

**CHAPTER 70****UNIFORM FIRE CODE****Authority**

N.J.S.A. 52:17B-139.12, and 52:27D-25d,  
25k, 25gg, 25hh, 198 and 219.

**Source and Effective Date**

R.2010 d.214, effective September 15, 2010.  
See: 41 N.J.R. 4369(a), 42 N.J.R. 2421(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 70, Uniform Fire Code, expires on September 15, 2017. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 70, Congregate Housing Services Program, was adopted as R.1982 d.272, effective August 16, 1982. See: 14 N.J.R. 609(b), 14 N.J.R. 912(b). Pursuant to Executive Order No. 66(1978), Chapter 70, Congregate Housing Services Program, was readopted as R.1987 d.315, effective July 9, 1987. See: 19 N.J.R. 678(a), 19 N.J.R. 1430(a). Pursuant to Executive Order No. 66(1978), Chapter 70, Congregate Housing Services Program, was readopted as R.1992 d.214, effective April 22, 1992. See: 24 N.J.R. 513(c), 24 N.J.R. 1880(a). Pursuant to Executive Order No. 66(1978), Chapter 70, Congregate Housing Services Program, expired on April 22, 1997.

Chapter 70, Uniform Fire Code, was originally codified in Title 5 as Chapter 18, Uniform Fire Code. Chapter 18 was adopted as R.1985 d.66, effective February 19, 1985. See: 16 N.J.R. 3339(b), 17 N.J.R. 394(a).

Subchapter 4, Fire Safety Code, was adopted as R.1986 d.214, effective June 16, 1986. See: 17 N.J.R. 1161(a), 18 N.J.R. 1260(b).

Pursuant to Executive Order No. 66(1978), Chapter 18, Uniform Fire Code, was readopted as R.1990 d.72, effective January 4, 1990. See: 21 N.J.R. 3344(a), 22 N.J.R. 337(b).

Subchapter 3, State Fire Prevention Code, was repealed, and Subchapter 3, State Fire Prevention Code, was adopted as new rules by R.1992 d.105, effective March 2, 1992. See: 23 N.J.R. 3554(a), 24 N.J.R. 740(a).

Pursuant to Executive Order No. 66(1978), Chapter 18, Uniform Fire Code, was readopted as R.1995 d.58, effective January 3, 1995. See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Pursuant to Reorganization Plan No. 002-1998, Chapter 18, Uniform Fire Code, was recodified as N.J.A.C. 5:70, effective July 1, 1998. See: 30 N.J.R. 1347(a), 30 N.J.R. 2644(a).

Subchapter 3, State Fire Prevention Code, was repealed and Subchapter 3, State Fire Prevention Code, was adopted as new rules by R.1998 d.424, effective August 17, 1998 (operative January 2, 1999). See: 30 N.J.R. 1466(a), 30 N.J.R. 3068(c).

Pursuant to Executive Order No. 66(1978), Chapter 70, Uniform Fire Code, was readopted as R.2000 d.30, effective December 22, 1999. See: 31 N.J.R. 3257(a), 32 N.J.R. 273(c).

Chapter 70, Uniform Fire Code, was readopted as R.2005 d.225, effective June 14, 2005. See: 36 N.J.R. 3652(a), 37 N.J.R. 2674(a).

Chapter 70, Uniform Fire Code, was readopted as R.2010 d.214, effective September 15, 2010. See: Source and Effective Date.

**Cross References**

Child care center physical facility requirements, see N.J.A.C. 10:122-5.1 et seq.

Children's group home physical facility requirements, see N.J.A.C. 10:128-4.1 et seq.

Children's shelter physical facility and life-safety requirements, see N.J.A.C. 10:124-5.1 et seq.

Residential child care physical facility requirements, see N.J.A.C. 10:127-4.1.

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## SUBCHAPTER 1. GENERAL PROVISIONS

### 5:70-1.1 Title; division into subchapters

(a) The regulations contained in this chapter shall be known as the "New Jersey Uniform Fire Code" and are referred to herein as the Code.

(b) The Code is divided into four subchapters:

1. N.J.A.C. 5:70-1, entitled "General Provisions";
2. N.J.A.C. 5:70-2, entitled "Administration and Enforcement";
3. N.J.A.C. 5:70-3, entitled "State Fire Prevention Code"; and
4. N.J.A.C. 5:70-4, entitled "State Fire Safety Code."

Amended by R.1985 d.611, effective December 2, 1985.

See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

(b)3 substituted "1984" for "latest".

Amended by R.1986 d.214, effective June 16, 1986.

See: 17 N.J.R. 1161(a), 18 N.J.R. 1260(b).

(b)4 deleted "(Reserved)" and added new text.

Amended by R.1992 d.104, effective March 2, 1992.

See: 23 N.J.R. 3552(a), 24 N.J.R. 739(a).

Text referencing BOCA deleted.

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Rewrote (b).

### 5:70-1.2 Authority

This Code is promulgated by the Commissioner of the Department of Community Affairs pursuant to authority of the "Uniform Fire Safety Act" (P.L. 1983, c.383, N.J.S.A. 52:27D-192 et seq.).

### 5:70-1.3 Intent and purpose

(a) It is the intent of this Code to prescribe regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

(b) Where no specific standards or requirements are specified in this Code, or contained within other applicable laws (or adopted codes) or ordinances, compliance with the standards of the National Fire Protection Association or other nationally recognized fire-safety standards as are approved by the fire official shall be deemed as prima facie evidence of compliance with the stated intent of this Code.

Amended by R.1985 d.611, effective December 2, 1985.

See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

Substituted "Prevention" for "Protection".

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

### Case Notes

Property owner's duties, imposed by New Jersey's Uniform Fire Code, formerly N.J.A.C. 5:18-1.1 through 5:18-4.19, now recodified as N.J.A.C. 5:70-1.1 through 5:70-4.19, the implementing regulations of the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 through 52:27D-213, which included the duty to obtain a permit prior to the voluntary installation of a fire safety system, and to arrange for inspection of the system by the municipal fire sub-code official after completion of installation and annually, are nondelegable to an independent contractor/installer. *Baboghlian v. Swift Elec. Supply*, 393 N.J. Super. 187, 922 A.2d 860, 2007 N.J. Super. LEXIS 158 (App.Div. 2007).

### 5:70-1.4 Applicability

(a) The provisions of this Code shall apply to new and existing buildings, uses and conditions, as hereinafter provided.

(b) The provisions contained in this Code shall not be construed as applying to the transportation of any article or substance shipped under the jurisdiction of and in compliance with the regulations prescribed by the military forces of the United States or the transportation of flammable or combustible liquids or hazardous materials or chemicals subject to the regulation and control of the New Jersey Department of Transportation or the United States Department of Transportation or other Federal Agency having jurisdiction.

1. The fire official shall have jurisdiction to order the correction of any dangerous condition created by any transportation conveyance.

2. The right of any local government to adopt ordinances governing the routing of vehicles transporting flammable or combustible liquids or hazardous materials or chemicals shall not be deemed to be limited by anything contained in this section.

(c) Nothing in this Code shall be construed, interpreted or applied to abrogate, nullify or abolish any law, ordinance or code adopted by any local government regulating the repair, removal, demolition, use, location, occupancy or maintenance of buildings and property as specifically provided herein. When any provision of this Code is found to be in conflict with any zoning, safety, health or other applicable law, ordinance or code of the jurisdiction existing on the effective date of this Code or hereafter adopted, the provision which establishes the higher standard for the promotion and protection of the safety and welfare of the public shall prevail.

(d) All regulations, other than this Code, promulgated by any State agency with regard to fire safety in existing buildings, structures and premises subject to this Code shall, to the extent of any inconsistency with this Code, be deemed to have been superseded by this Code.

1. Regulations determined by the Department of Community Affairs to be affected by this subsection include the following:

- i. N.J.A.C. 5:10-25;
- ii. N.J.A.C. 5:27-5;
- iii. N.J.A.C. 5:23-2.23(i)7 and 9;
- iv. N.J.A.C. 8:43-3;
- v. N.J.A.C. 8:43A-15.2(b) and (c);
- vi. N.J.A.C. 8:43B-3.2;
- vii. N.J.A.C. 8:39-41.3 and 41.4;
- viii. N.J.A.C. 8:42A-23.7;
- ix. N.J.A.C. 10:44A-6.1(e) through (w);
- x. N.J.A.C. 10:44B-6.2;
- xi. N.J.A.C. 10A:31-3.1(b)1-3 and 11-13;
- xii. N.J.A.C. 10A:32-4.4 and 4.5;
- xiii. N.J.A.C. 10A:34-2.13;
- xiv. N.J.A.C. 12:100-4.2(a)10 (incorporating Subparts E, L and S of 29 C.F.R. Part 1910);
- xv. N.J.A.C. 5:11; and
- xvi. N.J.A.C. 5:18.

2. The enumeration of certain regulations in (d)1 above shall not be construed as limiting the applicability of this subsection.

(e) The planning, design and construction of new buildings and structures, or the planning, design and alteration or renovation of existing buildings and structures, to provide the necessary egress facilities, fire protection and built-in fire protection equipment shall be controlled by the New Jersey Uniform Construction Code, and any alterations, additions or changes in or to buildings and structures required by the provisions of this Code which are within the scope of the Uniform Construction Code shall be made in accordance therewith, unless specifically provided otherwise by this Code.

(f) When adequate fire protection is not being provided in a building, structure or premises as herein required or where such fire protection is deemed necessary by the fire official due to hazardous or dangerous conditions involving the occupancy of a building or structure, special fire protection equipment shall be installed in accordance with the requirements of the fire official and Uniform Construction Code.

(g) Any requirement in this chapter that is applicable to a building shall also be applicable to the exterior portion of the premises in which the building is located, or to a premises that does not include a building, if the Division or the fire official finds compliance with such requirement in such exterior area or premises to be necessary for the protection of the safety of persons upon the premises, firefighters or the general public.

Amended by R.1985 d.611, effective December 2, 1985.

See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

(b)2 deleted "Nothing in this section shall be deemed to limit the" and added text "shall not be ... in this section."

Amended by R.1986 d.214, effective June 16, 1986.

See: 17 N.J.R. 1161(a), 18 N.J.R. 1260(b).

Added "New Jersey Department of Transportation" to (b).

Amended by R.1989 d.556, effective November 6, 1989.

See: 21 N.J.R. 2431(a), 21 N.J.R. 3453(a).

Added new (d) regarding superseding of rules.

Amended by R.1991 d.570, effective November 18, 1991.

See: 23 N.J.R. 2813(a), 23 N.J.R. 3444(a).

Added new (h).

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### Case Notes

Local ordinance could impose more stringent fire safety requirements on summer rental units than were imposed by the Uniform Fire Code. *United Property Owners Association of Belmar v. Borough of Belmar*, 777 A.2d 950 (2001).

#### 5:70-1.5 Definitions

The following terms shall have the meaning indicated except where the context clearly requires otherwise. All definitions found in the Uniform Fire Safety Act, P.L. 1983, c. 383, N.J.S.A. 52:27D-192 et seq., shall be applicable to this chapter. Where a term is not defined in this section or in the Uniform Fire Safety Act, then the definition of that term in the Uniform Construction Code at N.J.A.C. 5:23-1.4 shall govern.

"Act" means the Uniform Fire Safety Act, P.L. 1983, c.383, N.J.S.A. 52:27D-192 et seq., and includes all acts amendatory and supplementary thereto and all regulations adopted pursuant thereto.

"Atrium" means a floor opening or series of floor openings connecting two or more stories that is covered at the top of the series of openings and is used for purposes other than an enclosed stairway; elevator hoistway; escalator opening; or utility shaft used for plumbing, electrical, air conditioning, or communication facilities.

"Bed and breakfast" means a facility providing sleeping or dwelling accommodations to transient guests which:

1. Is comprised of a structure originally constructed as a private residence or a bed and breakfast;
2. Includes individual sleeping accommodations for 50 or fewer guests;

3. Has at least one dwelling unit occupied by the owner of the facility as his place of residence during any time that the facility is being used for the lodging of guests;

4. Has not less than 300 square feet of common area for the exclusive use of the guests, including, but not limited to, parlors, dining rooms, libraries and solariums;

5. Prohibits cooking and smoking in guest rooms;

6. Provides a meal to the guests in the forenoon of each day but does not operate as a restaurant open to the general public;

7. Is not a "rooming house" or "boarding house" as defined in N.J.S.A. 55:13B-3; and

8. Does not allow:

i. More than 15 percent of the guests to remain more than 30 successive days or more than 30 days of any period of 60 successive days or more than 30 days of any period of 60 successive days; or

ii. Any guest to remain more than 60 successive days or more than 60 days of any period of 90 successive days.

"Bed and breakfast guesthouse" means a bed and breakfast designed to accommodate at least six guests, but not more than 25 guests.

"Bed and breakfast homestay" means a bed and breakfast designed to accommodate five or fewer guests.

"Bed and breakfast inn" means a bed and breakfast designed to accommodate at least 26 guests, but not more than 50 guests.

"Boarding school" means a public or private residential educational facility, where students are taught a curriculum equivalent to an elementary or secondary school education, which provides lodging services, and that is registered with and certified by the State pursuant to N.J.S.A. 18A:69-2 and N.J.A.C. 6:34.

"Carnival" means a traveling circus or other traveling amusement show having one or more of the following:

1. Mobile enclosed structures used for human occupancy; or

2. Tents or temporary membrane structures requiring a permit in accordance with N.J.A.C. 5:23-3.14(b)22ii.

"Commissioner" means the Commissioner of the Department of Community Affairs or his delegate.

"Common Areas", when used with reference to a covered mall building, shall include all areas not included within any retail establishment and shall also include the required means of egress from all retail establishments. When used with reference to buildings of use groups R-1 and R-2 shall mean all areas accessible to, and which may be utilized by, either the building occupants or the general public and shall include,

but not be limited to, vestibules, hallways, stairways, landings and occupiable rooms and spaces not part of any dwelling unit; and shall also include any area accessible to the owner or manager or any person employed in the maintenance of the building which area is not part of any dwelling unit.

"Day" means a calendar day, unless otherwise specified.

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

"Director" means the Director of the Division of Fire Safety.

"Division" means the Division of Fire Safety of the Department of Community Affairs.

"Dormitory" means a building, or portion thereof, containing rooms which are provided as residences or for overnight sleeping for individuals or groups, and includes those residences utilized by fraternities or sororities which are recognized by or owned by a school or institution of higher education, but does not include those residences or multiple dwellings utilized by students which are not recognized by or owned by a school or institution of higher education. "Dormitory" is not to include a building used primarily to house faculty or a multiple dwelling in which occupancy of each dwelling unit is limited to persons who are members of a single family group.

"Fire barrier" means a continuous membrane, either vertical or horizontal, such as a wall or floor assembly, that is designed and constructed with a specified fire resistance rating and located to limit the spread of fire and restrict the movement of smoke. Such barriers may have protected openings when a specific fire resistive rating is indicated by this Code. When a rating is required, existing walls, columns and floor/ceiling assemblies meeting the requirements of Federal Housing and Urban Development Rehabilitation Guidelines #8 or of Sections 1, 2, 3 and 4 of Appendix B of the BOCA Basic/National Existing Structures Code, 1984 Ed., shall be acceptable.

"Fire Inspector" means a person working under the direction of the fire official who is certified by the Commissioner of the Department of Community Affairs and appointed or designated to enforce the Code by the appointing authority of a local enforcing agency.

"Fire Official" means a person certified by the Commissioner of the Department of Community Affairs and appointed or designated to direct the enforcement of the Code by the appointing authority of a local enforcing agency. This term shall also include "Fire Marshal" where the fire official has been appointed pursuant to N.J.A.C. 5:71-3.2.

"Floor area, gross" means the floor area within the perimeter of the outside walls of the building or use under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or other features.

"Floor area, net", for purposes of determining occupant load, means the actual occupied floor area and shall not include unoccupied accessory areas or thickness of walls.

"Fraternity" or "sorority" means an organization or chapter primarily composed of students enrolled in a college or university or any student organization recognized as such by a school or institution of higher education that occupies a building used by its members as a dormitory, whether or not owned by the school or institution of higher education.

"High-rise structure" means any building or structure having floors used for human occupancy located either more than six stories or more than 75 feet above the lowest level accessible to a fire department vehicle.

"Incidental use" means a use supplemental to the main use of a building where the area devoted to such use does not occupy more than 10 percent of the area of any floor.

"Institution of higher education" means a public or private college or university incorporated and located in New Jersey, as defined in N.J.S.A. 18A:62-1, N.J.S.A. 18A:68-1, or any equivalent college or university incorporated and located in New Jersey, which, by virtue of law or character or license, is a nonprofit educational institution authorized to grant academic degrees.

"Life hazard use" means a building or structure, or part thereof, classified in any of the use groups in the building subcode of the New Jersey Uniform Construction Code and defined as such in subchapter 2 of this chapter. "Life hazard use" shall also mean and include high rise structures as defined in this section.

"Local enforcing agency" means a municipal agency, fire department, fire district or county fire marshal authorized by municipal ordinance to enforce the act within a specific local jurisdiction or, where such authorization has not been granted by local ordinance, it means the Department of Community Affairs. "Local enforcing agency" shall also mean and include a county fire marshal authorized by ordinance or resolution of the board of chosen freeholders to enforce the act in county facilities. With regard to enforcement of the act in premises owned or maintained by the State of New Jersey or any of its boards, commissions, agencies or authorities, "local enforcing agency" shall mean the Division.

"Lumber" means boards, dimension lumber, timber, plywood, pressure treated wood, fencing and fence posts, and other similar wood products.

"Maximum permitted occupancy" means the maximum number of persons which can be permitted in a building or portion thereof as established in accordance with N.J.A.C. 5:70-4.11(e).

"Nursing home" means a building used for nursing or custodial care on a 24-hour basis for more than five persons where evacuation is impractical (a group that, even with staff

assistance, cannot reliably move to a point of safety in a timely manner) as defined in Section 22-1.3 of NFPA 101-97. This shall include intermediate care facilities, skilled nursing facilities and long term care facilities.

"Owner" means a person who owns, purports to own, manages, rents, leases or exercises control over a building, structure, premises, or use, or a portion thereof.

"Owner-occupied" when used in conjunction with "Use Group R-3" means a building serving as the residence of at least one holder of record of title to the property.

"Premises" means a specific locality, area of land or portion thereof, and shall include any buildings, structures or portions of buildings or structures thereon.

"Protective equipment" means any equipment, device, system or apparatus permitted or required by the commissioner to be constructed or installed in or upon a building, structure or premises for the purpose of protecting the occupants or intended occupants thereof, fire fighters or the public generally from fire or products of combustion.

"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 of 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.

"Smoke barrier" means a continuous membrane, either vertical or horizontal, such as a wall, floor, or ceiling assembly, that is designed and constructed to restrict the movement of smoke. A smoke barrier may or may not have a fire resistance rating. Such barriers may have protected openings. When a fire resistive rating is required, existing walls, columns and floor/ceiling assemblies meeting the requirements of Federal Housing and Urban Development Rehabilitation Guidelines #8, or of Sections 1, 2, 3 and 4 of Appendix B of the BOCA Basic/National Existing Structures Code, 1984 Ed., shall be acceptable.

"State Fire Prevention Code" means the model code of the Building Officials and Code Administrators International, Inc., known as the "BOCA National Fire Prevention Code/1996," adopted by reference in N.J.A.C. 5:70-3.1(a) as the State Fire Prevention Code for New Jersey, subject to the modifications set forth in N.J.A.C. 5:70-3.2.

"Story above grade" means any story having its finished floor surface entirely above grade except that a story which is partly or completely below grade (basement) shall be considered as a story above grade when the distance from grade

to the finished surface of the floor above the basement is more than six feet for more than 50 percent of the total perimeter or more than 12 feet at any point.

"Uniform Construction Code" or "Construction Code" means the New Jersey Uniform Construction Code (N.J.A.C. 5:23-1 et seq.).

"Use" or "Use Group" means the use to which a building, portion of a building, or premises, is put as follows. It shall also mean and include any place, whether constructed, manufactured or naturally occurring, whether fixed or mobile, that is used for human purpose or occupancy that would subject it to the provisions of this Code if it were a building or premises. The Use Group designations below shall be used for all use group references in this code, with the exception of N.J.A.C. 5:70-3, where the use group designations contained in the Uniform Construction Code, N.J.A.C. 5:23, shall be used.

1. "Use Group A-1-A": This Use Group shall include all theaters and other buildings used primarily for theatrical or operatic performances and exhibitions, arranged with a raised stage, proscenium curtain, fixed or portable scenery loft, lights, motion picture booth, mechanical appliances or other theatrical accessories and equipment, and provided with fixed seats.

2. "Use Group A-1-B": This Use Group shall include all theaters without a stage and equipped with fixed seats used for motion picture performances.

3. "Use Group A-2 (nightclubs)": This Use Group shall include all buildings and places of public assembly, designed for use as dance halls, nightclubs, eating and/or drinking establishments, and similar occupancies, in which the established maximum permitted occupant load exceeds the number of seats provided by more than 30 percent or which affords less than 12 square feet net area per occupant. For purposes of determining the net area per occupant, only the actual public assembly room or rooms shall be considered. For purposes of applying the requirements of this chapter, the nightclub shall include all rooms, lobbies and other spaces connected thereto with a common means of egress and entrance.

4. "Use Group A-3": This Use Group shall include all buildings with or without an auditorium in which persons assemble for amusement, entertainment or recreation, and incidental motion picture, dramatic or theatrical presentations, lectures or other similar purposes without theatrical stage other than a raised platform; and principally used without permanent seating facilities, including art galleries, exhibition halls, museums, lecture halls, libraries, restaurants other than night clubs, and recreation centers; and buildings designed for other similar assembly purposes including passenger terminals.

5. "Use Group A-4": This Use Group shall include all buildings used as churches and for similar religious purposes.

6. "Use Group A-5": This Use Group shall include grandstands, bleachers, coliseums, stadiums, tents and similar structures for outdoor assembly uses.

7. "Use Group B": All buildings and structures, or parts thereof, shall be classified in Use Group B which are used for the transaction of business, for the rendering of professional services, or for other services that involve stocks of goods, wares or merchandise in limited quantities for use incidental to office uses or sample purposes.

8. "Use Group E": This Use Group shall include all buildings and structures used for educational purposes serving six or more students in any or all of the grades from kindergarten through grade 12.

9. "Use Group F": All buildings and structures, or parts thereof, in which occupants are engaged in performing work or labor in the fabricating, assembling or processing of products or materials shall be classified in Use Group F; including, among others, factories, assembling plants, industrial laboratories and all other industrial and manufacturing uses, except those of Use Group H involving highly combustible, flammable or explosive products and materials.

i. "Use Group F-1": Factory and industrial uses which are not otherwise classified as low-hazard Use Group F-2, shall be classified as a moderate-hazard factory and industrial use, Use Group F-1.

ii. "Use Group F-2": Factory and industrial uses which involve the fabrication or manufacturing of non-combustible materials that, during finishing, packing or processing, do not contribute to a significant fire hazard, shall be classified as Use Group F-2. The following manufacturing processes are indicative of, and shall be classified as, Use Group F-2: beverages, nonalcoholic; brick and masonry; ceramic products; foundries; glass products; gypsum; ice; metal fabrication and assembly; and water pumping plants.

10. "Use Group H": All buildings and structures, or parts thereof, shall be classified in Use Group H which are used for the manufacturing, processing, generation or storage of corrosive, highly toxic, highly combustible, flammable or explosive materials that constitute a high fire or explosion hazard, including loose combustible fibers, dust and unstable materials.

11. "Use Group I-1": This Use Group shall include buildings housing six or more individuals who, because of age, mental instability or other reasons, must live in a supervised environment but who are physically capable of responding to an emergency situation without personal assistance. Included in this group are uses such as facilities



for children, aged persons, mentally impaired and convalescents including: convalescent facilities, group homes, homes for the aged, mentally retarded care facilities, orphanages and residential care facilities. Occupancies such as the above with five or less occupants shall be classified as a residential Use Group.

12. "Use Group I-2": This Use Group shall include all buildings used for housing people suffering from physical limitations because of health or age, including, among others, day nurseries, hospitals, sanitariums, infirmaries, orphanages and homes for aged and infirm.

13. "Use Group I-3": This Use Group shall include all buildings designed for the detention of people under restraint, including, among others, jails, prisons, reformatories, insane asylums and similar uses.

14. "Use Group M": All buildings and structures, or parts thereof, shall be classified in Use Group M which are used for display and sales purposes involving stocks of goods, wares or merchandise incidental to such purposes and accessible to the public; including, among others, retail stores, motor fuel service stations, shops and salesrooms and markets.

15. "Use Group R-1": This Use Group shall include all hotels, motels, retreat lodging facilities, and similar buildings arranged for shelter and sleeping accommodations and in which the occupants are primarily transient in nature, making use of the facilities for a period of less than 30 days. This definition shall also mean and include bed and breakfast guesthouses and bed and breakfast inns.

16. "Use Group R-2": This Use Group shall include all multiple family dwellings having more than two dwelling units and shall also include all dormitories, rooming houses, group rentals where the occupants are living independently of each other and similar buildings arranged for shelter and sleeping accommodations in which the occupants are primarily not transient in nature. This Use Group shall also include attached one- and two-family dwelling units which do not meet the definition for Use Group R-3.

17. "Use Group R-3": This Use Group shall include all buildings arranged for the use of detached one- and two-family dwelling units, including, but not limited to, buildings with not more than five lodgers or boarders per family, and excluding buildings designed in accordance with the one- and two-family subcode of the State Uniform Construction Code. This Use Group shall also mean and include:

- i. Bed and breakfast homestays; and
- ii. Attached one- and two-family dwellings constructed in accordance with the Uniform Construction Code requirements for multiple single family dwellings.

18. "Use Group R-4": This Use Group shall include all buildings arranged for use as detached one- and two-family dwelling units, including, without limitation, buildings occupied by not more than five lodgers or boarders per family

and buildings used as bed and breakfast homestays, that are designed in accordance with the one- and two-family dwelling subcode of the State Uniform Construction Code.

19. "Use Group S-1": All buildings and structures, or parts thereof, which are used primarily for the storage of moderate hazard contents which are likely to burn with moderate rapidity, but which do not produce either poisonous gases, fumes or explosives; including, among others, warehouses, storehouses and freight depots.

20. "Use Group S-2": All buildings and structures, or parts thereof, which are used primarily for the storage of noncombustible materials, and of low hazard wares that do not ordinarily burn rapidly such as products on wood pallets or in paper cartons without significant amounts of combustible wrappings; including, among others, warehouses, storehouses and freight depots. Such products may have a negligible amount of plastic trim such as knobs, handles or film wrapping.

Amended by R.1985 d.611, effective December 2, 1985.

See: 17 N.J.R. 1015(b), 17 N.J.R. 2870(a).

Added definition "Common areas".

Amended by R.1986 d.214, effective June 16, 1986.

See: 17 N.J.R. 1161(a), 18 N.J.R. 1260(b).

Added new definitions.

Amended by R.1989 d.556, effective November 6, 1989.

See: 21 N.J.R. 2431(a), 21 N.J.R. 3453(a).

Added definitions for "guest house" and "K-12 educational building"; added definitions 1.-18. under "Use" or "Use Group".

Amended by R.1991 d.359, effective July 15, 1991.

See: 23 N.J.R. 1235(a), 23 N.J.R. 2122(b).

Uniform Fire Safety Act definitions incorporated by reference; definition of fire inspector added; definition of fire official amended.

Amended by R.1992 d.104, effective March 2, 1992.

See: 23 N.J.R. 3552(a), 24 N.J.R. 739(a).

School dormitories added to definition of use.

Amended by R.1992 d.385, effective October 5, 1992.

See: 24 N.J.R. 2654(a), 24 N.J.R. 3519(a).

Definitions for hardware store, Use Group F-1 and Use Group F-2 added.

Amended by R.1992 d.405, effective October 19, 1992.

See: 24 N.J.R. 1938(a), 24 N.J.R. 3723(b).

Use Group A-2 amended to include eating/drinking establishments where load exceeds seats by 30%.

Amended by R.1993 d.197, effective May 3, 1993.

See: 25 N.J.R. 393(a), 25 N.J.R. 1868(a).

Added definitions of gross and net floor area and lumber.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Amended by R.1995 d.59, effective March 6, 1995.

See: 26 N.J.R. 4249(a), 27 N.J.R. 891(a).

Emergency amendment, R.2000 d.402, effective September 8, 2000 (to expire November 7, 2000).

See: 32 N.J.R. 3647(a).

Added definitions for "Boarding school", "Dormitory", "Fraternity" and "Institution of higher education"; added last sentence to "Local enforcing agency".

Adopted concurrent proposal, R.2000 d.486, effective November 6, 2000.

See: 32 N.J.R. 3647(a), 32 N.J.R. 4310(a).

Readopted provisions of R.2000 d.402 with changes, effective December 4, 2000.

Amended by R.2002 d.372, effective November 18, 2002.

See: 34 N.J.R. 2636(a), 34 N.J.R. 3958(a).

In "Carnival", deleted "uses" following "of the following" in the introductory paragraph, amended the N.J.A.C. reference in 2 and deleted 3.

Administrative correction.

See: 35 N.J.R. 219(d).

Amended by R.2003 d.137, effective April 7, 2003.

See: 34 N.J.R. 4277(a), 35 N.J.R. 1558(c).

In "Use" or "Use Group", rewrote 17, added a new 18, and recodified former 18 and 19 as 19 and 20.

Amended by R.2003 d.364, effective September 15, 2003 (operative October 1, 2003).

See: 35 N.J.R. 2433(a), 35 N.J.R. 4282(a).

In "Use" or "Use Group" rewrote 8.

Amended by R.2005 d.149, effective May 16, 2005.

See: 37 N.J.R. 169(a), 37 N.J.R. 1781(a).

Added "Retreat lodging facility"; in Use or Use Group" inserted "retreat lodging facilities," following "include all hotels, motels," in 15.

Amended by R.2007 d.2, effective January 2, 2007.

See: 38 N.J.R. 3377(a), 39 N.J.R. 28(b).

Added definition "Nursing home"; and in 11. of definition "'Use' or 'Use group'", deleted "nursing homes (ambulatory)," following "mentally retarded care facilities,".

Amended by R.2007 d.51, effective February 5, 2007.

See: 38 N.J.R. 375(a), 39 N.J.R. 371(a).

In paragraph 3 of definition "'Use' or 'Use Group'", inserted "(nightclubs)", deleted "without theatrical stage accessories," following "assembly," and "and" preceding "eating", and substituted "or which affords less than 12 square feet net area per occupant. For purposes of determining the net area per occupant, only the actual public assembly room or rooms shall be considered. For purposes of applying the requirements of this chapter, the nightclub" for "and".

Amended by R.2008 d.236, effective August 18, 2008.

See: 39 N.J.R. 3805(a), 39 N.J.R. 4893(a), 40 N.J.R. 4760(a).

In definition "'Use' or 'Use Group'", inserted the last sentence.

#### Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 241) adopted, which concluded that respondent's property, consisting of three dwelling units in one house, was Use Group R-2 rather than Use Group R-3 based on the plain language of N.J.A.C. 5:70-1.5. *Bureau of Housing Inspection v. Tider*, OAL Dkt. No. CAF 03540-05, 2007 N.J. AGEN LEXIS 340, Final Decision (May 22, 2007).

Multiple dwelling with seven stories on one side and six stories on the other was "high-rise structure". *Mahmood H. Choudhury-Park Royal Apartments v. Bureau of Fire Safety*, State Dept. of Community Affairs, 92 N.J.A.R.2d (CAF) 46.

#### 5:70-1.6 (Reserved)

Repealed by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Formerly "Operative date".

#### 5:70-1.7 Severability

(a) If any provision of the Code or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Code which can be given effect and to this end the provisions of the Code are severable.

### SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT

#### 5:70-2.1 Enforcement authority

(a) It shall be the duty and responsibility of the agency having jurisdiction in accordance with N.J.A.C. 5:71-2.2 to enforce the provisions of this Code as set forth herein.

1. Where no local enforcing agency has been created the Division shall enforce the provisions of this Code for life hazard uses or whenever conditions which constitute an imminent hazard are found to exist.

(b) The local enforcing agency shall periodically inspect all premises, except owner-occupied Use Group R-3 and R-4 structures used exclusively for dwelling purposes. These inspections shall be made in accordance with the schedule contained in this Code, when required under any cyclical inspection program, and as often as may be necessary for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with fire operations, or endanger life, or any conditions constituting violations of the provisions or intent of this Code or a locally adopted amendment. Except in the case of cyclical inspection programs or other good cause, inspections shall not include occupied dwelling units.

(c) Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the fire official or his or her authorized representative has reasonable cause to believe that there exists in any or upon any premises any condition which makes such building or premises unsafe, the fire official or his or her authorized representative may enter such premises, at all reasonable times to inspect the same or to perform any duty imposed upon the fire official by this code, provided that if such premises be occupied, he or she shall first present proper credentials and demand entry; and if such premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and demand entry.

1. No owner or occupant or any other persons having charge, care or control of any premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the fire official or his or her authorized representative for the purpose of inspection and examination pursuant to this Code. If the owner or occupant denies entry, the fire official or his or her authorized representative shall obtain a proper warrant or other remedy provided by law to secure entry.

(d) Local enforcing agency personnel shall use this Code to enforce N.J.A.C. 5:76-1.4.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Amended by R.2003 d.137, effective April 7, 2003.

See: 34 N.J.R. 4277(a), 35 N.J.R. 1558(c).

In (b), inserted "periodically" preceding "inspect", deleted "detached" following "owner-occupied", and inserted "and R-4" following "R-3".

Amended by R.2003 d.230, effective June 16, 2003.

See: 34 N.J.R. 3888(a), 35 N.J.R. 2639(b).

Added (d).

#### Case Notes

Abatement of violation; failure to install fire suppression system. *Lee's Emergency Equipment v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 39.



**5:70-2.2 Responsibility for compliance**

(a) The owner shall be responsible for the safe and proper maintenance of the premises at all times.

(b) Owners of premises which are, or which contain, one or more uses subject to this Code, shall have concurrent responsibility with the owners of any such uses for compliance with the Code. No person shall be required to abate any violations which he has no power to abate or to require to be abated. If a violation is served on an owner who cannot comply due to lack of authority, within five days of receipt of the notice of violation, the owner shall either provide notice of the violation to the party with authority or inform the fire official of such party's name and address.

(c) If an occupant of a premises creates conditions in violation of this Code, by virtue of storage, handling and use of substances, materials, devices and appliances, the occupant can be held responsible for the abatement of said hazardous conditions.

(d) A person shall be deemed to have violated or caused to have violated a provision of this Code if an officer, agent or employee under his control and with his knowledge has violated or caused to have violated any of the provisions of this Code.

## SUBCHAPTER 3. STATE FIRE PREVENTION CODE

**5:70-3.1 Code adopted, scope and applicability**

(a) Pursuant to the authority of P.L. 1983, c. 383, the Commissioner hereby adopts the model code of the International Code Council, known as the "2006 International Fire Code." This code is hereby adopted by reference as the State Fire Prevention Code for New Jersey, subject to the modifications set forth in N.J.A.C. 5:70-3.2.

(b) Copies of this code may be obtained from the Department of Community Affairs, Division of Fire Safety, 101 South Broad Street, Trenton, New Jersey 08625-0809 or from the International Code Council at 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795.

(c) For purposes of this subchapter, the group definitions shall be those adopted under the Uniform Construction Code, N.J.A.C. 5:23.

(d) This subchapter establishes fire prevention requirements governing the safe maintenance of all buildings and premises subject to this code. It is not the intent of this subchapter to require the installation or upgrading of any system, equipment or building component not already required by N.J.A.C. 5:70-4 or by the Uniform Construction Code in effect at the time of construction of the building or at the time of installation of any existing system, equipment or building component. This subchapter shall not be cited as the basis for any retrofit requirement. A lack of compliance with N.J.A.C. 5:70-4 shall be cited by the fire official under N.J.A.C. 5:70-4. A suspected lack of compliance with the provisions of the Uniform Construction Code in effect at the time of construction or installation shall be referred to the local construction official for appropriate action.

(e) Violations of this subchapter shall be cited by giving the New Jersey Administrative Code citation for this subchapter, N.J.A.C. 5:70-3, followed by the section number of the 2006 International Fire Code, as amended by N.J.A.C. 5:70-3.2.

1. Violations of this subchapter shall be cited under the previously-adopted State Fire Prevention Code, the 1996 BOCA Fire Prevention Code, until February 1, 2009. Effective on that date, all violations shall be cited under the 2006 International Fire Code, as amended.

Amended by R.1993 d.197, effective May 3, 1993.

See: 25 N.J.R. 393(a), 25 N.J.R. 1868(a).

Added "used exclusively for dwelling purposes" at (b)1.

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Amended by R.2008 d.236, effective August 18, 2008.

See: 39 N.J.R. 3805(a), 39 N.J.R. 4893(a), 40 N.J.R. 4760(a).

Section was "Code adopted". In (a), substituted "International Code Council" for "Building Officials and Code Administrators International, Inc." and "2006 International Fire Code" for "BOCA National Fire Prevention Code/1996"; in (b), inserted "or from the International Code Council at 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795"; and added (c) through (e).

**Case Notes**

Term "individual dwelling unit" in Uniform Fire Code has same meaning as term "dwelling unit" in Uniform Fire Safety Act; term thus applies to both permanent and transient occupancies. *Venuti v. Cape May County Const. Bd. of Appeals*, 231 N.J.Super. 546, 555 A.2d 1175 (A.D.1989).

Hotel and motel rooms with cooking facilities are "individual dwelling units" and thus exempt from Uniform Fire Code requirements for fire suppression systems. *Venuti v. Cape May County Const. Bd. of Appeals*, 231 N.J.Super. 546, 555 A.2d 1175 (A.D.1989).

Municipal subcode official did not have authority to require portable fire extinguishers to be placed in motel and hotel efficiency units with cooking facilities. *Venuti v. Cape May County Const. Bd. of Appeals*, 231 N.J.Super. 546, 555 A.2d 1175 (A.D.1989).

**5:70-3.2 Modifications**

(a) The following articles or sections of the State Fire Prevention Code are modified as follows:

1. Chapter 1, Administration, shall be amended as follows:

i. In Section 101, General, the following text shall be deleted, "General" and the following text shall be inserted, "Scope and Applicability".

ii. In Section 101.1, Title, the following text shall be deleted, "Title. 101.1 Title. These regulations shall be known as the Fire Code of [NAME OF JURISDICTION], hereinafter referred to as "this code." The following text shall be inserted, "Purpose: The purpose of this code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion, or dangerous conditions in new and existing buildings, incident to the occupancy and maintenance of structures and premises and to provide safety to fire fighters and emergency responders during emergency operation."

iii. In Section 101.2, Scope, the following text shall be inserted following "safeguards regarding:", "1. The proper maintenance of fire protection features required by the construction code in effect at the time of first occupancy; by the Fire Safety Code (N.J.A.C. 5:70-4); or by the provisions of other, applicable fire safety rules or ordinances lawfully promulgated by the State or by a local enforcing agency;". In number 3, after "structures," "or" shall be deleted and after "premises," "or mobile enclosed units;" shall be inserted. "4. Matters related to the construction, extension, repair, alteration or removal of fire suppression or alarm systems." shall be deleted and "4. Fire hazards in the structure or on the premises from occupancy or operation." shall be added.

iv. Section 101.2.1, Appendices, shall be deleted in its entirety.

v. The text of Section 101.3, Intent, shall be deleted and the following text shall be inserted "101.3 Applicability. This subchapter shall be applicable to:"

vi. New Section 101.3.1, shall be added as follows, "101.3.1 All buildings, structures, and premises within this State, with the exception of owner-occupied one- and two-family dwellings used exclusively for dwelling purposes; and"

vii. New Section 101.3.2, shall be added as follows, "101.3.2 All fire safety hazards arising from the storage, handling or use of substances, materials or devices and arising from conditions hazardous to life, property or public welfare in the use or occupancy of buildings, structures, sheds, tents, lots or premises."

viii. New Section 101.3.2.1 shall be added as follows "101.3.2.1 Such handling or use shall be construed as referring, as well, to industrial processes and equipment whether or not they are subject to Uniform Construction Code provisions."

ix. New Section 101.3.3 shall be added as follows, "101.3.3 Buildings or other facilities built under and in full compliance with the codes in force at the time of construction or alteration thereof, and that have been properly maintained and used for such use as originally permitted, shall be exempt from the requirements of this subchapter pertaining to any of the following matters:

1. Fire protection of structural elements.
2. Isolation of hazardous operations.
3. In lieu of requiring the installation of safety devices or systems or when necessary to secure safety in addition thereto, the fire official may prescribe limitations consistent with the provisions of nationally recognized standards, on the handling and storage of materials or substances, or upon operations that are liable to cause fire, contribute to the spread of fire, or endanger life or property."

x. New Section 101.3.4 shall be inserted as follows, "101.3.4 This code shall apply to any outdoor activities, uses or operations for which requirements are established by this code."

xi. New Section 102, General Provisions, shall be inserted as follows,

"SECTION 102  
GENERAL PROVISIONS"

xii. The text of Section 102.1, Construction and design provisions, shall be deleted and the following text shall be inserted, "102.1 General: The following provisions are general provisions for precautions to be applied to the use of all properties."

xiii. New Section 102.1.1 shall be inserted as follows, "102.1.1 Any dangerous or hazardous conditions that are outlined in 1 through 10 below shall be removed or remedied in accordance with the provisions of N.J.A.C. 5:70-2.10:

1. Dangerous conditions that are liable to cause or contribute to the spread of fire in or on said premises, building or structure or endanger the occupants thereof;

2. Conditions that would interfere with the efficiency and use of any fire protection equipment;

3. Obstruction to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the egress of occupants or the operation of the fire department in case of fire;

4. Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts;

5. Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment;

6. Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material;

7. Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances;

8. Hazardous conditions arising from defective or improperly installed equipment for handling or use of combustible, explosive or otherwise hazardous materials;

9. Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials; or

10. All equipment, materials, processes or operations that are in violation of the provisions and intent of this Code.

xiv. The text of Section 102.2, Administrative, operational and maintenance provisions, shall be deleted in its entirety and the following text shall be inserted, "102.2 One-call. Where any activity regulated by this chapter is also regulated pursuant to the 'Protection of Underground Facilities: One-Call Damage Prevention System' N.J.A.C. 14:2-1 et seq., such as any activity involving a road opening, blasting, demolition or excavation, no permit or approval granted pursuant to this chapter shall be considered valid unless such activity is conducted in compliance with the above cited regulations and the parameters contained within the One-Call confirmation ticket, a copy of which shall be provided to the fire official upon request."

xv. Section 102.3, Change of use or occupancy, shall be deleted in its entirety.

xvi. Section 102.4, Application of building code, shall be deleted in its entirety.

1. Posts are to be a minimum of six inch diameter schedule 40 pipe and painted yellow;
2. Posts are to be buried a minimum of 48 inches deep and extend a minimum of 48 inches above grade and be filled with concrete;
3. Posts are to be set at four feet maximum centers;
4. Posts are to be encased in concrete of 24 inches diameter and 48 inches in depth for minimum standards; and
5. The crash protection shall be installed a minimum of 24 inches from the LP-gas container(s).

xxxvi. In Section 313.1, General, in Exception 1, "International Building Code" shall be deleted and "the building subcode of the Uniform Construction Code" shall be inserted. In Exception 2, ".4" shall be deleted leaving "Section 314".

xxxvii. In Section 313.2, Group R occupancies, following the word "buildings," "and shall be separated from other occupancies in accordance with the Uniform Construction Code" shall be inserted.

xxxviii. In Section 315.1, General, "and NFPA 230" shall be inserted following the words "in accordance with this section" and the following text shall be deleted, "A permit shall be obtained in accordance with Section 105.6."

xxxix. In Section 315.2.1, Ceiling clearance, "in accordance with NFPA 25 with at least" shall be inserted before the words "a minimum."

xl. New Section 315.2.5 shall be added as follows: "315.2.5 The storage of combustible or flammable materials shall be confined to approved storage areas."

xli. In Section 315.3, Outside storage, "shall be compact and orderly" shall be inserted after the words "combustible materials". "10" shall be replaced by "15". "or building" shall be inserted following the words "property line."

xlii. New Section 316, Rooming and Boarding Houses and Residential Health Care Facilities, shall be inserted as follows:

#### "SECTION 316

##### ROOMING AND BOARDING HOUSES AND RESIDENTIAL HEALTH CARE FACILITIES

316.1 General: Every rooming and boarding house shall have rules prohibiting the activities listed in 316.1.1 and 316.1.2 below, which shall be accepted in writing by every resident as a condition of residency.

316.1.1 Cooking: The use of cooking and food warming and portable heat producing devices, other than microwave ovens, is prohibited in rooming units.

Exception: This prohibition shall not apply in rooming units containing complete kitchens.

316.1.2 Smoking: Smoking is prohibited in rooming units."

4. Chapter 4, Emergency Planning and Preparedness, shall be amended as follows:

i. New Section 401.3.4, Unplanned evacuation, shall be inserted as follows, "401.3.4 Unplanned evacuation. Evacuations made necessary by the unplanned activation of a fire alarm system or by any other emergency shall not be substituted for a required evacuation drill."

ii. New Section 404.1.1 shall be inserted as follows, "404.1.1 Group Overnight Stays. Fire safety and evacuation plans for Group Overnight Stays shall comply with section 408.14."

iii. In Section 404.2, Where required, the following text shall be inserted in number 8. "Therapeutic residences of" shall be inserted before "Group" and R-2, R-3 and" shall be inserted following "Group." The following text shall be inserted following 13: 14. Casinos, 15 Flammable Liquid Terminals, 16 Adult and child day care facilities, 17. Group Overnight Stays.

iv. New Section 404.5.1 shall be inserted as follows, "404.5.1 The fire safety and evacuation plans shall be distributed to the tenants and building service employees by the owner or agent. Tenants shall distribute to their employees applicable parts of the fire safety plan affecting the employees' actions in the event of a fire or other emergency.

v. In Section 405.1, General, "or when required by the fire code official" shall be deleted.

vi. In Section 405.5, Record keeping, after "evacuation drills," "and unplanned evacuations to" shall be inserted Following "evacuations," "and" shall be deleted.

vii. New Section 405.5.1, Casino Fire Command Center, shall be inserted as follows: "405.5.1 Casino Fire Command Center: The Casino Fire Command Center shall maintain a comprehensive log which shall include the information required in 405.5.1.1 and 405.5.1.2 below."

viii. New Section 405.1.1 shall be inserted as follows: "405.5.1.1 The name and signature of each employee on duty in the Fire Command Center along with the date and time of arrival and departure."

ix. New Section 405.5.1.2 shall be inserted as follows: "405.5.1.2 A description of each incident occurring within the casino or hotel, including the date, time, location and action taken. An incident shall include, but not be limited to, fire, alarm activation, trouble signal, fire protection equipment malfunction, and any unre-

corded communication pertaining to fire or life safety which is made to or from the Fire Command Center.”

x. Table 405.2, Fire and Evacuation Drill Frequency and Participation, shall be amended as follows:

Insert “Monthly to include” under Frequency column, row 4, and insert “All occupants” under Participation column

Delete Group R-4 under Group or Occupancy column, row 7, and insert “Therapeutic Residences”

Insert “Monthly to include” in the Frequency column, row 7, before “Quarterly on each shift”

Delete “Employee” in the Participation column row 7 and insert “All occupants”

Delete “Employee” in the Participation column row 8 and insert “All occupants”

Add new rows as follows: under Group or occupancy, add “Casino” in row 9, “Flammable Liquid Terminals” in row 10 and “Group overnight Stays” in row 11.

Under Frequency, add “Twice per year” in row 9, “Twice per year in row 10, and “At the start of each night’s activities in row 11.

Under participation, add “Employees” in row 9, “Employees” in row 10 and “All occupants” in row 11.

