

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;
- iv. Occupied by the owner of the dwelling unit as his or her residence; or

v. Housing for the elderly, or a residential property designated exclusively for persons with disabilities; except this exemption shall not apply if a child less than age six resides or is expected to reside in the dwelling unit.

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.

Amended by R.2006 d.177, effective May 15, 2006.

See: 37 N.J.R. 1698(a), 37 N.J.R. 1931(a), 38 N.J.R.2115(b).

Deleted "or" from the end of (h)4iii; substituted "; or" for a period at the end of (h)4iv; and added (h)4v.

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).

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 en-

forcing 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 Violation penalties

(a) For purposes of this section, a "life hazard violation" shall be any violation of this chapter, or of any violation of the Uniform Fire Code, N.J.A.C. 5:70, that is incorporated into this chapter by reference, that presents a hazard to the life safety of occupants of the building or of the public generally.

(b) Except as otherwise provided in (f) and (g) below, penalties shall be assessed for each area in which one or more violations are found. Violation areas shall be:

1. Each dwelling unit;
2. Interior common areas; and
3. Building exterior.

(c) Absent any mitigating or aggravating circumstances, the initial penalty for each violation area shall be as follows:

1. In a dwelling unit for which a life hazard violation is cited: \$325.00;
2. In an interior common area or building exterior for which a life hazard violation is cited: \$500.00; and
3. In any area for which none of the violations cited is a life hazard violation: \$175.00.

(d) Absent any mitigating or aggravating circumstances, the first continuing violation penalty shall be as follows:

1. For each violation area in which a life hazard violation is cited: \$1,500; and
2. For each violation area in which no life hazard violation is cited: \$1,000.