23-5.5(b).

(b) Licensing responsibility within the Division of Codes and Standards shall be as follows: