

**CHAPTER 10  
MAINTENANCE OF HOTELS AND  
MULTIPLE DWELLINGS**

**Authority**

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

**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, 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Subchapter 25, Fire Protection, was repealed by R.1988 d.572, effective December 19, 1988, operative June 16, 1989.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 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: 30 N.J.R. 1462(b), 30 N.J.R. 3068(a).

Subchapter 1A, Local Enforcing Agencies and Subchapter 1B, Inspector 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 readopted as R.2004 d.58, effective January 9, 2004. See: Source and Effective Date.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT**

- 5:10-1.1 Title
- 5:10-1.2 Purpose
- 5:10-1.3 Administration and enforcement
- 5:10-1.4 Scope
- 5:10-1.5 Interpretation
- 5:10-1.6 Maintenance requirements
- 5:10-1.7 Force and effect of regulations
- 5:10-1.8 Matters covered
- 5:10-1.9 Continuation of lawful existing use

- 5:10-1.10 Bureau inspections
- 5:10-1.11 Certificate of registration
- 5:10-1.12 Certificate of inspection
- 5:10-1.13 Unsafe building notice and order
- 5:10-1.14 Delegation of powers
- 5:10-1.15 Applications for exceptions
- 5:10-1.16 Separability clause
- 5:10-1.17 through 5:10-1.34 (Reserved)

**SUBCHAPTER 1A. LOCAL ENFORCING AGENCIES**

- 5:10-1A.1 Local enforcing agencies; establishment and organization
- 5:10-1A.2 County enforcement; establishment and organization
- 5:10-1A.3 Joint local enforcing agencies; establishment and organization
- 5:10-1A.4 Local enforcing agencies; administration
- 5:10-1A.5 Departmental monitoring
- 5:10-1A.6 Appointment

**SUBCHAPTER 1B. INSPECTOR LICENSING**

- 5:10-1B.1 Authority; hearings
- 5:10-1B.2 Types of licenses
- 5:10-1B.3 Standards for educational programs
- 5:10-1B.4 Procedure for approving educational programs
- 5:10-1B.5 Duties
- 5:10-1B.6 Renewal of license
- 5:10-1B.7 Revocation of licensure and alternative sanctions
- 5:10-1B.8 Fees

**SUBCHAPTER 2. DEFINITIONS**

- 5:10-2.1 Tense, gender and number
- 5:10-2.2 Definitions

**SUBCHAPTER 3. HOTEL AND MULTIPLE DWELLING HEALTH AND SAFETY BOARD**

- 5:10-3.1 Organizational meetings; officers
- 5:10-3.2 Special meetings
- 5:10-3.3 Rules of procedure
- 5:10-3.4 Transmittal and consideration of proposed regulations

**SUBCHAPTER 4. DUTIES OF OWNERS AND OCCUPANTS**

- 5:10-4.1 Concurrent responsibilities
- 5:10-4.2 Discontinuation of services

**SUBCHAPTER 5. DUTIES OF OCCUPANTS**

- 5:10-5.1 Responsibility of occupants
- 5:10-5.2 Reporting of violations
- 5:10-5.3 Prohibited acts
- 5:10-5.4 Unsafe and unsanitary conditions
- 5:10-5.5 Willful damage
- 5:10-5.6 Heating by occupant
- 5:10-5.7 Occupancy violations
- 5:10-5.8 Storage

**SUBCHAPTER 6. GENERAL MAINTENANCE**

- 5:10-6.1 Elimination of hazards
- 5:10-6.2 Nuisances
- 5:10-6.3 Maintenance of dwelling units
- 5:10-6.4 Maintenance of exterior
- 5:10-6.5 Outdoor pools

**SUBCHAPTER 7. STRUCTURAL MAINTENANCE**

- 5:10-7.1 Bearing of loads
- 5:10-7.2 Foundations
- 5:10-7.3 Exterior surfaces
- 5:10-7.4 Leakage, drafts and infestation