The table should appear as follows:

TABLE 405.2  
FIRE AND EVACUATION DRILL  
FREQUENCY AND PARTICIPATION

GROUP OR OCCUPANCY	FREQUENCY	PARTICIPATION
Group A	Quarterly	Employees
Group B <sup>c</sup>	Annually	Employees
Group E	Monthly <sup>a</sup>	All occupants
Group I	Monthly to include Quarterly on each shift	All occupants <sup>e</sup> Employees <sup>b</sup>
Group R-1	Quarterly on each shift	Employees
Group R-2 <sup>d</sup>	Four annually	All occupants
Therapeutic Residences	Monthly to include Quarterly on each shift	All occupants <sup>b</sup>
High-rise Buildings	Annually	All occupants
Casinos	Twice per year	Employees
Flammable Liquid Terminals	Twice per year	Employees
Group Overnight Stay	At the start of each nights activities	All occupants

a. The frequency shall be allowed to be modified in accordance with Section 408.3.2.

b. Fire and evacuation drills in residential care assisted living facilities shall include complete evacuation of the premises in accordance with Section 408.10.5. Where occupants receive habilitation or rehabilitation training, fire prevention and fire safety practices shall be included as part of the training program.

c. Group B buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.

d. Applicable to Group R-2 college and university buildings in accordance with Section 408.3.

e. Applicable to Group I day care centers in accordance with Section 408.3.

xi. In Section 407.1, General, after “under,” “Section 2701.5” shall be deleted and “N.J.A.C. 5:70-2.7 or LHU registration under N.J.A.C. 5:70.2.4” shall be inserted.

xii. The title of Section 408.3 shall be amended to insert “, Group I day care centers” after “Group E occupancies.” In addition, in the first sentence of the same section, “and Group I” shall be inserted after “Group E.”

xiii. In Section 408.3.1, First emergency evacuation drill, insert “two” before “emergency evacuation drill” and insert “s” in “drill” to make it plural. In addition, in the first sentence, “for Group E and Group I” shall be inserted after “classes.” Finally, a second sentence shall be inserted as follows: “The first drill for Group R-2 shall be conducted within 10 days of the start of each semester.”

xiv. In Section 408.3.3, Time of day, “and one shall be held during daylight hours” shall be inserted after “sunrise.”

xv. In Section 408.7.2, Staffing, “In Use conditions 3, 4 and 5 as defined in Chapter 2” shall be deleted. In the Exception, after the word “with,” delete “Section 408.4 of the International Building Code” and insert “the building subcode of the Uniform Construction Code.”

xvi. In Section 408.9, Group R-2 occupancies, after “occupancies,” insert “located in high rise buildings.”

xvii. In Section 408.10, Group R-4 occupancies, following “408.10,” delete “Group R-4 occupancies. Group R-4 occupancies” and insert “Therapeutic residences. Therapeutic residences”

xviii. New Section 408.10.3.1, Admission, shall be inserted as follows: “408.10.3.1 Admission. Within 24 hours of admission, each new occupant shall participate in a fire drill to ensure compliance with this chapter.”

xix. New Section 408.10.3.2, Self Evacuation, shall be inserted as follows: “408.10.3.2 Self-Evacuation.

Self-Evacuation pursuant to Uniform Construction Code means capable of self evacuation with a prompt egress time not exceeding 3 minutes.”

xx. New Section 408.10.3.3, Exceeding allotted time, shall be inserted as follows: “408.10.3.3, Exceeding allotted time. If any resident exceeds the allotted time, the facility manager shall relocate clients or take other action to ensure that the required time is met. If the fire official finds that the required time is not being met, the fire official shall refer the matter to the construction official as a possible change in use.”

xxi. In Section 408.10.4 Drill frequency, “at least six times per year” shall be deleted and “monthly” shall be inserted in its place, “two” shall be deleted and “four” shall be inserted in its place. “Twelve drills shall be conducted in the first year of operation. Drills are not required to comply with the time requirements of Section 405.4” shall be deleted.

xxii. New Section 408.12, Casinos, shall be inserted as follows:

#### “408.12 CASINOS

408.12.1 Casinos. In addition to the other provisions of this chapter Casinos shall comply with 408.12.2 through 408.12.4.9.

408.12.2 Casino employees: All hotel-casino employees who are assigned duties under the plan shall be periodically instructed and kept informed in respect to their respective duties and responsibilities. Such training shall include the proper use of portable fire extinguishers and other manual fire suppression equipment. With respect to new staff members, such training shall be provided within 30 days of entrance to duty. With respect to existing staff, refresher training shall be provided at least annually and whenever a reassignment significantly alters an employee’s duties and responsibilities under the plan.

408.12.3 Casino Fire Safety Units: Every establishment licensed as a hotel-casino by the New Jersey Casino Control Commission shall establish a Fire Safety Unit consisting of trained personnel who shall be under the direct supervision of a supervisor who shall have responsibility for the operation of the Unit and the Fire Command Center and whose sole responsibility during a fire-related emergency incident shall be the direction of the unit and center. The supervisor shall report directly to the Director of the Department under which the Fire Safety Unit is organized.

408.12.4 Responsibilities: The responsibilities of the Fire Safety Unit shall include the following as listed in 408.12.4.1 through 408.12.4.9 below. The Fire Safety Unit shall:

408.12.4.1 Ensure continual staffing of the Fire Command Center with trained hotel-casino personnel. There shall be at least one such trained person in the Center at all times who shall, while on duty, be responsible for the direction of the unit and the center during a fire-related emergency;

408.12.4.2 Develop and implement a comprehensive fire safety and evacuation plan;

408.12.4.3 Provide specialized training for all employees to assure compliance with the fire safety plan;

408.12.4.4 Familiarize all employees of the hotel-casino with the fire safety plan and with the built-in fire detection and suppression systems in the casino and hotel;

408.12.4.5 Familiarize management and security employees with local fire department operations and procedures for various emergencies in the hotel-casino;

408.12.4.6 Provide training for employees on specific support functions to be performed to assist fire department personnel in an emergency;

408.12.4.7 Provide training for employees in early detection and proper evacuation of a fire emergency and the proper use of first aid firefighting equipment and techniques;

408.12.4.8 Provide training annually for all security personnel and Fire Safety Unit staff in cardiopulmonary resuscitation; and

408.12.4.9 Ensure the maintenance of the building and its fire protection features in compliance with the Uniform Construction Code and the Uniform Fire Code.”

xxiii. New Section 408.13 shall be inserted as follows:

#### “408.13 FLAMMABLE LIQUID STORAGE TERMINALS

408.13.1 Flammable liquid storage terminals: All flammable liquid storage terminals required to install High Level Alarm Systems by N.J.A.C. 5:72 shall submit a fire and emergency plan as required by this chapter and N.J.A.C. 5:72-3.4(a).”

xxiv. New Section 408.14 shall be inserted as follows:

#### “408.14 GROUP OVERNIGHT STAYS

408.14.1 Permit required: A separate permit shall be obtained for each non-consecutive group overnight stay, not to exceed six (6) nights in any calendar year. A facility that holds seven (7) or more non-consecutive group overnight stays within a calendar year shall be considered to have changed the use of



the building or portion thereof if the activity involves planned periods of sleep and it shall be necessary to apply for and be issued a certificate of occupancy under the Uniform Construction Code for the new use.

408.14.2 Application: Each application for a permit shall include a fire safety and evacuation plan which shall include, but not be limited to, the following information:

1. Number and age of planned participants;
2. Number of adult supervisors;
3. Fire drill procedures;
4. Procedure for accounting for participants after evacuation has been completed;
5. The preferred means, and any alternative, for notifying participants of a fire or other emergency;
6. The preferred means, and any alternative, for reporting fires or other emergencies to the fire department or emergency response organization;
7. The type of fire protection system(s) provided; and
8. Floor plan per section 408.14.3.

408.14.3 Floor plan: A floor plan of the building, or portion thereof, to be occupied, which identifies the locations of the following:

1. Exits;
2. Proposed sleeping area, if any;
3. Primary evacuation route;
4. Secondary evacuation route;
5. Accessible egress route(s), if available;
6. Fire alarm enunciator and control panel, if any; and
7. Manual fire alarm pull stations, if any.

408.14.4 Means of egress: The means of egress for the sleeping area shall comply with sections 408.14.4.1 through 408.14.4.4.

408.14.4.1 Exits: Two exits shall be required for stories with less than 500 occupants. Three exits shall be required for stories with 501 to 1,000 occupants. Four exits shall be required for stories with more than 1,000 occupants. A single exit is permitted for the story at the level of exit discharge when the occupant load of the story does not exceed 50 and the exit access travel distance does not exceed 75 feet.

408.14.4.2 Means of egress doorways: A minimum of two egress doorways shall be required for all rooms

and spaces with an occupant load greater than 50 or in which the travel distance exceeds 75 feet. All egress doors serving an occupant load greater than 50 shall swing in the direction of exit travel.

408.14.4.3 Means of egress lighting: Artificial lighting with an intensity of not less than one foot candle at floor level shall be available during all times that the conditions of occupancy of the building require that the exits be available. In all buildings, rooms or spaces required to have more than one exit or exit access, means of egress lighting shall be connected to an emergency electrical system conforming to the Uniform Construction Code except that continued illumination shall be required to be provided for not less than one hour in the case of primary power loss.

408.14.4.4 Illuminated exit signs: Illuminated exit signs shall be provided for all required means of egress in all buildings, rooms or spaces required to have more than one exit or exit access. Exit signs shall be visible from the exit access and supplemented by directional signs when necessary.

Exception: Approved main exterior doors that are clearly identified as exits are not required to have exit signs.

408.14.5 Automatic alarms: The building or fire area containing the overnight stay shall be provided with an approved automatic fire detection system consisting of smoke detectors installed in accordance with the Uniform Construction Code.

408.14.6 Fire drill: A fire drill shall be conducted in accordance with the approved fire safety and evacuation plan upon arrival of all participants.

408.14.7 Sleeping area restrictions: Sleeping in rides, jungle mazes, or other amusement-type equipment or other confined areas shall be prohibited.

