

**CHAPTER 10**

**MAINTENANCE OF HOTELS AND  
MULTIPLE DWELLINGS**

**Authority**

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

**Source and Effective Date**

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

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 10, Maintenance of Hotels and Multiple Dwellings, expires on January 20, 2004. See: 35 N.J.R. 1175(a).

**Chapter Historical Note**

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

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

Pursuant to Executive Order No. 66(1978), Chapter 10, Maintenance of Hotels and Multiple Dwellings, was readopted as R.1988 d.572, effective November 17, 1988. See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Subchapter 25, Fire Protection, was repealed by R.1988 d.572, effective December 19, 1988, operative June 16, 1989. See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

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

Pursuant to Executive Order No. 66(1978), Chapter 10, Maintenance of Hotels and Multiple Dwellings, was readopted as R.1993 d.464, effective August 26, 1993. See: 25 N.J.R. 2627(a), 25 N.J.R. 4482(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 5:10-1.16 Separability clause

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

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

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

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

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

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

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

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

Section concerned Inspection fees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### SUBCHAPTER 1A. LOCAL ENFORCING AGENCIES

#### Authority

N.J.S.A. 55:13A-6(e) and 55:13A-13a.

#### Source and Effective Date

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).

#### 5:10-1A.1 Local enforcing agencies; establishment and organization

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

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

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

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

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

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

A county local enforcing agency shall only be created by an ordinance or resolution of the Board of Chosen Freeholders and shall be organized in the same manner as a municipal agency.

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

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

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

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

(a) The local enforcing agency shall:

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

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

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

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

#### 5:10-1A.5 Departmental monitoring

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

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

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

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

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

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

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

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

#### 5:10-1A.6 Appointment

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

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

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

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### SUBCHAPTER 1B. INSPECTOR LICENSING

#### Authority

N.J.S.A. 55:13A-6(e) and 55:13A-13a.

#### Source and Effective Date

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).

#### 5:10-1B.1 Authority; hearings

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

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

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:

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

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

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

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

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

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

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

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

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

#### 5:10-23.1 Registry and rate-posting

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

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

2. Not have posted on any advertising sign, or placed before the public in any advertising matter or information pertaining to such hotel or multiple dwelling, any rates for accommodation in such hotel or multiple dwelling unless there are available therein, when vacant, accommodations for immediate occupancy at the advertised rate.

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

#### 5:10-23.2 Linen, towels and housekeeping services

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

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

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

### SUBCHAPTER 24. PARKING AREAS AND DRIVEWAYS

#### 5:10-24.1 Design requirements

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

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

#### 5:10-24.2 Maintenance requirements

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

#### 5:10-24.3 Parking in approach drives

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

#### 5:10-24.4 Parking for handicapped residents

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

(b) A minimum of one percent of the total number of parking spaces provided for the occupants of the multiple

dwelling, but not less than one parking space, shall be set aside as parking for the handicapped.

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

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

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

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

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

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

### 5:10-25.1 Scope

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

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

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

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

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

### 5:10-25.2 Application to the Department

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

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

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

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

(c) An owner of a multiple dwelling who proposes to institute a method or system for indirect apportionment of heating costs shall provide the following information to the Bureau:

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

9. A proposed schedule of inspection and maintenance of the indirect apportionment system.

Amended by R.1993 d.39, effective January 19, 1993.  
See: 24 N.J.R. 3597(a), 25 N.J.R. 299(a).

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

#### 5:10-25.3 Criteria for acceptance

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

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

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

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

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

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

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

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

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

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

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

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

#### 5:10-25.5 Maintenance requirements

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

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

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

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### SUBCHAPTER 26. VACANT BUILDINGS

#### 5:10-26.1 Prevention of access

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

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

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

#### 5:10-26.2 Buildings ordered vacated

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

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### SUBCHAPTER 27. CHILD-PROTECTION WINDOW GUARDS

#### Authority

N.J.S.A. 55:13A-7.12.