- 5:10-7.5 Leaders and drainpipes
- 5:10-7.6 (Reserved)
- 5:10-7.7 Railings

**SUBCHAPTER 8. MAINTENANCE OF INTERIOR**

- 5:10-8.1 Basements, cellars and crawl spaces
- 5:10-8.2 Interior surfaces
- 5:10-8.3 Stairways and common areas
- 5:10-8.4 Doors

**SUBCHAPTER 9. WASTE DISPOSAL**

- 5:10-9.1 Receptacles
- 5:10-9.2 Materials requiring separate disposal
- 5:10-9.3 Dumbwaiters

**SUBCHAPTER 10. SCREENS AND INFESTATION**

- 5:10-10.1 Screens
- 5:10-10.2 Elimination of infestation

**SUBCHAPTER 11. MANAGERIAL AND MAINTENANCE PERSONNEL**

- 5:10-11.1 Duties of owner
- 5:10-11.2 Duties of manager and superintendent
- 5:10-11.3 Janitorial services required

**SUBCHAPTER 12. ELEVATORS**

- 5:10-12.1 Standard of maintenance
- 5:10-12.2 Preventive maintenance
- 5:10-12.3 Suspension of service
- 5:10-12.4 Mirrors

**SUBCHAPTER 13. ELECTRICAL SERVICE AND LIGHTING**

- 5:10-13.1 Electrical service
- 5:10-13.2 Exterior lighting
- 5:10-13.3 Artificial lighting
- 5:10-13.4 Electrical hazards near swimming pools
- 5:10-13.5 (Reserved)

**SUBCHAPTER 14. HEATING**

- 5:10-14.1 Standard of performance
- 5:10-14.2 Corrective measures
- 5:10-14.3 Standards of maintenance
- 5:10-14.4 Minimum temperature
- 5:10-14.5 Space heaters
- 5:10-14.6 (Reserved)
- 5:10-14.7 Annual inspection

**SUBCHAPTER 15. WATER SUPPLY**

- 5:10-15.1 Sufficiency of source and system
- 5:10-15.2 Connection of fixtures
- 5:10-15.3 Hot water
- 5:10-15.4 Flow of water

**SUBCHAPTER 16. NATURAL LIGHT, VENTILATION AND REPLACEMENT GLAZING**

- 5:10-16.1 Natural light
- 5:10-16.2 Natural ventilation
- 5:10-16.3 Mechanical ventilation
- 5:10-16.4 Replacement glazing

**SUBCHAPTER 17. STORAGE AND CLOSET FACILITIES**

- 5:10-17.1 Storage of occupants' property
- 5:10-17.2 No smoking signs
- 5:10-17.3 Limitations on storage space
- 5:10-17.4 Refrigerators and similar equipment

5:10-17.5 (Reserved)

**SUBCHAPTER 18. MAILBOXES AND IDENTIFICATION SIGNS**

- 5:10-18.1 Mailboxes and directories
- 5:10-18.2 Identification signs

**SUBCHAPTER 19. BUILDING SECURITY**

- 5:10-19.1 Hotels
- 5:10-19.2 Multiple dwellings

**SUBCHAPTER 20. COOKING FACILITIES**

- 5:10-20.1 Required facilities

**SUBCHAPTER 21. SANITARY FACILITIES**

- 5:10-21.1 Required facilities
- 5:10-21.2 Rooming units
- 5:10-21.3 Dormitories

**SUBCHAPTER 22. OCCUPANCY STANDARDS**

- 5:10-22.1 Basements and cellars
- 5:10-22.2 Unemancipated minors
- 5:10-22.3 Floor area
- 5:10-22.4 Prohibited sleeping areas
- 5:10-22.5 Required ceiling height

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

- 5:10-23.1 Registry and rate-posting
- 5:10-23.2 Linen, towels and housekeeping services

**SUBCHAPTER 24. PARKING AREAS AND DRIVEWAYS**

- 5:10-24.1 Design requirements
- 5:10-24.2 Maintenance requirements
- 5:10-24.3 Parking in approach drives
- 5:10-24.4 Parking for handicapped residents

