

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

### 5:10-1.3 Administration and enforcement

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

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

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

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

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

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

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

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

prior to January 1 of each State fiscal year and 75 percent prior to May 1 of each State fiscal year.

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

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

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

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

iii. In the event that an inspection of a building discloses a violation of the regulations constituting an imminent hazard to the health, safety or welfare of its occupants, the municipality or county shall, without delay, transmit its inspection report and findings to the Bureau for appropriate action.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20. The municipality or county shall conscientiously enforce all local ordinances related to housing and shall proceed under such ordinances with respect to all cases referred by the Bureau for enforcement under such ordi-

nances. No payment shall be made by the Bureau for enforcement under local ordinances.

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

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

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

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

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

iii. Improper use of funds provided pursuant hereto;

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

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

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

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

27. Any municipality or county acting under an authorization granted by the Bureau pursuant to this subsection shall be solely responsible for, and shall keep, save and hold the Department of Community Affairs, Division of Housing, the Bureau of Housing Inspection and their officers, directors, employees, agents and servants harmless from, all claims, loss, liability, expense, damage and judgments, including all legal expenses incurred, resulting from any and all injury, and damage to agents or employees or anyone connected with performance pursuant to the authorization or to any other persons caused by any and all acts of the municipality or any of its officers,

directors, employees, agents, or any person or persons in connection with the performance of this agreement, or from any and all injury and damage to any property caused by any and all acts of the municipality or county or any of its officers, directors, employees, agents and servants or any other person or persons in connection with performance pursuant to this authorization:

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

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

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

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

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

Amended by R.1981 d.95, effective March 11, 1981.  
See: 12 N.J.R. 383(d), 13 N.J.R. 189(d).

Amended by R.1981 d.363, effective October 8, 1981.  
See: 13 N.J.R. 387(b), 13 N.J.R. 704(a).

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

Amended by R.1983 d.389, effective September 19, 1983.  
See: 15 N.J.R. 1054(a), 15 N.J.R. 1575(c).

Added 28 to (b).

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

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

Subsection (d) substantially amended.

Notice of Correction, effective May 4, 1992.

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

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

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

#### Case Notes

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 5:10-1.4 Scope

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

(b) A building section containing not more than 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. Is in a building that has no occupied dwelling units not occupied by unit owners, if a condominium, or by shareholders, if a cooperative or mutual housing corporation;
3. Has at least two exterior walls unattached to any adjoining building section; and
4. Is attached to any adjoining building sections exclusively by fire 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.

#### Case Notes

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

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

#### 5:10-1.5 Interpretation

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

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

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

Administrative Correction to (b).

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

#### 5:10-1.6 Maintenance requirements

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

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

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

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

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

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

1. N.J.A.C. 5:10-19.1(a)1 and 2; and
2. Any regulation that is not substantially related to the protection of the health, safety or welfare of the occupants of the facility or of the public generally.

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

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

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

Added (d).

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

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

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

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

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

Application of rules extended to cover retreat lodging facilities.  
Amended by R.1993 d.464, effective September 20, 1993.

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

### 5:10-1.7 Force and effect of regulations

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

#### Case Notes

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

### 5:10-1.8 Matters covered

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

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

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

### 5:10-1.9 Continuation of lawful existing use

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

### 5:10-1.10 Bureau inspections

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

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

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

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

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

2. Where access to any premises where inspection is desired to implement the policy of the Bureau of Housing Inspection and the Department of Community Affairs and such access has been refused, then such refusal shall be reported to the Bureau and a search warrant shall be obtained upon one or more the following grounds:
  - i. An inspection is required as part of the procedures authorized by law and implemented by regulations.
  - ii. There is evidence of or indication of a violation of the law or this chapter requiring an examination to determine whether the violation in fact exists.
  - iii. The inspection is part of an area wide inspection to upgrade properties in a given area.
  - iv. The inspection is part of a systematic inspection of buildings falling into a particular class or category composed in order to provide adequate protection to the public health, safety and welfare.

