

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

(h) Inspection fees shall be as follows:

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

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

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

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

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

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

Recodified April 9, 1981 from N.J.A.C. 5:10-1.29.
Amended by R.1988 d.572, effective December 19, 1988.
See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Added (e).

Amended by R.1990 d.230, effective May 7, 1990.
See: 22 N.J.R. 275(b), 22 N.J.R. 1354(a).

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

Administrative Correction.

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

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

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

Administrative Correction.

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

Amended by R.1997 d.344, effective August 18, 1997.

See: 29 N.J.R. 1437(a), 29 N.J.R. 3720(a).

Added (a)1 and 2.

Administrative change.

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

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

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

In (a), rewrote the introductory paragraph.

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

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

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

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

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

In (h), added 4 and 5.

Case Notes

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

5:10-1.13 Unsafe building notice and order

(a) Upon a determination by the Bureau of Housing Inspection or its authorized representatives or a local enforcing agency that violations of the provisions of this chapter exist and that such violations result in an imminent hazard to the safety and welfare of the occupants, an order shall be issued to the owner forbidding occupation of any dwelling units then vacated or to be vacated during the life of the order and/or ordering that the violation be corrected within the period specified in the order.

(b) The notice shall be given to the owner or lessee of the property involved, or to the agents of either of them, and may

be contained in an order to declare building unsafe issued stating the reasons for the issuance of the order and the conditions under which occupancy may take place.

(c) When any owner to whom an order has been issued pursuant to (a) above denies that any violation justifying such order exists, such owner may apply for an administrative hearing. Any such hearing shall be held, and a decision rendered, within 48 hours of receipt by the Department of the hearing request.

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

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

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

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

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

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

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

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

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

vestibules, hallways, stairways, landings and common space and occupiable room or space, as hereinafter defined, which is not part of any dwelling unit. This definition shall also mean and include any area accessible to the owner or manager or any person employed in the maintenance of the building which is not part of any dwelling unit.

“Concurrent loads” means two or more elements of dead or live load that, for purposes of design, are considered to act simultaneously.

“Condominium” means the form of ownership of real property under a master deed providing for ownership by one or more owners of units, together with an undivided interest in common elements appurtenant to each such unit. (See N.J.S.A. 46:8B-3 and 55:13A-3(q).)

“Construction” means any or all work or operations necessary or incidental to the erection, demolition, assembling, installing, or equipping of buildings, or any alterations and operations incidental thereto. The term “construction” shall include land clearing, grading, excavating and filling. It shall also mean the finished product of any such work or operations.

“Construction class (group)” means the category in which a building or space is classified based on the fire-resistance ratings of its construction elements as set forth in the current edition of the BOCA National Building Code.

“Cooperative” means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by said corporation or association, or to lease or purchase a dwelling constructed or to be constructed by said corporation or association. (See N.J.S.A. 55:13A-3(r).)

“Corridor” means an enclosed passage providing a means of access from rooms or spaces to an exit.

“Court” means an open, uncovered, and unoccupied space on the same lot with a building.

“Crawl space” means an unoccupiable area in a building not more than 48 inches in height.

“Dead-end” means a portion of a corridor in which the travel to an exit is in one direction only.

"Demolition" means the dismantling or razing of all or part of a building, including operations incidental thereto.

"Department" means the Department of Community Affairs, State of New Jersey.

"Design winter conditions" means the design temperature at the nearest locality reported in the latest edition of the Handbook of the American Engineers Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE).

"Deterioration" means decay, damage, loss of material or ability to function as intended caused by exposure to the elements.

"Director" means the Director of the Division of Housing and Development.

"Drainage system" means all the piping within public or private premises, which conveys sewage, rain water, or other liquid wastes to a legal point of disposal, but shall not include the mains of public sewer system or private or public sewage-treatment or disposal plant.

"Duct (Ventilation)" means a pipe, tube, shaft, conduit, or an enclosed space within a wall or structure, used for conveying air.

"Dumbwaiter" means a hoisting and lowering mechanism equipped with a car that moves in guides in a substantially vertical direction, the floor area of which does not exceed nine square feet, whose total inside height, whether or not provided with fixed or movable shelves does not exceed four feet, the capacity of which does not exceed 500 pounds and that is used exclusively for carrying materials.

"Dwelling space". (See N.J.A.C. 5:10-2.2, definition of "Unit of dwelling space".)

"Dwelling unit" means a room or rooms, or suite or apartment, that is occupied or intended to be occupied for sleeping or dwelling purposes by one or more persons. (See N.J.S.A. 55:13A-3(h).)

"Egress or means of egress" means a path by which ambulatory persons can travel safely and without assistance from a unit of dwelling space, dwelling unit or rooming unit along a continuous and unobstructed line to an exterior open area.

"Electrically supervised", as applied to a control circuit, means that in the event of interruption of the current supply or in the event of a break in the circuit, a specific signal will be given.

"Elevator" means a hoisting and lowering mechanism equipped with a car or platform that moves in guides in a substantially vertical direction, and that serves two or more floors of a building.

"Emancipated minor" means any person under the age of 18 who is gainfully employed and who is self-supporting or who is married to a spouse who is gainfully employed and who supports the said minor, or who is a student living away from home and in regular attendance in an institution of higher learning.

"Engineer" means a person licensed to practice the profession of engineering under the law of the State of New Jersey.

"Exit" means a means of egress from the interior of a building to an open exterior space, including any or all of the following: door openings, enclosed vertical exits, grade passageways, horizontal exits, exterior stairs, or fire escapes; but not including access stairs, aisles, corridor doors or corridors.

"Extermination" means the process of controlling and eliminating of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping, or by any other recognized and lawful pest-elimination methods.

"Fire resistance rating" means the time in hours or fractions thereof that materials or their assemblies will withstand fire exposure as determined by a fire test made in conformity with recognized standards.

"Fire separation wall" means a fire resistance rated assembly of materials having protected openings which is designed to restrict the spread of fire.

"Fire wall" means a fire resistance rated wall, having no unprotected openings, which restricts the spread of fire and extends openings, which restricts the spread of fire and extends continuously from the foundation to or through the roof.

"Floor area" means the projected horizontal area enclosed inside of walls, partitions, or other enclosing construction.

"Flue" means an enclosed passageway in a chimney to carry products of combustion to the outer air.

"Footing" means a foundation element consisting of an enlargement of a foundation pier or foundation wall, wherein the soil materials along the sides of and underlying the element may be visually inspected prior to and during its construction.

"Foundation (Building)" means a construction that transfers building loads to the support soil.

"Foundation wall" means a wall extending below grade.

"Fresh air" means outdoor air.

"Fuel-burning appliance" means a device or apparatus which is designed to utilize natural gas, manufactured gas, mixed gas, liquefied petroleum products, solid fuel, oil or any gas as a fuel for heating, cooling, hot water, cooking, generating light or power or for aesthetics.

"Garbage" means rubbish and refuse as defined in this section.

"Grade" means a reference plane representing the average of finished ground level adjoining the building at all exterior walls.

"Grade passageway" means a horizontal extension of a vertical exit or a passage leading from a yard or court to an open exterior space.

"Guest" means any person who occupies a unit of dwelling space either as a temporary occupant or transient in an establishment holding itself out as serving transients or on a temporary or permanent basis in an establishment providing housekeeping or dining services on a regular basis to occupants.

"Habitable room" means a residential room or space, having an area exceeding 59 square feet in which the ordinary functions of domestic life are carried on, and which includes bedrooms, living rooms, studies, recreation rooms, kitchens, dining rooms, and other similar spaces, but does not include closets, halls, stairs, laundry rooms, or bathrooms.

"Hazard" means a condition which because of faulty construction or maintenance of the premises creates significant and recognizable danger or risk to the health and safety of persons on or near the premises.

"Height (Buildings)" means the vertical distance from the curb level to the highest point of the roof beams in the case of flat roofs, or to a point at the average height of the gable in the case of roofs having a pitch of more than one foot in 4½ feet; except that where the curb level has not been legally established, or where every part of the building is set back more than 25 feet from a street line, the height shall be measured from the adjoining grade elevation.

"Hotel" means any building, including but not limited to any related structure, accessory building and land appurtenant thereto, and any part thereof, which contains ten or more dwelling units or has sleeping facilities for 25 or more persons and is kept, used, maintained, advertised as, or held out to be, a place where sleeping or dwelling accommodations are available to guests. "Hotel" also means any facility that is commonly regarded as a hotel, motor hotel, motel or established guesthouse in the community in which it is located. "Hotel" does not include those facilities that are excluded by statute. (See N.J.S.A. 55:13A-3(j).)

"Infestation" means the presence within a hotel or multiple dwelling of any insects, rodents or other pests. Infestation shall include breeding areas on the exterior of the premises so located that products thereof may spread to the interior of any building subject to these regulations.

"Interim controls" means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs, or the term as it is defined under 42 U.S.C. § 4851b.

"Janitorial services" means cleaning and maintaining of common areas including the making of minor repairs, attendance to the furnishing of heat and hot water where the owner is responsible for operation and maintenance thereof, the removal of garbage, refuse and rubbish from the premises, and the removal of snow, ice, dirt, and other matter creating obstructions or hazards from pedestrian paths, sidewalks and gutters.

"Kitchen" means any room or part of a room used for cooking or the preparation of food.

"Law" or "Act" means N.J.S.A. 55:13A-1 et seq., the Hotel and Multiple Dwelling Law.

"Lead hazard control work" means work to make housing lead-safe, or to mitigate through the use of interim controls as permitted under Federal law and as defined in 42 U.S.C. § 4851b, or to eliminate permanently lead-based hazards by abatement on a premises by a person certified to perform lead abatement work pursuant to sections 1 through 12 of P.L. 1993, c.288 and sections 14 through 24 of P.L. 1993, c.288.

"Lead-based paint" means paint or other surface coating material that contains lead equal to or in excess of 1.0 milligrams per centimeter squared or in excess of 0.5 percent by weight, or such other level as may be established by Federal law.

"Lead-based paint hazard" means any building or property condition that is not in compliance with the lead-safe maintenance requirements of this chapter, including, but not limited to, chipping or peeling paint or lead dust levels that exceed those established pursuant to N.J.A.C. 5:17, that causes exposure to lead from lead-contaminated dust or soil or lead-contaminated paint that is deteriorated or present in surfaces, that would result in adverse human health effects.

"Leader" means a vertical drainage pipe for conveying storm water from roof or gutter drains to a building house storm drain, building house drain (combined) or other means of disposal. The leader shall include the horizontal pipe to a single roof drain or gutter drain.

"Live load" means all occupants, materials, equipment, constructions or other elements of weight supported in, on or by a building that will or are likely to be moved or relocated during the expected life of the building.

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

"Mechanical ventilation" means the process of introducing outdoor air into, or removing vitiated air from a building by mechanical means. A mechanical ventilating system may include air heating, air cooling or air conditioning components.

"Minor" means any person who is under the age of 18. (See N.J.A.C. 5:10-2.2, definitions of "Emancipated minor" and "Unemancipated minor".)

"Multiple dwelling" means any building or structure and any land appurtenant thereto, and any portion thereof, in which three or more dwelling units are occupied or intended to be occupied by three or more persons living independently of each other. "Multiple dwelling" also means any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two dwelling units are occupied or intended to be occupied by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. "Multiple dwelling" does not include those buildings and structures that are excluded by statute. (See N.J.S.A. 55:13A-3(k).)

"Municipality" means in addition to its legal meaning, two or more municipalities acting in concert through any public agency, joint committee, contractual arrangement or in any other manner authorized by law.

"Mutual housing corporation" means a not-for-profit corporation incorporated under the laws of the State of New Jersey on a mutual or cooperative basis within the scope of the "Lanham War Housing Act," 42 U.S.C. Sect. 1501 et seq., which acquired a National Defense Housing Project pursuant to said act. (See N.J.S.A. 55:13A-3(p).)

"Natural ventilation" means ventilation by opening to outer air through windows, skylights, doors, louvers or stacks with or without wind-driven devices.

"New Jersey Uniform Construction Code" means N.J.S.A. 52:27D-119 et seq., N.J.A.C. 5:23-1.1 et seq., and the Subcodes adopted pursuant thereto.

"NFPA" means the National Fire Protection Association.

"Occupancy" means the purpose or activity for which a building or space is used or is designed or intended to be used.

"Occupant" means any person or persons, including guests, in actual physical possession or occupancy of a unit of dwelling space on a regular basis. For purposes of assigning specific duties or responsibilities, the term "occupant", unless the text indicates otherwise, shall mean the tenant, lessee, head of the family or household, or other adult person or emancipated minor assuming basic responsibility for the continued renting or occupancy of the dwelling space.

"Occupiable room" means a room or space, other than a habitable room, designed for human occupancy or use, in which persons may remain for a period of time for rest, amusement, dining, shopping, storing goods or other similar purposes, or in which persons may be engaged at work.

"Owner" means any person who owns, purports to own, or exercises control of any hotel, multiple dwelling or retreat lodging facility. "Owner" also means and includes any person who owns, purports to own, or exercises control over three or more dwelling units within a multiple dwelling.

"Partition" means a vertical unit or assembly of materials that separates one space from another within any story of a building.

"Person" means any individual, corporation, association, or other entity. (See N.J.S.A. 1:1-2 and 55:13A-3(m).)

"Plumbing" means the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, equipment and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and the public or private water supply systems, within or adjacent to any building; also the practice and materials used in the installation, maintenance, extension, or alteration of storm water, liquid waste, or sewerage, and water-supply systems of any premises and their connection with any point or public disposal or other acceptable terminal.

"Plumbing fixtures" means installed receptacles, devices, or appliances that are supplied with water or which receive or discharge liquids or liquid-borne wastes.

"Potable water" means water free from impurities present in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the Department of Health.

"Premises" means land, improvements thereon, or any part thereof.

"Project" means a group of buildings subject to the Act that:

1. Are or are represented to be under common or substantially common ownership;

2. Are on a single lot or contiguous lots, and

3. Are named, designated or advertised as a common entity. Lots shall be considered to be contiguous even if they are separated by a public right-of-way. (See N.J.S.A. 55:13A-3(o).)

“Protective equipment” means any equipment, device, system or apparatus required or permitted to be constructed or installed in any hotel or multiple dwelling for the protection of occupants, intended occupants or the general public. (See N.J.S.A. 55:13A-3(i).)

“Refuse” means all putrescible solid wastes (except body wastes), including but not limited to garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

“Regulations” means the rules contained in this chapter.

“Repair” means the replacement of existing work with equivalent materials for the purpose of its maintenance, but not including additional work that would affect safety, or affect required exit facilities, or a vital element of an elevator, plumbing, gas piping, wiring, ventilating, or heating installation, or any work that would be in violation of a provision of this code or any other law governing building construction.

“Required” means required by the provisions of these regulations.

“Retreat lodging facility” means a building or structure, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, owned by a nonprofit corporation or association which has tax-exempt charitable status under the Federal Internal Revenue Code and which has sleeping facilities used exclusively on a transient basis by persons participating in programs of a religious, cultural or educational nature, conducted under the sole auspices or one or more corporations or associations having tax-exempt charitable status under the Federal Internal Revenue Code, which are made available without any mandatory charge to such participants. (See N.J.S.A. 55:13A-3(s).)

“Roof” means the topmost slab or deck of a building, either flat or sloping with its supporting members, not including vertical supports.

“Rooming unit” means a unit of dwelling space located within a multiple dwelling or a hotel, forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

“Rubbish” means nonputrescible solid waste consisting of both combustible and noncombustible waste, such as paper, wrappings, cigarettes, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

“Sanitary system” means either the public system for disposal of sewage from the premises or, in the absence of such system, any private system available to the premises for the disposal of sewage.

“Self-closing”, as applied to an opening protective, means a door, window, damper, or other device and its assembly that is normally kept in a closed position and that is equipped with an approved device to insure immediate closing after having been opened for use.

“Sewage” means any liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

“Shaft” means a vertical, inclined or offset passage, duct or hoistway, penetrating through two or more floors of a building or through a floor and roof, for the transmission of light, air, materials or persons, or the passage of pipes or other mechanical facilities.

“Shall”, as used in this chapter, is always to be construed as mandatory.

“Sink” means a plumbing fixture located in a kitchen area and used exclusively for food preparation operations.

“Story” means that portion of a building that is between a floor level and the next higher level or roof above.

“Street” means a thoroughfare dedicated or devoted to public use by legal mapping or other lawful means.

“Structure” means an assembly of materials forming a construction for occupancy or use, including among others: buildings, stadia, tents, reviewing stands, platforms, stagings, observation towers, radio towers, tanks, trestles, open sheds, coal pockets, shelters, fences and display signs.

“Surface” means an area such as an interior or exterior wall, ceiling, floor, door, door frame, window sill, window frame, porch, stair, handrail and spindle, or other abradable surface, soil, furniture, a carpet, a radiator or a water pipe.

“Transient,” as applied to occupancy, means occupancy for not more than 90 days by a person having a principal residence elsewhere.

“Unemancipated minor” means any person under the age of 18 who is not an “emancipated minor” as defined herein.

“Unit of dwelling space”, see “Dwelling unit” of this section. (See N.J.S.A. 55:13A-3(h).)

“Use (used)” means the purpose for which a building, structure, or space is occupied or utilized, unless otherwise indicated by the text. Use (used) shall be construed as if followed by the words “or is intended, arranged, or designed to be used”.

“Useable floor area” means that part of the floor area within a unit of dwelling space that can be considered useable for general living purposes, excluding areas devoted to built-in equipment, such as, wardrobes, cabinets, closets, kitchen units, and equipment or fixtures which are not readily available for use as floor area.

“Ventilation” means the supply and removal of air to and from any space by natural or mechanical means. (See also N.J.A.C. 5:10-2.2, definitions of “Mechanical ventilation” and “Natural ventilation”).

“Water distribution piping” means the pipes in a building or premises that convey water from the water service pipe to the plumbing fixtures and other water outlets.

“Water service pipe” means the pipe from the water (street) main or other source of water supply to the building served.

“Water (street) main” means a water supply pipe for public or community use controlled by public authority.

“Water supply system” means the water service pipe, the water distribution piping, and all of the necessary connecting pipes, fittings, control valves, and appurtenances used for conveying water in the plumbing system.

“Window guard” see “Child-protection window guard.”

Amended by R.1971 d.101, effective June 29, 1971.

See: 1 N.J.R. 28(a), 3 N.J.R. 147(e).

Amended by R.1973 d.310, effective October 26, 1973.

See: 5 N.J.R. 259(c), 5 N.J.R. 369(a).

Amended by R.1973 d.357, effective December 18, 1973.

See: 5 N.J.R. 217(a), 6 N.J.R. 5(b).

Amended by R.1976 d.160, effective July 1, 1976.

See: 8 N.J.R. 9(d), 8 N.J.R. 272(a).

Amended by R.1977 d.305, effective September 1, 1977.

See: 9 N.J.R. 257(a), 9 N.J.R. 414(a).

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

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

Amended by R.1981 d.363, effective October 8, 1981.

See: 13 N.J.R. 387(b), 13 N.J.R. 704(a).

“Common area” and “Fire wall” redefined.

Amended by R.1982 d.253, effective August 16, 1982.

See: 14 N.J.R. 119(a), 14 N.J.R. 910(a).

Added definition of “attic” and “crawl space”. Amended definition of “common area”, “occupiable room” and “tag”.

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

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

Definition of retreat lodging facility added.

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

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

Amended by R.1995 d.586, effective November 20, 1995.

See: 27 N.J.R. 3149(a), 27 N.J.R. 4695(b).

Amended by R.1999 d.259, effective August 16, 1999.