408.14.8 Supervision: For all overnight stays involving persons under the age of eighteen (18), adult supervision consisting of persons at least twenty-one (21) years of age shall be provided as follows:

One supervisor required <sup>a</sup>	Age group of children
for every 2 children	Greater than 2 1/2 years of age to less than 4 years of age
for every 4 children	4 years of age to less than 7 years of age
for every 8 children	7 years of age to less than 18 years of age

Note a: For groups of children of mixed ages:

The point of transfer of LP-gas from one container to another shall be separated from exposures as specified in NFPA 58.”

x. New Section 3806.4, Labeling, shall be inserted as follows: “3806.4 Labeling. Prior to filling any cylinder 4 to 40 pounds LP-Gas capacity, except fork lift cylinders, the operator of the fill plant or distribution plant shall affix a label to the collar of the cylinder that includes the following warning printed in English and in Spanish: ‘Flammable Gas – Never Use or Store Indoors/Gas Inflammable-Nunca Se Use o Guarde Adentro.’”

xi. New Section 3807.5, Container markings, shall be inserted as follows: “3807.5 Container markings. Containers of 100 pounds or more water capacity shall be legibly marked with a warning followed by the name of the gas contained. The warning label shall read ‘Flammable Gas’ followed by the name of the gas, such as ‘Propane’ or ‘Butane.’”

xii. New Section 3807.6, Storage area signs, shall be inserted as follows: “3807.6 Storage area signs. Storage areas having containers exceeding 100 pounds product water capacity shall be posted with adequate ‘No smoking’ and ‘Flammable Gas’ signs legibly marked. The ‘Flammable Gas’ sign shall be marked ‘Flammable Gas’ and the name of the gas to indicate the contents such as ‘Flammable Gas-Propane’ or ‘Flammable Gas-Butane.’”

xiii. New Section 3807.7, Marker plates, shall be inserted as follows: “3807.7 Marker plates. All LP-Gas installations exceeding 250 gallons individual or aggregate water capacity shall be provided with a marker plate or sign indicating who should be called in the event of an emergency involving the LP-Gas installation. The marker or sign shall include the following:

1. The name of the gas supplier, plant installer, owner, or operator who will respond to the emergency; and
2. The telephone number of that person.”

xiv. New Section 3807.8, Notification response, shall be inserted as follows: “3807.8 Notification Response. The LP-Gas supplier, plant installer, owner or operator indicated on the marker plate or sign required in Section 3807.7 above shall respond when notified to all LP-Gas emergencies occurring at the installation and shall maintain a 24-hour phone service.”

xv. New Section 3807.9, Fire or explosion, shall be inserted as follows: “3807.9 Fire or explosion. Whenever there is a fire or explosion or accident involving serious injury or loss of life as a result of an incident involving an LP-Gas installation, the responsible party as identified per Section 3807.7 above shall promptly notify the fire official of its occurrence.”

xvi. In Section 3809.6, Storage on roofs, “which are not connected for use” shall be deleted.

xvii. In Section 3809.11.2, Construction, “the International Building Code” shall be deleted and “the building subcode of the Uniform Construction Code” shall be inserted.

39. Chapter 39, Organic Peroxides, shall be amended as follows:

i. Section 3901.2, Permits, shall be deleted in its entirety.

ii. In Section 3904.1.2, Distance from detached storage buildings to exposures, “the International Building Code” shall be deleted and “the building subcode of the Uniform Construction Code” shall be inserted.

40. Chapter 40, Oxidizers, shall be amended as follows:

i. Section 4001.2, Permits, shall be deleted in its entirety.

ii. In Section 4004.1.2, Distance from detached storage buildings to exposures, “the International Building Code” shall be deleted and “the building subcode of the Uniform Construction Code” shall be inserted.

41. Chapter 41, Pyrophoric Materials, shall be amended as follows:

i. Section 4101.2, Permits, shall be deleted in its entirety.

ii. In Section 4104.1.4, Separation from incompatible materials, “the International Building Code” shall be deleted and “the building subcode of the Uniform Construction Code” shall be inserted.

iii. In Section 4106.1.1, Building construction, “the International Building Code” shall be deleted and “the building subcode of the Uniform Construction Code” shall be inserted.

42. Chapter 42, Pyroxylin (Cellulose Nitrate) Plastics, shall be amended as follows:

i. Section 4201.2, Permits, shall be deleted in its entirety.

43. Chapter 43, Unstable (Reactive) Materials, shall be amended as follows:

i. Section 4301.2, Permits, shall be deleted in its entirety.

ii. In Section 4304.1, Indoor storage, in the second paragraph, “the International Building Code” shall be deleted and “the building subcode of the Uniform Construction Code” shall be inserted.

44. Chapter 44, Water-Reactive Solids and Liquids, shall be amended as follows:

i. Section 4401.2, Permits, shall be deleted in its entirety.

45. Chapter 45, Referenced Standards, shall be amended as follows:

i. Under the subheading "AASHTO," the reference to "HB-17 2002 Specification for Highway Bridges, 17th Edition 2002" shall be deleted.

ii. The reference standard, "AFSI," shall be deleted in its entirety.

iii. Under the subheading "API," the reference to "Publication 2023 (2001) Guide for Safe Storage and Handling of Heated Petroleum Derived Asphalt Products and Crude Oil Residue" shall be deleted.

iv. Under the subheading "NFPA," a new "Reference in code section number" "3404.2.9.5.1" shall be added to "Standard reference number 30-03."

v. Under the subheading "NFPA," a new "Standard reference number" "51B-03 Fire Prevention During Welding, Cutting and Hot Work" shall be added between 51A-01 and 52-02. "Reference in code section number" "2603.1" shall be added.

vi. Under the subheading "NFPA," a new "Standard reference number" "68-02 Venting of Deflagrations" shall be added between 61-02 and 69-02. "Reference in code section number" Table 1304.2 shall be added.

vii. Under the subheading "NFPA," a new "Standard reference number" "27-07 Static Electricity" shall be added between 72-02 and 80-99. "Reference in code section number" "2703.9.5" shall be added.

viii. Under the subheading "NFPA," a new "Standard reference number" "92A-06 Smoke Controlled Systems" shall be added between 86-03 and 92B-05. "Reference in code section number" "Table 901.6.1" shall be added.

ix. Under the subheading "NFPA," a new "Standard reference number" "96-04 Ventilation Control and Fire Protection of Commercial Cooking Operations" shall be added.

x. Under the subheading "NFPA," a new "Standard reference number" "204-02 Smoke and Heat Vents" shall be added between 160-01 and 211-03. "Reference in code section number" "Table 901.6.1" shall be added.

xi. Under the subheading "NFPA," "Reference in code section number" "301.1.1 and 1901.1" shall be added to "Standard reference number 230-03".

xii. Under the subheading "NFPA," a new "Standard reference number" "720-05 Carbon Monoxide Warning Equipment" shall be added between 704-01 and 750-03.

"Reference in code section number" "Table 906.6.1, 901.6.3" shall be added.

46. The Appendices shall be amended as follows:

i. Appendix A. Board of Appeals; Appendix B, Fire-Flow Requirements for Buildings; Appendix C, Fire Hydrant Locations and Distribution; and Appendix D, Fire Apparatus Access Roads, shall be deleted in their entirety.

Amended by R.1998 d.588, effective December 21, 1998 (operative January 2, 1999).

See: 30 N.J.R. 3127(a), 30 N.J.R. 4349(b).

In (a)3, inserted a new xi, and recodified former xi through xxxi as xii through xxxii.

Amended by R.1999 d.59, effective March 1, 1999.

See: 30 N.J.R. 3994(a), 31 N.J.R. 676(a).

Rewrote (a).

Emergency amendment, R.2000 d.402, effective September 8, 2000 (to expire November 7, 2000).

See: 32 N.J.R. 3647(a).

In (a)7., added new i, iii, viii and ix; recodified existing i as ii, existing ii through v as iv through vii and existing vi through viii as x through xii.

Adopted concurrent proposal, R.2000 d.486, effective November 6, 2000.

See: 32 N.J.R. 3647(a), 32 N.J.R. 4310(a).

Readopted provisions of R.2000 d.402 with changes, effective December 4, 2000.

Amended by R.2001 d.134, effective May 7, 2001.

See: 32 N.J.R. 4163(a), 33 N.J.R. 1402(a).

Rewrote the section.

Amended by R.2002 d.372, effective November 18, 2002.

See: 34 N.J.R. 2636(a), 34 N.J.R. 3958(a).

Rewrote the section.

Administrative correction.

See: 34 N.J.R. 4195(b).

Administrative correction.

See: 35 N.J.R. 221(a).

Amended by R.2003 d.30, effective January 21, 2003.

See: 34 N.J.R. 2639(a), 35 N.J.R. 403(a).

In (a)7, substituted "six" for "50" in vi, added a new vii and recodified the existing vii and viii as viii and ix, added a new x through xii and recodified existing ix through xv as xiii through xix.

Repeal and New Rule, R.2008 d.236, effective August 18, 2008.

See: 39 N.J.R. 3805(a), 39 N.J.R. 4893(a), 40 N.J.R. 4760(a).

Section was "Modifications".

Administrative correction.

See: 41 N.J.R. 739(a).

Amended by R.2011 d.049, effective February 7, 2011.

See: 42 N.J.R. 2349(a), 43 N.J.R. 281(d).

In (a)4x, deleted "Delete 'Monthly' under Frequency column, row 3, and insert 'Two drills per month'".

Administrative correction.

See: 43 N.J.R. 616(b).

#### SUBCHAPTER 4. FIRE SAFETY CODE

##### 5:70-4.1 Code adopted; scope

(a) Pursuant to authority of the Uniform Fire Safety Act (P.L. 1983, c.383, N.J.S.A. 52:27D-192 et seq.), the Commissioner hereby adopts this subchapter as the State Fire Safety Code.

(b) All buildings for which requirements are established in this subchapter shall be in compliance with such applicable requirements of this subchapter, unless a date for compliance is set forth in this subchapter.

1. Use Group R-3 structures used exclusively for dwelling purposes shall not be subject to any requirements of this subchapter other than N.J.A.C. 5:70-4.19.

2. Use Group A-2 (nightclubs) shall be in compliance with the applicable requirements of N.J.A.C. 5:70-4.7, 4.9 and 4.11 effective on February 5, 2007 by February 5, 2009.

Amended by R.1987 d.247, effective June 15, 1987.

See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).

(c), (d), and (e) added. Correction to rule, see July 6, 1987 Register at 19 N.J.R. 1190(a).

Amended by R.1987 d.388, effective October 5, 1987.

See: 19 N.J.R. 1263(a), 19 N.J.R. 1792(a).

Deleted text in (d)1 "which are classified . . . Uniform Construction Code" and substituted "used exclusively for . . . three dwelling units".

Amended by R.1989 d.556, effective November 6, 1989.

See: 21 N.J.R. 2431(a), 21 N.J.R. 3453(a).

At (b) cross referenced definitions; at (c)7 established date of applicability and deleted 12 and renumbered 13-15 as 12-14 and referenced dates for compliance in (d).

Amended by R.1992 d.104, effective March 2, 1992.

See: 23 N.J.R. 3552(a), 24 N.J.R. 739(a).