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

- 5:10-25.1 Scope
- 5:10-25.2 Application to the Department
- 5:10-25.3 Criteria for acceptance
- 5:10-25.4 Approval of methods, devices and systems
- 5:10-25.5 Maintenance requirements

**SUBCHAPTER 26. VACANT BUILDINGS**

- 5:10-26.1 Prevention of access
- 5:10-26.2 Buildings ordered vacated

**SUBCHAPTER 27. CHILD-PROTECTION WINDOW GUARDS**

- 5:10-27.1 Child-protection window guards; when required
- 5:10-27.2 General installation requirements
- 5:10-27.3 (Reserved)
- 5:10-27.4 Specifications for window guards
- 5:10-27.5 Additional specifications for window guards for other than double hung windows
- 5:10-27.6 Prohibited acts

**SUBCHAPTER 28. CARBON MONOXIDE ALARMS**

- 5:10-28.1 Carbon monoxide alarms

**SUBCHAPTER 1. ADMINISTRATION AND  
ENFORCEMENT**

be cited as the "Regulations for Maintenance of Hotels and Multiple Dwellings", and are hereinafter referred to as "regulations".

**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

**SUBCHAPTER 1. ADMINISTRATION AND  
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**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

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:

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.

i. If there are both owner-occupied units and units that are not owner-occupied within a building section, then the owner-occupied units within that building section, and only the owner-occupied units, shall be considered not to be portions of a multiple dwelling.

ii. The condominium association or cooperative or mutual housing corporation shall provide the Bureau with any information necessary to justify an exemption for a dwelling unit or building section pursuant to this paragraph.

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 separation walls having a 1½ hour minimum fire resistant rating, in the case of buildings constructed prior to January 1, 1977, or as required by the State Uniform Construction Code, N.J.A.C. 5:23, at the time of construction.

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.

Amended by R.1998 d.425, effective August 17, 1998.

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

In (b), substituted "four" for "two" preceding "dwelling" in the introductory paragraph, substituted "Is in a building that has no occupied" for "Has" at the beginning of 2, and rewrote 4.

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

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

In (a), deleted references to demolition and to removal, and inserted a reference to retreat lodging facilities; and rewrote (b)2.

#### 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. 5:70.

(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. 5:70.

(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).

Administrative change.

See: 31 N.J.R. 35(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. 5:70, the inspector shall give prompt notice of that condition to the Bureau, which shall promptly notify the Division of Fire Safety.

(h) The Bureau shall waive the inspection fee for any unit that has been thoroughly inspected within the previous 12-month period under a municipal ordinance requiring inspection upon change of occupancy in accordance with the maintenance standards established herein if the unit has had a municipal certificate of occupancy issued as a result of that inspection.

1. The owner shall provide the Bureau with a copy of each municipal certificate of occupancy issued within 15 days after the date of the start of the inspection required under this chapter.

2. If requested to do so by the Bureau, the owner shall, within 10 business days of the owner's receipt of the Bureau's request therefor, provide the Bureau with a copy of the municipal maintenance code used for the certificate of occupancy inspection. If the owner does not provide a copy of the municipal maintenance code within this period of time, the fee for the unit for which a municipal certificate of occupancy has been issued shall not be waived.

3. Upon a finding that the requirements of the municipal maintenance code are substantially identical to the requirements of this chapter, and that the inspection occurred within the previous 12 months, the owner shall be notified of the reduced fee.

4. Upon a finding that the requirements of the municipal maintenance code or ordinance are not substantially identical to the requirements of this chapter, the owner shall be so notified, and the fee in the amount originally assessed shall be due and payable.

(i) Upon a finding by the Bureau that a building has been thoroughly inspected prior to resale since the most recent inspection made in accordance with this chapter, that the inspection was conducted by the municipality in accordance with the maintenance standards established in this chapter and that a municipal certificate of occupancy has been issued, the Bureau shall accept that inspection in lieu of a current inspection and shall not conduct another cyclical inspection of the building until five years shall have elapsed since the date of that municipal inspection.

1. The owner shall provide the Bureau with a copy of the municipal certificate of occupancy not less than 90 days prior to the fifth anniversary of the date on which the last cyclical inspection was performed. If the copy of the municipal certificate of occupancy is not submitted, or is submitted later than the date 90 days prior to the fifth anniversary of the date on which the last cyclical inspection

was performed, the municipal inspection prior to resale shall not be accepted in lieu of a current inspection.

2. If requested to do so by the Bureau, the owner shall, within 10 business days of the owner's receipt of the Bureau's request therefor, provide the Bureau with a copy of the municipal maintenance code used for the certificate of occupancy inspection. If a copy of the municipal maintenance code is not provided within this period of time, the resale inspection shall not be accepted in lieu of a current inspection.

3. Upon a finding that the requirements of the municipal maintenance code are substantially identical to the requirements of this chapter, the inspection prior to sale shall be accepted in lieu of the current inspection.

(j) In order to facilitate administration of subsections (h) and (i) above, the Bureau shall maintain a current file of municipal ordinances establishing certificate of occupancy and maintenance code requirements applicable to hotels and/or multiple dwellings and shall review all such ordinances and maintain a list of ordinances reviewed, indicating whether each maintenance code is or is not substantially identical in its requirements to the maintenance standards set forth in this chapter. The Bureau shall request those municipalities that have adopted codes substantially identical to the maintenance standards of this chapter to notify the Bureau whenever those codes are amended or are no longer in effect. Copies of this list shall be made available upon request, without charge, to owners of hotels and multiple dwellings and other interested persons.

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).

Amended by R.1995 d.279, effective June 5, 1995.

See: 27 N.J.R. 1345(a), 27 N.J.R. 2181(a).

Added (h) to (j).

Administrative change.

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

#### Case Notes

Bureau of Housing Inspection unable to waive statutory reinspection fee. *New Jersey Department of Community Affairs, Bureau of Housing Inspection v. D'Agostino*, 97 N.J.A.R.2d (CAF) 56.

Building superintendent's receipt of building inspection notice legally sufficient. *Ten-Forty-Six Ellington v. Bureau of Housing Inspection*, 97 N.J.A.R.2d (CAF) 11.

Out of 47 original violations, failure to correct three of the violations justified the imposition of fine of \$8,200, including penalty for life-threatening violations. *Bonafield v. Department of Community Affairs*, 93 N.J.A.R.2d (CAF) 31.

Fine imposed by the Bureau of Housing Inspection was reduced to \$750 after the property owner corrected the violations. *Baijnath v. Department of Community Affairs*, 93 N.J.A.R.2d (CAF) 30.

### 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 of any hotel or multiple dwelling, the owner thereof shall file with the Bureau of Housing Inspection or a local enforcing agency exercising jurisdiction under N.J.S.A. 55:13A-13a, upon forms which shall have been provided, 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 (h) below, 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.

(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.

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).

#### 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 or a local enforcing agency 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 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.

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".

ii. Inspector of Hotels and Multiple Dwellings and Housing Code Official: 2.0 CEU's, of which at least 0.5 CEU's must be technical and at least 0.5 CEU's must be administrative.

2. If an individual adds the Housing Code Official license to an existing Inspector of Hotels and Multiple Dwellings license, there shall be no additional continuing educational requirements for the Housing Code Official license during that licensing period.

#### **5:10-1B.7 Revocation of licensure and alternative sanctions**

(a) The Bureau may suspend or revoke a license, and/or assess a civil penalty of not more than \$500.00, if the Bureau determines that the holder:

1. Has violated any of the provisions of the Act or rules;
2. Has obtained a license by fraud or misrepresentation, or the person named in the license has obtained it by fraud or misrepresentation;
3. Has aided or abetted in practice as a licensed enforcement official or inspector any person not authorized to practice as an enforcement official or inspector under the provisions of these rules;
4. Has fraudulently or deceitfully practiced as a licensed enforcement official or inspector;
5. Has been grossly negligent or has engaged in misconduct in the performance of any of his or her duties;
6. Has failed, over a period of time, to maintain a minimally acceptable level of competence;
7. Has been found to have failed to report an offer or bribe or other factor in a proceeding under the Act or other appropriate law of this or any other State or jurisdiction;
8. Has failed to comply with any order issued by the Department;
9. Has made a false or misleading written statement, or has made a material omission in any submission to the Department; or
10. Has failed to enforce the Act or rules.