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

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

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

(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).

#### 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 dwell-

ing is located or shall have an office in the county. If the agent is a corporation, it shall be licensed to do business in this State.

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

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

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

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

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

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

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

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

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

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

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

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

Administrative Correction to (g).

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

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

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

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

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

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

### 5:10-1.12 Certificate of inspection

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

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

2. Any owner to whom a penalty notice has been issued pursuant to (a)1 above who shall fail to comply with any order to comply the requirements of this subsection and/or of (c) below that is issued either together with or subsequent to the penalty notice shall be subject to a penalty of \$500.00 for each failure to comply within 30 days with any such order.

(b) Said application shall state:

1. The name of the owner;

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

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

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

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

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

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

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

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

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

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

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

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

Recodified April 9, 1981 from N.J.A.C. 5:10-1.29.

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

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

Added (e).

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

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

Application of rule extended to cover retreat lodging facilities; exception to fee requirements granted such facilities.

Administrative Correction.

See: 23 N.J.R. 1410(b).

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

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

Administrative Correction.

See: 25 N.J.R. 4901(a).

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.

#### Case Notes

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

#### 5:10-1.13 Unsafe building notice and order

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

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

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

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

Recodified April 9, 1981 from N.J.A.C. 5:10-1.33.

#### 5:10-1.14 Delegation of powers

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

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

1. Issuance of subpoenas, pursuant to N.J.S.A. 55:13A-6(d);

2. Application ex parte for Superior Court orders, pursuant to N.J.S.A. 55:13A-6(d);

3. Adoption, rejection and modification of hearing decisions, pursuant to N.J.S.A. 55:13A-18; and

4. Granting of stays or rulings, actions, orders and notices, pursuant to N.J.S.A. 55:13A-18.

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

#### 5:10-1.15 Applications for exceptions

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

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

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

#### 5:10-1.16 Separability clause

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

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

#### 5:10-1.17 (Reserved)

Amended by R.1982 d.334, effective September 20, 1982.

See: 14 N.J.R. 909(b), 14 N.J.R. 1089(c).

Originally filed as an emergency adoption (R.1982 d.259) on July 22, 1982. Readopted as R.1982 d.334.

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

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

Section concerned Inspection fees.

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

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

**5:10-1.30 (Reserved)**

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

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

**5:10-1.31 (Reserved)**

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

**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.

**5:10-1.32 (Reserved)**

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



**5:10-3.4 Transmittal and consideration of proposed regulations**

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

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

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

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

#### Case Notes

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

## SUBCHAPTER 4. DUTIES OF OWNERS AND OCCUPANTS

### 5:10-4.1 Concurrent responsibilities

(a) Owners, including agents of owners, managing agents and superintendents shall have the general duties outlined herein for the maintenance of the premises, and no such person shall be relieved from any such responsibility hereunder by reason of the fact that an occupant or other person shall have similar responsibilities or shall have failed to report any violation, nor shall any such person be relieved of any responsibility by the terms or provisions of any lease, contract or agreement.

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

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

responsibilities of the dwelling unit owner and of the council or association may be concurrent.

#### Case Notes

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

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

### 5:10-4.2 Discontinuation of services

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

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

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

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

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

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

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

## SUBCHAPTER 5. DUTIES OF OCCUPANTS

### 5:10-5.1 Responsibility of occupants

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

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

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

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

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

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

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

#### 5:10-5.2 Reporting of violations

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

#### 5:10-5.3 Prohibited acts

(a) No occupant or other person shall:

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

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

#### 5:10-5.4 Unsafe and unsanitary conditions

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

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

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

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

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

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

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

#### 5:10-5.5 Willful damage

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

#### 5:10-5.6 Heating by occupant

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

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

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

**5:10-14.4 Minimum temperature**

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

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

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

**5:10-14.5 Space heaters**

(a) Space heaters shall be so installed, located and maintained so as to exhaust the products of combustion to the outside air (unless the appliance is labeled as having been tested and approved for unvented operation, in compliance with the State Uniform Construction Code), to prevent a fire hazard by being sufficiently removed or insulated from surrounding material, to be permanently affixed so that the heater cannot be moved by occupants, and not to constitute a hazard to persons using the premises in close proximity to the heater by reason of chance contact or by reason of lack of fresh air supply.