See: 31 N.J.R. 825(a), 31 N.J.R. 2330(a).

Added definition of “Fuel-burning appliance”.

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

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

In “Owner”, added a second sentence.

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

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

Inserted “Local enforcing agency”.

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

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

Added “Interim controls”, “Lead hazard control work”, “Lead-based paint”, “Lead-based paint hazard”, “Surface”.

Case Notes

Structure containing eight apartments was “multiple dwelling” with three or more units, over which Bureau of Housing Inspection retained regulatory jurisdiction, even after property was subdivided into separate lots, which were held in ownership under different deeds. Department Of Community Affairs, Bureau Of Housing Inspection v. 39-45 Fourth Street, City Of Passaic, New Jersey (John L. Lira), 2003 WL 722267 (N.J. Adm.), NO. CAF 3939-99.

Guests who resided at hotel for three years with no present intention of seeking other accommodations were “tenants”; protection from lockout by Anti-Eviction Act, even though motel was not registered or regulated by state as rooming or boarding house. McNeill v. Estate of Lachmann, 285 N.J.Super. 212, 666 A.2d 996 (A.D.1995).

Citation to building definition. Bunting v. Sheehan, 156 N.J.Super. 14, 383 A.2d 429 (App.Div.1976).

Premises a multiple dwelling despite lack of kitchen facilities and former tax assessment as two buildings. Bunting v. Sheehan, 156 N.J.Super. 14, 383 A.2d 429 (App.Div.1976).

School dormitories subject to registry and inspection under former definition of hotel. Blair Academy v. Sheehan, 149 N.J.Super. 113, 373 A.2d 418 (App.Div.1977).

Clubhouse with dwelling units is multiple dwelling. Rumson Country Club v. Commissioner of Community Affairs, 134 N.J.Super. 54 (App. Div.1975) certification denied 68 N.J. 482, 338 A.2d 219.

Citation to building and structure definitions. 43-45 Forrest Street, North Arlington v. Dept. of Community Affairs, 3 N.J.A.R. 291 (1981).

SUBCHAPTER 3. HOTEL AND MULTIPLE DWELLING HEALTH AND SAFETY BOARD

5:10-3.1 Organizational meetings; officers

(a) The organizational meeting of the Board shall be held on the second Tuesday of June in each year at 10:00 A.M. in the building in which the office of the Director is located.

(b) A majority of the members of the Board shall constitute a quorum. However, even in the absence of a quorum, a majority of the members of the Board who are present, shall have the power to adjourn the meeting until a specified future time.

(c) The Board shall, at its organizational meeting, elect a Chairman, a Vice-Chairman, a Secretary and such other officers as it may deem appropriate. All officers shall serve until the next organizational meeting or until their successors shall have qualified.

(d) All officers other than the Secretary shall be elected from among the members of the Board. The Secretary may be either a member of the Board or an employee of the Division. If an employee of the Division, he shall not enter upon the office of Secretary without the consent of the Director and shall serve at the pleasure of the Director.

(e) A vacancy in any office shall be filled by the Board for the remaining unexpired term. If any member of the Board who is an officer ceases to be a member of the Board, his office shall forthwith be deemed vacant.

Case Notes

Multiple dwelling building penalized for failure to register as rooming house. *DeGrazia v. Department of Community Affairs, Bureau of Rooming and Boarding House Standards*, 97 N.J.A.R.2d (CAF) 66.

Denial of rooming and boarding house licensure due to code violations affirmed. *Vignanelli v. Keansburg Borough*, 97 N.J.A.R.2d (CAF) 63.

Denial of rooming house licensure for failure to complete application modified. *Tuli v. Township of Weehawken*, 97 N.J.A.R.2d (CAF) 60.

Reasonable penalty for failure to correct code violations found appropriate. *Bureau of Housing Inspection v. Murnick*, 97 N.J.A.R.2d (CAF) 50.

5:10-3.2 Special meetings

(a) A special meeting of the Board may be called at any time by the Commissioner, the Director, the Chairman of the Board or by petition of any three members of the Board.

(b) The person or persons calling the special meeting shall give written notice to the Secretary stating the purpose of the meeting and the time and place at which it is to be held. No meeting shall be held in any place other than the building in which the office of the Director is located without the consent of either the Commissioner or the Director.

(c) The Secretary shall give written notice of the time and place of the special meeting to all members of the Board, the Commissioner, the Director and the Chief of the Bureau at least 10 days prior to such a meeting.

5:10-3.3 Rules of procedure

All business of the Board shall be conducted in accordance with the current edition of Robert's Rules of Order (Revised), except insofar as such rules may conflict with provisions of the Act or of this chapter. Officers shall have the duties prescribed in said rules.

5:10-3.4 Transmittal and consideration of proposed regulations

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

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

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

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

Case Notes

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

SUBCHAPTER 4. DUTIES OF OWNERS AND OCCUPANTS

5:10-4.1 Concurrent responsibilities

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

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

(c) In any premises subject to either the Horizontal Property Act (N.J.S.A. 46:8A-1 et seq.) or the Condominium Act (N.J.S.A. 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 and for the maintenance of records 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.

