

**5:10-5.7 Occupancy violations**

No occupant shall occupy or permit the occupancy of any unit of dwelling space in violation of the occupancy standards established under N.J.A.C. 5:10-22. No occupant shall cook in any unit or dwelling space except where all the required cooking facilities are installed as required under N.J.A.C. 5:10-20. No occupant shall occupy or continue to occupy a unit of dwelling space that does not have provision for bathroom and toilet room facilities as required by N.J.A.C. 5:10-21.

**5:10-5.8 Storage**

No occupant shall utilize any area outside of his dwelling space for storage purposes except in an area designated for such use in accordance with N.J.A.C. 5:10-5.1(d).

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

**SUBCHAPTER 6. GENERAL MAINTENANCE****5:10-6.1 Elimination of hazards**

The owner of any hotel or multiple dwelling shall be responsible at all times for keeping all parts of the premises occupied by himself or other persons, to the extent of his responsibilities described herein, clean and free of infestation and hazards to the health or safety of occupants and other persons in or near the premises.

**Case Notes**

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

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

Regulations relating to obligations of hotel-keeper for safety in and around property were not applicable in negligence action against hotel. *Catando v. Sheraton Poste Inn*, 249 N.J.Super. 253, 592 A.2d 294 (A.D.1991) certification denied 127 N.J. 550, 606 A.2d 364.

Violation of former N.J.A.C. 5:10-9.4 is jury question in negligence action; regulation valid. *Terrey v. Sheridan Gardens, Inc.*, 163 N.J.Super. 404, 394 A.2d 1247 (App.Div.1978).

**5:10-6.2 Nuisances**

The owner of any hotel or multiple dwelling shall be responsible for avoiding, eliminating or abating any noises, lights, odors, radiations or vibrations arising out of the use or occupancy of the premises which shall constitute a nuisance that is harmful or potentially harmful to the health and well-being of persons of ordinary sensitivity occupying or using the premises.

**Case Notes**

Standard for constructive eviction or rent abatement due to co-tenant noise or conduct (citing former N.J.A.C. 5:10-9.4). *Gottdiener v. Mailhot*, 179 N.J.Super. 286, 431 A.2d 851 (App.Div.1981).

**5:10-6.3 Maintenance of dwelling units**

Every unit of dwelling space shall be so maintained as to be fit for human use and habitation and to prevent progressive deterioration of the unit to the detriment of the health, safety and well-being of its occupants.

**Case Notes**

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

**5:10-6.4 Maintenance of exterior**

(a) The exterior of the premises and all structures thereon shall be kept free of all nuisances, insanitary conditions, and any hazards to the safety or health of occupants, pedestrians and other persons utilizing the premises, and any of the foregoing conditions shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of such conditions which include, but are not limited to the following:

1. Brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash, refuse and debris;
2. Dead and dying trees and limbs or other natural growth which by reason of rotting or deteriorating conditions or storm damage constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions;
3. Loose and overhanging objects and accumulations of ice and snow which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof;
4. Holes, excavations, breaks, projections, obstructions, litter, icy conditions, uncleared snow and excretion of pets and other animals on paths, walks, driveways, parking lots and parking areas and other parts of the premises. Holes and excavations shall be filled and repaired, walks and steps replaced and other conditions removed where necessary to eliminate hazards or insanitary conditions with reasonable dispatch upon their discovery;
5. Accumulations of water, vegetation or other matter which might serve as a source of food or as a harboring or breeding place for infestation;
6. Walks, courts and other paved areas shall be kept clean and free of litter, dirt, mud or other conditions hazardous to pedestrians.

(b) All parts of the premises shall be so graded and, where necessary, provided with runoff drains and other

means to carry off and dispose of surface waters in such a manner as to eliminate any recurrent or excessive accumulations of storm water on the premises, without causing excessive accumulations of water on adjoining properties:

1. Parts of the premises regularly used by occupants shall drain within one hour of the termination of any storm creating surface waters;
2. Other parts of the premises not covered under paragraph 1 of this subsection shall drain within six hours of the cessation of any such storm.

#### Case Notes

Regulations relating to obligations of hotel-keeper for safety in and around property were not applicable in negligence action against hotel. *Catando v. Sheraton Poste Inn*, 249 N.J.Super. 253, 592 A.2d 294 (A.D.1991) certification denied 127 N.J. 550, 606 A.2d 364.

Multiple dwelling owner required to provide adequate garbage storage and disposal (citing former N.J.A.C. 5:10-9.4); municipal limitation of garbage collection to curbside service not discriminatory against multiple dwelling owners. *Pleasure Bay Apartments v. City of Long Branch*, 66 N.J. 79, 328 A.2d 593 (1974).

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

### 5:10-6.5 Outdoor pools

Outdoor swimming pools, decorative pools, reflecting pools and artificial fish ponds which contain 24 inches or more of water shall be protected by a fence, wall, building, enclosure or solid wall of durable material of which the pool itself may be constructed so as to afford no external hand-holds or footholds, of materials which are impenetrable by toddlers, and shall be at least four feet in height and equipped with a self-closing and self-latching closure mechanism not more than six inches below the top of the gate and provided with hardware for permanent locking.

## SUBCHAPTER 7. STRUCTURAL MAINTENANCE

### 5:10-7.1 Bearing of loads

Buildings and parts thereof shall be maintained so as to be capable of sustaining safely their own weight and the loads to which they may be subject so that loads are transmitted to the soil without undue differential settlement, unsafe deformation or movement of the building or any structural part thereof.

### 5:10-7.2 Foundations

Foundations of all structures shall be kept, maintained and repaired to eliminate all exposed holes, cracks and other defects so that the foundation shall be at all times capable of resisting the penetration of liquids into the building and be weathertight and serve to protect the building against infestation. They shall also be maintained to prevent or correct erosion around footings.

### 5:10-7.3 Exterior surfaces

(a) The exterior of every structure or accessory structure, fence or other improvement on the premises shall be kept in good repair and all exposed surfaces thereof subject to deterioration shall be protected against weathering or deterioration by a protective coating appropriate for the particular material involved as needed.

(b) All exterior windows and window frames shall be painted with at least one coat of suitable exterior paint or other preservative as needed except where constructed of an approved atmospheric corrosion-resistant metal or other equivalent material.

(c) The exterior surfaces shall be maintained to eliminate conditions reflective of deterioration or inadequate maintenance, such as broken glass, loose shingles, crumbling stone or brick or excessive peeling of paint.

(d) The exterior of the building shall be free of loose material that may create a hazard by falling on persons utilizing the premises.

#### Case Notes

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

### 5:10-7.4 Leakage, drafts and infestation

All exterior walls, roofs, windows, window frames, doors, door frames, skylights, foundations and other parts of the structure shall be maintained as to keep water from entering the structure, to prevent excessive drafts or heat loss during cold or inclement weather and to provide a barrier against infestation. Damaged or badly worn material shall be repaired or replaced, and places showing signs of rot, leakage, deterioration or corrosion shall be treated or restored to prevent weathering or seepage.

### 5:10-7.5 Leaders and drainpipes

Leaders and drainpipes shall be securely fastened to the building and maintained in good condition, free of leaks, kept clean and free of obstructions and shall direct storm waters into draining systems and away from the foundation walls of the structure.

### 5:10-7.6 (Reserved)

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

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

Section was "Chimneys, flues and vent attachments".

### 5:10-7.7 Railings

(a) Handrails: All interior stairways having three or more risers, and all exterior steps having a drop of at least 24 inches to ground level or having at least four risers, shall have handrails which are to be securely fastened to walls or guard rails, and, unless continuous, shall be returned to the enclosure walls or posts at the end of the stairs.

1. All stairways 44 inches or more in width shall have continuous handrails on both sides; stairs less than 44 inches wide may have a handrail on one side only. In assembly occupancies, when the stairway width exceeds 88 inches, the stairways shall be provided with intermediate

handrails dividing the stairway in approximately equal widths with a maximum lateral spacing of 66 inches.

2. The height of the handrail shall not be less than 30 inches and shall not project more than 34 inches above the nosing of treads.