(b) The Bureau, in addition or as an alternative, as the case may be, to revoking or suspending a license, or assessing a penalty, may issue a letter or warning, reprimand, or censure with regard to any conduct which, in the judgment of the Bureau, warrants a letter of warning, reprimand, or censure. Such letter, in addition to any other filing requirements, shall be made a part of the licensing file of the individual.

(c) Conviction of a crime, or an offense in connection with the practice as a licensed enforcement official or inspector, shall result in revocation of a license.

(d) Any sanctions imposed by the Division of Codes and Standards pursuant to N.J.S.A. 52:27D-119 et seq. or the Division of Fire Safety pursuant to N.J.S.A. 52:27D-192 et seq. shall constitute grounds for imposition of sanctions under this section.

(e) Any person aggrieved by any action of the Bureau pursuant to this chapter shall be entitled to a hearing before the Office of Administrative Law in accordance with the Administrative Procedure Act as provided in N.J.A.C. 5:10-1B.1.

#### **5:10-1B.8 Fees**

(a) No application for a license shall be acted upon unless the application is accompanied by a fee as follows:

1. The initial application fee shall be \$20.00; and
2. The three-year renewal application fee shall be \$20.00.

## **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 be 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 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.

"Local enforcing agency" or "local agency" means a permanent municipal, county or interlocal agency maintained for the purpose of conducting inspections and enforcing building maintenance laws, ordinances, codes and rules, that is supervised by, and has all hotel and multiple dwelling inspections performed by, persons licensed under this chapter.

"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 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.

“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.

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).

Inserted "Local enforcing agency".

#### 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.

**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 leased premises responsible for fines due to building code violations affirmed. *Department of Community Affairs, Division of Code and Standards, Bureau of Housing Inspection v. One Hundred One Asbury Avenue, Asbury Park, Moriarty (D & Z Realty)*, 97 N.J.A.R.2d (CAF) 85.

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. 5:70;
  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).  
Administrative change.  
See: 31 N.J.R. 35(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

Landlord did not have absolute liability, on basis of warranty of habitability, for injuries caused by presence of lead paint, even if injured party was unable to show that landlord knew or should have known of condition. Ruiz ex rel. Ruiz v. Kaprelian, 322 N.J.Super. 460, 731 A.2d 118 (N.J.Super.A.D. 1999).

Landlord's duty to proper installation and attentive repair work. Anderson v. Sammy Redd and Associates, 278 N.J.Super. 50, 650 A.2d 376 (A.D.1994), certification denied 139 N.J. 441, 655 A.2d 444.

Landlord's negligent installation and repair of window screen as proximate cause of child's death was fact question. Anderson v. Sammy Redd and Associates, 278 N.J.Super. 50, 650 A.2d 376 (A.D. 1994), certification denied 139 N.J. 441, 655 A.2d 444.

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.

#### Case Notes

Unabated building code violations which showed deterioration and possible sanitary problems warranted fine of \$375. Bureau of Housing Inspection v. Eighty-eight Seeley Avenue, 96 N.J.A.R.2d (CAF). 103.

Apartment complex must employ specific number of full-time maintenance persons. Kushner Companies v. Department of Community Affairs, 95 N.J.A.R.2d (CAF) 3.

### 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).

Unabated fire-safety and other violations warranted imposition of \$6,750 in penalties against landlord. *804 Ocean v. Community Affairs*, 95 N.J.A.R.2d (CAF) 17.

#### 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.

#### Case Notes

Unabated fire-safety and other violations warranted imposition of \$6,750 in penalties against landlord. *804 Ocean v. Community Affairs*, 95 N.J.A.R.2d (CAF) 17.

#### 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.

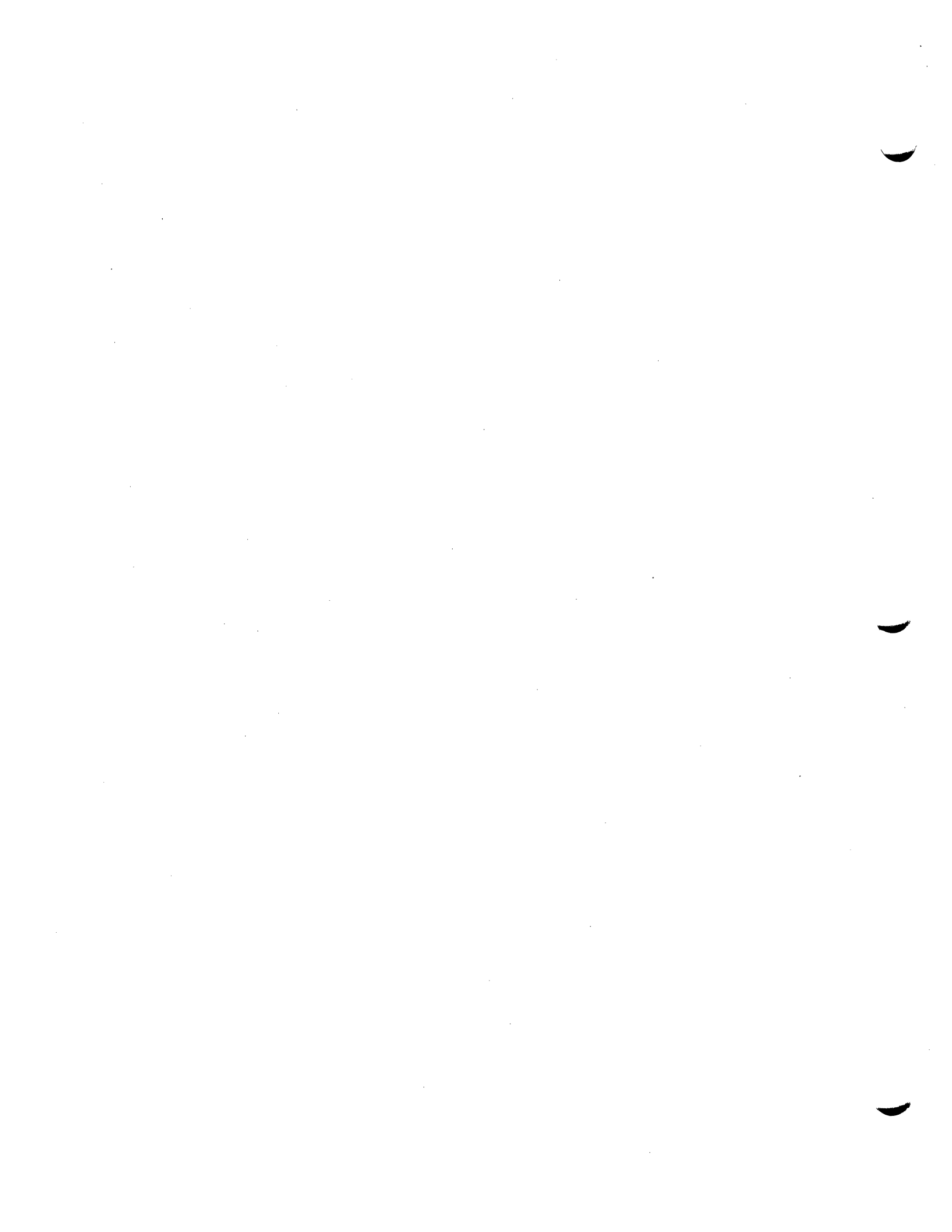
See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).  
Section was "Chimneys, flues and vent attachments".

**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).