1. It shall be the duty of the council of co-owners or association, as the case may be, to forward a notice for payment of the \$20.00 inspection fee set forth at N.J.A.C. 5:10-1.12(h)4 to the unit owner and to identify those tenant-occupied units known to the association prior to the five-year cyclical inspection.

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

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

In (c), inserted "and for the maintenance of records" following "abatement of violations" in the introductory paragraph, added 1.

Case Notes

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

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

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

5:10-4.2 Discontinuation of services

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

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

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

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

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

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

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

SUBCHAPTER 5. DUTIES OF OCCUPANTS

5:10-5.1 Responsibility of occupants

(a) An occupant shall in addition to complying with all provisions of this chapter applicable to him, be responsible for violations of this chapter to the extent that he has the

power to prevent the occurrence of a violation or assist in abating the violation. An occupant has the power to prevent the occurrence of a violation if:

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

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

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

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

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

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

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

5:10-5.2 Reporting of violations

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

5:10-5.3 Prohibited acts

(a) No occupant or other person shall:

1. Create or maintain any condition constituting a violation of the Uniform Fire Code, N.J.A.C. 5:70;

2. Take down, obscure, alter, destroy, or in any way deface any notice, certificate or sign required by this chapter to be displayed; or

3. Destroy or damage protective equipment.

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

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

Administrative change.

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

5:10-5.4 Unsafe and unsanitary conditions

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

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

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

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

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

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

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

5:10-5.5 Willful damage

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

5:10-5.6 Heating by occupant

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

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

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

5:10-5.7 Occupancy violations

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

5:10-5.8 Storage

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

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

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

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

Case Notes

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

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

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

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

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

5:10-6.2 Nuisances

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

Case Notes

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

5:10-6.3 Maintenance of dwelling units

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

Case Notes

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

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

5:10-6.4 Maintenance of exterior

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

1. Brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash, refuse and debris;
2. Dead and dying trees and limbs or other natural growth which by reason of rotting or deteriorating conditions or storm damage constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions;
3. Loose and overhanging objects and accumulations of ice and snow which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof;
4. Holes, excavations, breaks, projections, obstructions, litter, icy conditions, uncleared snow and excretion of pets and other animals on paths, walks, driveways,

parking lots and parking areas and other parts of the premises. Holes and excavations shall be filled and repaired, walks and steps replaced and other conditions removed where necessary to eliminate hazards or insanitary conditions with reasonable dispatch upon their discovery;

5. Accumulations of water, vegetation or other matter which might serve as a source of food or as a harboring or breeding place for infestation;

6. Walks, courts and other paved areas shall be kept clean and free of litter, dirt, mud or other conditions hazardous to pedestrians.

(b) All parts of the premises shall be so graded and, where necessary, provided with runoff drains and other means to carry off and dispose of surface waters in such a manner as to eliminate any recurrent or excessive accumulations of storm water on the premises, without causing excessive accumulations of water on adjoining properties:

1. Parts of the premises regularly used by occupants shall drain within one hour of the termination of any storm creating surface waters;

2. Other parts of the premises not covered under paragraph 1 of this subsection shall drain within six hours of the cessation of any such storm.

Case Notes

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

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

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

5:10-6.5 Outdoor pools

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

5:10-6.6 Lead-safe maintenance requirements for multiple dwellings

(a) Each multiple dwelling, including all common areas, constructed before 1978, shall be subject to the requirements for lead-safe maintenance contained in this section.

All such buildings shall undergo a combined inspection and risk assessment, and lead hazard control work in accordance with (b) below or shall comply with the requirements for standard treatments contained in (c) below. Following the performance of lead hazard control work or standard treatments, all buildings shall be subject to the requirements for on-going evaluation and maintenance contained in (d) below.

1. The requirements of this section shall not apply to:

i. Buildings, dwelling units or common areas that have been certified to be free of lead-based paint in accordance with N.J.A.C. 5:17;

ii. A seasonal rental unit which is rented for less than six months' duration each year;

iii. A dwelling unit that has been certified as having a lead-free interior in accordance with N.J.A.C. 5:17; or

iv. An owner-occupied dwelling unit.

(b) Inspection, risk assessment and lead hazard control work: A combined inspection and risk assessment shall be performed in accordance with the applicable provisions of N.J.A.C. 5:17. Data collected from a previous inspection or risk assessment may be used. If a property or portions of a property were inspected for lead-based paint prior to May 16, 2005, a risk assessment shall be performed for the property or portions inspected; however, a new inspection shall not be required. For purposes of this section, "risk assessment" shall exclude testing of soil. For purposes of this section, "floors" shall include both carpeted and uncarpeted surfaces.

1. Lead hazard control work to address lead-based paint hazards identified in the risk assessment shall be conducted in accordance with the applicable provisions of N.J.A.C. 5:17 for lead-based paint abatement and in accordance with the U.S. Department of Housing and Urban Development rules (24 CFR 35) for interim controls included here as Subchapter Appendix 6-A, incorporated herein by reference.

2. Following the performance of an inspection and risk assessment and any necessary lead hazard control work, the owner shall obtain a certification that the property is free of lead-based paint hazards issued in accordance with N.J.A.C. 5:17-3.6.

(c) Standard treatments: If the owner chooses not to have an inspection and risk assessment performed, as described in (b) above, the following lead hazard control requirements shall be followed for each dwelling unit and for all common areas. For each such building, the owner shall undertake periodic standard treatments as described below.

1. Standard treatments for lead safety shall be undertaken at unit turnover, unless they were undertaken less than 12 months before. Standard treatments shall be undertaken not less than once every 12 months in dwelling units where the owner has been notified by a tenant that a pregnant woman or a child under the age of six years resides.

2. Standard treatments shall include the following:

i. Smooth and cleanable horizontal surfaces shall be provided. All horizontal surfaces, such as floors, stairs, interior window sills and window troughs, that are rough, pitted or porous, shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane or linoleum;

(1) If carpet is to remain, wipe samples shall be collected from the carpeted surfaces. For test results that indicate lead levels above the clearance levels specified in N.J.A.C. 5:17, the carpet shall be removed.

(A) If carpet is to be removed and replaced with new carpet, the padding beneath the contaminated carpet shall also be replaced and the floor below shall be tested and shall not exceed the clearance levels set forth in N.J.A.C. 5:17.

ii. Conditions of rubbing, binding, friction or crushing of painted surfaces shall be corrected;

iii. Specialized cleaning shall be performed in accordance with (c)2iii(1) through (3) below.

(1) The work area shall be vacuumed with a HEPA vacuum cleaner as follows:

(A) HEPA vacuuming shall be sequenced to avoid passing through rooms already cleaned. The entryway shall be vacuumed last; and

(B) In each room, vacuuming shall begin with the ceiling and shall proceed down the walls. Every surface shall be vacuumed including, but not limited to, ceiling, walls, windows, window sills, exterior sills, window wells, doors, heating and air conditioning equipment, fixtures, such as light fixtures, and built-in appliances. Floors shall be the final surface vacuumed.

(2) The work area(s) shall be wet washed with a detergent solution such as trisodium phosphate, formulated to bind lead. An original, marked container showing the nature of the formula and any necessary precautions shall be available at the work site. The name of the product used and its manufacturer shall be included in the records retained by the owner.

(A) In each room, the wet wash process shall begin with the ceiling and work down to the floor following the sequence in (c)2iii(1)(A) and (B) above.

(B) String mops and mop buckets with wringers are required for wet washing floors. Sponge mops shall not be used.

(3) When dry, the abated area(s) shall be HEPA vacuumed again, following the sequence in (c)2iii(2)(A) and (B) above; and

iv. Lead screening or clearance testing in accordance with N.J.A.C. 5:17 shall be performed and the results of the screening or testing shall not exceed the levels established in N.J.A.C. 5:17.

(d) On-going evaluation and maintenance, as described below, shall be required for all buildings.

1. A visual examination for deteriorated paint shall be performed by the owner at unit turnover or every 12 months, whichever comes first.

2. Deteriorated paint and the causes of deterioration shall be promptly and safely repaired in accordance with the requirements of (i) below.

i. Painted surfaces shall be made intact by paint stabilization, enclosure, encapsulation or removal.

ii. The causes of paint deterioration shall be diagnosed and corrected.

iii. Dust wipe testing shall be performed when the work is complete to ensure that the lead dust levels do not exceed the lead hazard levels established by N.J.A.C. 5:17. If the level exceeds the lead hazard level established by N.J.A.C. 5:17, cleaning and retesting shall be performed until the results of testing demonstrate lead levels below the standard.

(e) The following concern exterior surfaces:

1. The requirements set forth in (a) through (d) above shall apply to stairwells, porches, balconies, entryways, and windows.

2. For all other exterior surfaces, lead-safe work practices, in accordance with (i) below, shall be used for any work to be undertaken, unless the paint has been tested and not found to be lead-based paint.

(f) The following concern recordkeeping:

1. A record of testing performed and any certificate issued by a certified evaluation firm indicating that the building or any portion thereof is lead free shall be maintained for the life of the structure.

2. A record of all testing, visual examinations, findings and corrective action taken, including the date(s) and location(s) of any sampling performed and of corrective actions taken, shall be maintained for not less than five years and shall be made available upon request for review by the Bureau. This shall include a record of:

i. Inspections, risk assessments and lead hazard control work performed pursuant to (b) above;

ii. Standard treatments undertaken pursuant to (c) above;

iii. On-going evaluation and maintenance undertaken pursuant to (d) above;

iv. Any certificates issued to the building owner by a certified lead evaluation firm;

v. Tenant notification required pursuant to (h) below; and

vi. Any reports of deteriorated paint received from tenants and documentation of the owner's responses pursuant to (h) below.

3. A record of the training in safe building maintenance practices of each individual as required by (g) below shall be maintained by the owner as long as that individual is involved in the maintenance of the building and shall be made available upon request for review by the Bureau.

(g) Training requirements are as follows:

1. All owners or employees of the owner performing visual examinations or undertaking corrective action or maintenance work shall complete a one-day training course on safe building maintenance practices and applicable New Jersey law offered by a training provider accredited by the Department of Health and Senior Services. Courses approved for this purpose shall include:

i. The Lead-Based Paint Maintenance Training Program, "Work Smart, Work Wet, and Work Clean to Work Lead Safe," prepared by the National Environmental Training Association for EPA and HUD;

ii. "The Remodeler's and Renovator's Lead-Based Paint Training Program," prepared by HUD and the National Association of the Remodeling Industry;

iii. Lead Safety for Remodeling, Repair and Painting: A Joint EPA-HUD Course; or

iv. Any other course that the Department finds to be substantially equivalent.

2. Owners or employees of the owner shall not perform dust wipe sampling unless they have completed a State-certified course in accordance with this section or a HUD-approved clearance technician course (for example, the course developed by EPA, "Lead Sampling Technician ('HUD Clearance Technician') Training Course").

(h) Tenant notification and owner response requirements are as follows:

1. Owners shall distribute a pamphlet developed by the Department prior to commencement of repair work that will disturb more than two square feet of lead-based

paint, unless the tenant has received the pamphlet within the last 12 months.

2. Owners shall post a notice advising tenants to report deteriorated paint and shall respond to any reported problem within 30 days. The notice shall include the landlord's name, address, and telephone number.

i. If an owner has received notice from a tenant that there is a pregnant woman or a child under the age of six years residing in the unit or, with regard to any problem reported in a common area, in the building, the owner shall respond to any report of deteriorated paint within three days.

ii. In buildings where there is no central location for posting notices or where notices are likely to be defaced or removed without authorization, the owner shall provide each tenant with a copy of such a notice.

(i) **Lead-safe work practices:** All work undertaken to repair or stabilize deteriorated paint and any other work that will disturb painted surfaces shall comply with the following:

1. Occupant protection and worksite preparation shall be performed in accordance with the applicable provisions of U.S. Department of Housing and Urban Development rules 24 CFR 35 included as subchapter Appendix 6-B, incorporated herein by reference.

2. The following work practices shall be prohibited:

i. Open flame burning or the use of high temperature (in excess of 1,100 degrees Fahrenheit) heat guns;

ii. Power sanding or sandblasting, unless a special HEPA (high efficiency particulate air) filter equipped vacuum attachment is used to contain dust;

iii. Uncontained water blasting or power washing; or

iv. Dry scraping or sanding more than two square feet of painted surface per room (interior) or more than 10 square feet per building (exterior).

3. All work shall be undertaken in a manner that prevents the spread of dust.

4. Specialized cleaning shall be performed at the end of each work day if the job will take more than one day and the area is to be occupied before work begins again and at the end of each job.

5. Occupant protection, worksite preparation and specialized cleaning ((i)1 and 4 above) are not required for maintenance activities that disturb painted surfaces that total:

i. Twenty square feet or less on the exterior of the building;

ii. Two square feet or less in any one interior room or space; or

iii. Ten percent or less of the total surface area of an interior or exterior component with a small surfaces area, including, but not limited to, window sills, baseboards or trim.

6. After the completion of any work involving the disturbance of painted surfaces of a size that exceeds the limits of (i)5 above, at least one dust wipe sample shall be taken by maintenance staff trained in accordance with (g) above in each room that is part of the work area at a location where work was performed. If the level exceeds the lead hazard level established by N.J.A.C. 5:17, the room shall be cleaned and retested until the results of testing demonstrate lead levels below the standard.

(j) (Reserved)

(k) **Garages and other structures on the site:** Any work on garages and other structures on the site shall be performed in accordance with the lead-safe work practices listed in (i) above. Structures to which tenants have access shall comply with the requirements set forth in (a) through (e) above.

New Rule, R.2005 d.144, effective May 16, 2005.
See: 36 N.J.R. 2106(a), 37 N.J.R. 1754(c).

APPENDIX 6-A

INTERIM CONTROLS

(New Jersey Requirements Added in Italics)

U.S. Department of Housing and Urban Development
24 CFR 35.1330, Interim controls
35.1330 Interim controls

Interim controls of lead-based paint hazards identified in a risk assessment shall be conducted in accordance with the provisions of this section. Interim control measures include paint stabilization of deteriorated paint, treatments for friction and impact surfaces where levels of lead dust are above the levels specified. (*See N.J.A.C. 5:17-3.5, Lead hazards.*) Interim controls may be performed in combination with, or be replaced by, abatement methods.

(a) General requirements

(1) Only those interim control methods identified as acceptable methods in a current risk assessment report shall be used to control identified hazards.

(2) Occupants of dwelling units where interim controls are being performed shall be protected during the course of the work in accordance with 35.1345. (*See Appendix 6-B, Occupant protection and worksite preparation.*)

(3) *Testing shall be performed at the conclusion of interim control activities in accordance with N.J.A.C. 5:17.*