#### Source and Effective Date

R.1995 d.586, effective November 20, 1995.  
See: 27 N.J.R. 3149(a), 27 N.J.R. 4695(b).

#### Subchapter Historical Note

Subchapter 27, Child-Protection Window Guards, was adopted as new rules by R.1995 d.586, effective November 20, 1995. See: Source and Effective Date.

#### 5:10-27.1 Child-protection window guards; when required

(a) Except as provided in (b) below, the owner or other person responsible for the management or control of a multiple dwelling shall, upon the written request of a tenant of a unit in which a child or children 10 years of age or under reside, provide, install and maintain approved child-protection window guards on the windows of the dwelling unit and on any windows in the public halls of the multiple dwelling.

(b) The requirements of this subchapter shall not apply to any window which either gives access to a fire escape or is on the first floor, or to any unit that is owner-occupied, is part of a condominium or is held by a proprietary lessee under a cooperative form of ownership or occupied by a shareholder in a mutual housing corporation.

1. For purposes of this subchapter, a window in a room or hallway shall not be considered to be on the first floor if the finished surface of the floor of that room or hallway is more than six feet above grade as measured at the location of the window.

(c) All leases offered to tenants in multiple dwellings, other than multiple dwellings under a condominium, cooperative or mutual housing form of ownership, shall contain a clear, legible and conspicuous notice advising tenants and prospective tenants that the owner is required by law to provide, install and maintain window guards in the apartment of any tenant who has a child or children 10 years of age or younger living in the apartment and makes a written request to the owner or the owner's representative that the window guards be installed, and that the owner is also required, upon the written request of any such tenant, to provide, install and maintain window guards in the building hallways to which persons in the tenant's unit have access without having to go out of the building. A lease offered to a tenant of a first floor unit shall not be required to refer to window guards in the apartment, but only to window guards in the hallways above the first floor to which persons in the tenant's unit have access without having to go out of the building.

(d) At least once in each calendar year, the owner or other person who manages or controls a multiple dwelling, other than a multiple dwelling exempted by (c) above, shall deliver to each tenant a clear and legible notice containing the information required by (c) above. This notice shall be hand-delivered to the tenant or sent to the tenant, at the unit, by ordinary or certified mail. However, no additional notice shall be required in any year in which a tenant receives a copy of a lease or a lease renewal that is in conformity with (c) above. A notice given to a tenant of a first floor unit shall not be required to refer to window guards in the apartment, but only in the hallways above the first floor to which persons in the tenant's unit have access without having to go out of the building.

#### 5:10-27.2 General installation requirements

(a) Window guards shall be installed in accordance with all applicable requirements of the State Uniform Construction Code, N.J.A.C. 5:23, and with manufacturer's instructions.

(b) Any window guard installed on an emergency egress window shall be releasable or removable from the inside without use of a key, tool or excessive force. For purposes of this subchapter, an "emergency egress window" is any window in a sleeping room located on the second or third floor, other than a window providing access to a fire escape.

(c) Any window guard installed on a window that is not an emergency egress window, including any window in a unit located above the third floor and any window in a room on the second or third floor that is not a sleeping room, shall

be designed, constructed and installed so that it cannot be removed, opened or dislodged without the use of a key or tool; provided, however, that no window guard shall be installed on any window giving access to a fire escape.

#### 5:10-27.3 (Reserved)

#### 5:10-27.4 Specifications for window guards

(a) Window guards shall be so constructed as to reject the passage of a solid four-inch sphere at every space and interval.

(b) Window guards shall bear a 150 pound load at center-span when extended to maximum width.

(c) Window guards shall be constructed of metal or of other material of comparable strength and durability. In order to avoid obstruction of light and air, the diameter or width of metal rods used in window guards shall not exceed one-half inch.

(d) Window guards shall be designed, constructed and installed so as to serve their intended protective purpose without any risk of collapse, breakage, spreading of the bars or other malfunction.

(e) In a room, window guards shall be of at least a height sufficient to allow a total openable window area, for all windows in the room, of not less than four percent of the floor area of the room. In a public hallway, window guards shall protect the full openable area of each window.