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

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

Amended by R.1996 d.390, effective August 19, 1996.

See: 28 N.J.R. 2109(a), 28 N.J.R. 3922(b).

In (a) excepted appliances approved for unvented operation.

**5:10-14.6 (Reserved)**

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

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

Section was "Fuel storage".

**5:10-14.7 Annual inspection**

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

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

**SUBCHAPTER 15. WATER SUPPLY****5:10-15.1 Sufficiency of source and system**

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

**5:10-15.2 Connection of fixtures**

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

**5:10-15.3 Hot water**

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

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

**5:10-15.4 Flow of water**

All plumbing fixtures and equipment for the supply and drainage of running water shall be maintained so that the rate of flow shall be of sufficient volume and at pressures adequate to enable them to function properly. The pipes

conveying the water shall be of sufficient size to provide the water required without undue pressure reduction and without undue noise under all normal conditions of use.

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

### 5:10-16.1 Natural light

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

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

### 5:10-16.2 Natural ventilation

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

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

### 5:10-16.3 Mechanical ventilation

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

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

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

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

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

Administrative Correction to (a)3.

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

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

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

### 5:10-16.4 Replacement glazing

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

## SUBCHAPTER 17. STORAGE AND CLOSET FACILITIES

### 5:10-17.1 Storage of occupants' property

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

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

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

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

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

### 5:10-17.2 No smoking signs

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

6. A cooking facility which, if electrical, is connected with safety to an electrical system of sufficient capacity, or if gas, connected by permanent fixtures and tubing to avoid leakage of gas. The use of gasoline stoves or other similar fuel-burning appliances using highly flammable liquids and the use of portable kerosene stoves or other similar fuel-burning portable appliances for cooking is prohibited;

7. Cabinets or drawers or other storage areas for utensils, dishes and other cooking and eating equipment;

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

**Case Notes**

Apartment owner was entitled to use a range hood in lieu of mechanical venting. Matter of 1100 Edgewood Ave., Trenton, New Jersey, 92 N.J.A.R.2d (CAF) 57.

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**SUBCHAPTER 21. SANITARY FACILITIES**

**5:10-21.1 Required facilities**

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

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

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

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

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

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

(e) Every toilet including the toilet seat, wash basin, shower, bath and other plumbing or sanitary facility forming part of any toilet room or bathroom shall be maintained in good operating condition at all times and shall be kept clean

and free of material that might clog the same or impair its operation and shall drain into a sanitary sewer or other approved sanitary disposal system.

**5:10-21.2 Rooming units**

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

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

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

**5:10-21.3 Dormitories**

Rules on dormitories are outlined in the following table:

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

1 Drinking fountain for each 75 persons

**SUBCHAPTER 22. OCCUPANCY STANDARDS**

**5:10-22.1 Basements and cellars**

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

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

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

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

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

### 5:10-22.2 Unemancipated minors

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

### 5:10-22.3 Floor area

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

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

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

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

#### Case Notes

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

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

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

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

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

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

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

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

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

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

### 5:10-22.4 Prohibited sleeping areas

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

### 5:10-22.5 Required ceiling height

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

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

2. Dwelling units and portions of dwelling units in multiple dwellings located in municipalities bordering on the Atlantic Ocean shall be deemed to be habitable with a ceiling height of less than seven feet, zero inches provided that the dwelling unit was occupied prior to the effective date of this amendment and is in conformity with any applicable mercantile license requirement prior to May 27, 1991 and: