

CHAPTER 28**NEW JERSEY STATE HOUSING CODE****Authority**

N.J.S.A. 2A:42-76.

Source and Effective Date

R.2000 d.312, effective July 5, 2000.
See: 31 N.J.R. 3004(a), 32 N.J.R. 2864(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 28, New Jersey State Housing Code, expires on January 1, 2006. See: 37 N.J.R. 567(a).

Chapter Historical Note

Chapter 28, New Jersey State Housing Code, was adopted as R.1981 d.68, effective March 3, 1981. See: 13 N.J.R. 70(c), 13 N.J.R. 189(a).

Pursuant to Executive Order No. 66(1978), Chapter 28, New Jersey State Housing Code, was readopted as R.1985 d.689, effective December 20, 1985. See: 17 N.J.R. 1174(a), 18 N.J.R. 163(a).

Pursuant to Executive Order No. 66(1978), Chapter 28, New Jersey State Housing Code, was readopted as R.1991 d.19, effective December 13, 1990. See: 22 N.J.R. 3076(a), 23 N.J.R. 57(c).

Pursuant to Executive Order No. 66(1978), Chapter 28, New Jersey State Housing Code, was readopted as R.1995 d.387, effective June 22, 1995. See: 27 N.J.R. 1850(a), 27 N.J.R. 2737(a).

Pursuant to Executive Order No. 66(1978), Chapter 28, New Jersey State Housing Code, was readopted as R.2000 d.312, effective July 5, 2000. See: Source and Effective Date.

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SUBCHAPTER 1. STANDARDS OF HABITABILITY**5:28-1.1 Scope**

The provisions of this subchapter shall constitute the standards to guide the Public Officer or his agents in determining the fitness of a building for human habitation, use, or occupancy.

5:28-1.2 Definitions

The words, terms or phrases listed below for the purpose of this chapter shall be defined and interpreted as follows.

“Administrative Authority” shall mean the department, branch or agency of this municipality which is authorized by the adopting ordinance to administer the provisions of this chapter.

“Building” shall mean any building or structure, or part thereof, used for human habitation, use, or occupancy and includes any accessory buildings and appurtenance belonging thereto or usually enjoyed therewith.

“Dwelling” shall mean a building or structure or part thereof containing one or more dwelling units or lodging units.

“Dwelling unit” shall mean any room or group of rooms or any part thereof located within a building and forming a single habitable unit with facilities which are used, or designed to be used for living, sleeping, cooking, and eating.

“Garbage” shall mean the animal and vegetable and other organic waste resulting from the handling, preparation, cooking and consumption of food.

“Habitable room” shall mean a room or enclosed floor space within a dwelling unit used or designed to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets, and storage spaces.

“Infestations” shall mean the presence, within or around a building, of any insects, rodents, or other pests.

“Local health agency” shall mean any county, regional, municipal or other governmental agency organized for the purpose of providing health services, administered by a full-time health officer and conducting a public health officer program pursuant to law.

“Lodging house” shall mean any building, or that part of any building containing one or more lodging units, each of which is rented by one or more persons not related to the owner.

“Lodging unit” shall mean a rented room or group of rooms, containing no cooking facilities, used for living purposes by a separate family or group of persons living together or by a person living alone, within a building.

“Occupant” shall mean any person or persons in actual possession of, and living in the building or dwelling unit, including the owner.

"Owner" shall mean any person properly authorized to exercise powers of, or for an owner of property for purposes of its purchase, sale, use, occupancy, or maintenance.

"Person" shall be given the same meaning as defined in R.S. 1:1-2 of the Revised Statutes of New Jersey.

"Plumbing fixtures" shall mean and include all installed receptacles or devices which are supplied with water or which receive or discharge liquid waste or sewage into the drainage system with which they are directly or indirectly connected.

"Public Officer" shall mean the officer or officers who are authorized by the adopting Ordinance to exercise the powers prescribed by this chapter.

"Rubbish" shall mean and include all combustible and noncombustible waste material, except garbage.

"Utilities" shall mean and include electric, gas, heating, water and sewerage services, and equipment therefor.

Case Notes

Municipality was estopped to deny appropriate permits for future construction and occupancy. *Lehen v. Atlantic Highlands Zoning Bd. of Adjustment*, 252 N.J.Super. 392, 599 A.2d 1283 (A.D.1991).

5:28-1.3 Water supply

(a) Every dwelling unit and lodging house shall be provided with a safe supply of potable water meeting the standards as set forth in the New Jersey Safe Drinking Water Act regulations (N.J.A.C. 7:10-1 et seq.) published by the New Jersey Department of Environmental Protection.

(b) The source of such water supply shall be approved by the New Jersey Department of Environmental Protection and/or the local health agency.

(c) The minimum rate of flow of hot or cold water issuing from a faucet or fixture shall not be less than one gallon per minute.

5:28-1.4 Facilities

(a) Every dwelling unit shall contain a kitchen sink of nonabsorbent impervious material, at least one flush type water closet, a lavatory, and a bathtub or shower, available only for the use of occupants of that dwelling unit.

(b) Every lodging house shall be provided with a minimum of one flush type water closet, lavatory, and a bathtub or shower for every eight persons or part thereof.

(c) Every water closet, lavatory, and bathtub or shower for each dwelling unit or lodging house shall be accessible from within the building without passing through any part of any other dwelling unit or lodging unit and in a lodging house shall be located no farther than one floor above or below the lodging units served. Such water closet, lavatory and bathtub or shower shall be contained in a room or rooms which are separated from all other rooms by walls, doors, or partitions that afford privacy.

(d) Every plumbing fixture shall be connected to water and sewer systems approved by the New Jersey Department of Environmental Protection and/or the local health agency, and shall be maintained in good working condition.

(e) Every kitchen sink, lavatory, and bathtub or shower required by this chapter shall be connected to both hot and cold water lines.

(f) Every dwelling shall have water heating facilities which are installed and maintained in good and safe working condition, connected with the hot water lines required under the provisions of (e) above, and capable of delivering water at a minimum temperature of not less than 120 degrees Fahrenheit and at a maximum temperature of not more than 140 degrees Fahrenheit at all times in accordance with anticipated need.

Amended by R.2000 d.23, effective January 18, 2000.

See: 31 N.J.R. 3249(b), 32 N.J.R. 273(a)

In (f), decreased the maximum temperature from 160 degrees Fahrenheit to 140 degrees Fahrenheit.

5:28-1.5 Garbage and rubbish storage

(a) Garbage or other organic waste shall be stored in watertight receptacles of metal or other approved material. Such receptacles shall be provided with tight fitting covers. At least one approved type garbage receptacle shall be provided for each dwelling unit, in accordance with N.J.A.C. 5:28-1.12(i).

(b) Rubbish shall be stored in receptacles of metal or other approved material. At least one rubbish receptacle shall be provided for each dwelling unit, in accordance with N.J.A.C. 5:28-1.12(i).

(c) Rubbish that does not include materials determined by local ordinance to be recyclable may be stored together with garbage in an approved type garbage receptacle, unless otherwise provided by ordinance. Recyclable materials shall be stored separately from non-recyclable materials.

Amended by R.1995 d. 387, effective July 17, 1995.

See: 27 N.J.R. 1850(a), 27 N.J.R. 2737(a).

5:28-1.6 Lighting

(a) Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window or skylight area measured between stops, for every habitable room shall be eight percent of the floor area of such room. Whenever walls or other portions of structures face a window of any habitable room and are located less than three feet from the window and extended to a level above that of the ceiling of the room, such a window shall not be included in calculating the required minimal total window area.

(b) Every dwelling shall be provided with electric service.

(c) Every habitable room shall contain at least two separate wall type electric convenience outlets, or one such convenience outlet and one ceiling or wall type electric light fixture. Every such outlet and fixture shall be maintained in good and safe condition, and shall be connected to the source of electric power. No temporary wiring shall be

used except extension cords which run directly from portable electric fixtures to convenience outlets, and which do not lie under rugs or other floor coverings nor extend through doorways, transoms, or other openings through structural elements.



(j) Every occupant of a dwelling unit in a dwelling containing no more than three dwelling units shall be responsible, unless provided for otherwise under a lease agreement, for the periodic removal of all garbage and rubbish from the premises each week in accordance with such regulations of this Municipality for the collection of garbage and rubbish.

(k) Every occupant of a dwelling comprising a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a ratproof or reasonable insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the common parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

(l) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(m) In dwellings containing two or more dwelling units having a common source of heat for domestic hot water, it shall be the responsibility of the owner to make provision for the proper operation of such facilities at all times.

(n) Every owner of a dwelling, who permits to be occupied any dwelling unit or lodging unit therein under any agreement, expressed or implied, to supply or furnish heat to the occupants thereof, shall supply heat adequate to maintain therein a minimum inside temperature in all habitable rooms, bathrooms, and water closet compartments of 68 degrees Fahrenheit between the hours of 6:00 A.M. and 11:00 P.M., and 65 degrees Fahrenheit between the hours of 11:00 P.M. and 6:00 A.M., from October 1 of each year to the next succeeding May 1.

(o) In the absence of a contract or agreement to the contrary, an owner shall be obligated to provide heat whenever heating facilities are under the control of the owner or whenever two or more dwelling units or lodging units are heated by a common facility.

(p) The owner shall be responsible for compliance with all provisions of this chapter not specified as the responsibility of occupants.

Amended by R.1995 d.387, effective July 17, 1995.
See: 27 N.J.R. 1850(a), 27 N.J.R. 2737(a).

5:28-1.13 Conflict of ordinances

Nothing in this chapter shall be construed to abrogate or impair the powers of any department of this municipality or any agency of the State of New Jersey to enforce any provisions of its charter or its ordinances, codes, regulations or statutory provisions or to prevent or punish violations thereof.