(f) Window guards shall be securely fastened in order to bear the required load.

(g) All window guards shall be so designed and installed as to prevent the lower window from being raised four inches or more above the lowest section of the top horizontal bar of the window guard. Where necessary, rigid metal stops shall be installed securely in the upper tracks of each side of the bottom window.

(h) Screws used to mount window guards and stopping devices shall be:

1. Minimum size No. 10 and long enough to penetrate one inch into a wooden window frame; or
2. Of an adequate type, size and length to be securely fastened to a metal window frame.

(i) The coating of window guards shall be unleaded.

(j) Window guards shall be installed only in sound (non-rotting) mountings or tracks.

(k) Window guards installed prior to November 20, 1995 shall be accepted as being in conformity with this subchapter if they were designed and installed in accordance with the rules and specifications established by the New York City

Department of Health and if such installation is not in violation of N.J.A.C. 5:10-27.2. Window guards installed on or after November 20, 1995 that are so constructed as to reject the passage of a solid four-inch sphere at every space and interval and are otherwise designed and installed in accordance with the rules and specifications established by the New York City Department of Health, and not in violation of N.J.A.C. 5:10-27.2, shall be accepted as being in conformity with this subchapter.

**5:10-27.5 Additional specifications for window guards for other than double hung windows**

(a) Window guards intended for casements, sliders and other types or combinations of windows in which the height of the openings is not subject to limitation, shall be of such size as to fill the entire aperture, and shall reject passage of a solid four-inch sphere at every space or interval.

(b) Except as otherwise provided in (c) below, sliding windows and vertical pivoting windows may be equipped with stopping devices in place of window guards as follows:

1. For sliding windows, solid metal blocks, measuring at least one-half the depth of the window track and one-half the width, shall be securely fastened into the bottom and upper window tracks to prevent the window from opening four inches or more.

2. For vertical pivoting windows, metal stopping devices shall be securely fastened to the upper and lower window frames so as to prevent the window from pivoting open four inches or more. The height of the stopping devices shall extend no less than one inch nor more than two inches beyond the window frame as needed to stop the window. The protruding edge of the stopping device shall be smooth and rounded.

(c) Use of such stopping devices in lieu of window guards shall be allowed within dwelling units only where they do not preclude meeting the requirement, as per N.J.A.C. 5:10-16.2, that the total openable window and/or openable skylight area in each room be equal to at least four percent of the floor area of the room.

**5:10-27.6 Prohibited acts**

No person shall obstruct or interfere with the installation of child-protection window guards required under P.L. 1995, c.120 and under this subchapter, nor shall any person remove or otherwise render ineffective such window guards; provided, however, that the owner or the representative of the owner may remove window guards from an unoccupied unit or, with the consent of the tenant, from a unit in which no child 10 years of age or under resides.

**SUBCHAPTER 28. CARBON MONOXIDE ALARMS**

**Authority**

P.L. 1999, c.15, section 6; and N.J.S.A. 52:27D-133.4.

**Source and Effective Date**

R.1999 d.259, effective August 16, 1999.  
See: 31 N.J.R. 825(a), 31 N.J.R. 2330(a).

**5:10-28.1 Carbon monoxide alarms**

(a) Carbon monoxide alarms shall be installed and maintained in full operating condition in the following locations:

1. Single station carbon monoxide alarms shall be installed and maintained in the immediate vicinity of the sleeping area in every guestroom or dwelling unit in buildings that contain a fuel-burning appliance or that have an attached garage.

2. As an alternative to the requirements in (a)1 above, carbon monoxide alarms may be installed in the locations specified in the Uniform Construction Code (N.J.A.C. 5:23-3.20) with the approval of the Bureau.

(b) Carbon monoxide alarms shall be manufactured, listed and labeled in accordance with UL 2034 and shall be installed in accordance with the requirements of this subchapter and NFPA 720. Carbon monoxide alarms shall be battery operated, hard-wired or of the plug-in type.