Text at (b) and (c) deleted; text at (d) recodified to (b).

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Amended by R.2007 d.51, effective February 5, 2007.

See: 38 N.J.R. 375(a), 39 N.J.R. 371(a).

Added (b)2.

#### **5:70-4.2 Compliance with the State Fire Prevention Code and other fire safety regulations**

(a) The requirements established by this subchapter are in addition to, and not in lieu of, requirements established by the State Fire Prevention Code (N.J.A.C. 5:70-3).

(b) All buildings which are specifically listed as under the scope of this subchapter as denoted in N.J.A.C. 5:70-4.1 and which are subject to requirements previously established including, without limitation, any requirement of the State Fire Prevention Code (N.J.A.C. 5:70-3), shall be in compliance with those requirements as of the effective date of this subchapter and shall remain in compliance throughout the life of the structure.

(c) All buildings which are not specifically listed as under the scope of this subchapter as denoted in N.J.A.C. 5:70-4.1 shall continue to be subject to the provisions of applicable existing fire safety requirements as promulgated by the State or local agency having jurisdiction and shall remain in compliance with those requirements throughout the life of the structure.

(d) Existing fire suppression and detection systems that were installed in accordance with the Uniform Construction Code, the Uniform Fire Code or which met the intent of the

applicable NFPA standards at the time of installation shall be accepted as meeting the requirements of this Code, except as otherwise specifically provided in this Code.

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### **5:70-4.3 Relationship to Uniform Construction Code**

(a) A building in full compliance with the subcodes adopted pursuant to the Uniform Construction Code Act and regulations in force at the time of its construction and possessing a valid certificate of occupancy shall not be required to conform to the more restrictive requirements established by this subchapter except as may be required by (a)5 and (a)7 below.

1. Exception to (a) above: A building or portion thereof of Use Group A-2 nightclub shall be required to conform to the more restrictive requirements established by this subchapter unless the building is in full compliance with the Building Officials and Code Administrators National Building Code, 1990 edition or a later edition of the building subcode of the Uniform Construction Code, and possesses a valid certificate of occupancy.

2. A variation issued in writing pursuant to the Uniform Construction in connection with the construction of a building shall remain in force and effect provided that all of the conditions of the variation continue to be met and shall not be reversed or modified for purposes of establishing compliance with this subchapter.

3. In accordance with N.J.A.C. 5:23-6.2, certificates of occupancy for projects in compliance with the requirements of the Rehabilitation Subcode of the New Jersey Uniform Construction Code (N.J.A.C. 5:23-6) are specific to the work undertaken and shall not obviate the need for a building to be brought into compliance with this subchapter.

i. In accordance with N.J.A.C. 5:23-6.2(g)3i, a variation issued in writing pursuant to the Uniform Construction Code in connection with a rehabilitation project shall remain in force and effect, provided that all of the conditions of the variation continue to be met, and shall be accepted for purposes of establishing compliance with this subchapter for the portion of the building to which the variation applies.

ii. In accordance with N.J.A.C. 5:23-6.2(i), for variation requests involving provisions of this subchapter which have been incorporated into the Rehabilitation Subcode, the construction official is required to consult with the fire official. If the fire official is also licensed as a fire protection subcode official under the Uniform Construction Code, then the approval of the fire official shall be required on such variation requests.

4. The requirements of N.J.A.C. 5:70-4.19 shall apply to all Use Group R-3 structures other than newly con-

structed buildings at the time of initial occupancy, regardless of their state of compliance with the Uniform Construction Code or any other code.

5. The requirements of N.J.A.C. 5:70-4.7(j) shall apply to all dormitory buildings, as defined in this Code, unless the provisions of (b) below are applicable.

6. The requirements of N.J.A.C. 5:70-4.7(c) shall apply to all nursing homes, as defined in this Code, unless the provisions of (b) below are applicable.

7. The requirements of N.J.A.C. 5:70-4.20 shall apply to all casino hotel buildings, unless the provisions of (b) below are applicable.

(b) A building in full compliance with the current fire safety requirements of the Uniform Construction Code, as determined by the construction official with the concurrence of the fire subcode official and in consultation with the fire official, shall not be required to conform to more restrictive requirements established by this subchapter.

1. A determination as to whether a Uniform Construction Code requirement involves fire safety shall, in a disputed case, be determined by the Division of Codes and Standards after consultation with the Division of Fire Safety, the construction official and the fire official and, if necessary, with the concurrence of the Assistant Commissioner, Department of Community Affairs, responsible for overseeing the Divisions of Fire Safety and Codes and Standards.

2. For purposes of this subsection, "current fire safety requirements" means requirements set forth in the New Jersey Uniform Construction Code in effect at the time of adoption of the requirement as part of this subchapter.

Amended by R.1987 d.247, effective June 15, 1987.

See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).

Added "in consultation with" to (b).

Amended by R.1992 d.11, effective January 6, 1992.

See: 23 N.J.R. 3064(a), 24 N.J.R. 88(a).

Exception for R-3 structures added.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Emergency amendment, R.2000 d.402, effective September 8, 2000 (to expire November 7, 2000).

See: 32 N.J.R. 3647(a).

Rewrote (a).

Adopted concurrent proposal, R.2000 d.486, effective November 6, 2000.

See: 32 N.J.R. 3647(a), 32 N.J.R. 4310(a).

Readopted provisions of R.2000 d.402 with changes, effective December 4, 2000.

Amended by R.2007 d.2, effective January 2, 2007.

See: 38 N.J.R. 3377(a), 39 N.J.R. 28(b).

In introductory paragraph of (a), substituted "(a)2 through 4" for "(a)3"; and added (a)4.

Amended by R.2007 d.51, effective February 5, 2007.

See: 38 N.J.R. 375(a), 39 N.J.R. 371(a).

In the introductory paragraph of (a), substituted "5" for "3"; added new (a)1 and (a)2; and recodified former (a)1 through (a)4 as (a)3 through (a)6.

Amended by R.2007 d.339, effective November 5, 2007.

See: 39 N.J.R. 1550(a), 39 N.J.R. 4570(a).

In the introductory paragraph of (a), inserted "and (a)7"; and added (a)7.

#### Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 241) adopted, which concluded that a property owner was not entitled to an exemption from the restrictions of the Uniform Fire Code, as the owner had not met the requirements for a property to be grandfathered in under N.J.A.C. 5:70-4.3(a). While it was undisputed that the 100-year-old property met the regulations existing at the time of its construction, the owner failed to show that it met the current subcode requirements of the Uniform Construction Code Act, which is an additional requirement for grandfathering. *Bureau of Housing Inspection v. Tider*, OAL Dkt. No. CAF 03540-05, 2007 N.J. AGEN LEXIS 340, Final Decision (May 22, 2007).

Occupancy load levels for restaurant were governed by code requirements in effect at time certificate of occupancy should have been issued. *Sweetwater Casino v. Department of Community Affairs*, 95 N.J.A.R.2d (CAF) 56.

#### 5:70-4.4 General provisions

(a) The applicability of provisions of this subchapter to existing buildings or structures, identified or classified by the Federal, State or local government authority as historic buildings, shall be determined by the local construction code enforcing agency in consultation with the fire official, as outlined in Section 513.0 of the Building Officials and Code Administrators, Inc. (BOCA) Basic/National Building Code, 1984 edition.

(b) A variation previously granted to a provision of an existing code, which provision contains requirements substantially the same as the comparable provision of this subchapter, shall remain valid, subject to the following conditions:

1. To be accepted the variation must have been:
  - i. Granted in writing;
  - ii. Granted through a formal process or procedure; and
  - iii. Granted upon a finding that equivalent life safety was provided.

(c) Nothing in this Code shall be construed as preventing any State agency from exceeding provisions of this Code in making improvements to buildings under their jurisdiction, ownership or control when such changes are mandated by or through Federal law or Federal regulations as a condition of funding such agency. Such action shall not reduce the requirements of these regulations.

(d) The provisions of N.J.A.C. 5:70-4.1 through 4.3 shall not prevent the fire official from making a finding of imminent hazard pursuant to N.J.A.C. 5:70-2.16 or the construction official from making a finding of unsafe building pursuant to the Uniform Construction Code and requiring correction of such hazard or unsafe condition in accordance with those regulations.

Repeal and New Rule, R.1995 d.58, effective March 6, 1995.  
 See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).  
 Formerly "Relation to State Fire Prevention Code".

#### **5:70-4.5 Fire protection and dormitory suppression plans**

(a) A comprehensive facility fire protection plan may be submitted for facilities located within the jurisdiction of more than one local enforcing agency which are under single facilities management, ownership and operational control.

1. The plan shall be submitted to the Division for approval and shall include an original and one copy plus a copy for each local enforcing agency in which the subject facilities are located. The plan shall include the following:
  - i. All buildings which are part of the facilities at every location included in the plan and for each building, the use group and an evaluation of the fire protection, including all requirements established in this subchapter;
  - ii. A timetable for compliance with the requirements of this subchapter; and
  - iii. A written application for a variance submitted in accordance with N.J.A.C. 5:70-2.14 for any proposed deviations from this subchapter.

2. The Division shall consult with each local enforcing agency in which facilities included on the plan are located before taking any final action.

3. Within 60 days after receiving the plan, the Division shall approve or disapprove it in writing. If the plan is disapproved, then the written statement shall include the reason(s) for the disapproval.

i. A plan which is not approved within 60 days shall be deemed to have been disapproved unless the 60 day period is extended by mutual agreement of the Division and the applicant;

ii. A disapproval may be appealed as provided in N.J.A.C. 5:70-2.19;

iii. No owner shall be required to retrofit a facility pending approval or disapproval of the plans by the Division.

4. The original approved plan shall be maintained on file by the Division. One copy of the approved plan shall be returned to the applicant and one copy shall be supplied to each local enforcing agency in which facilities included on the plan are located.

5. Any deviation from the plan as approved must be submitted to the Division for approval in accordance with the procedure established herein for the submission and approval of plans.

6. Inspections for compliance with the plans as approved shall be conducted by the local enforcing agency in which facilities are located.

(b) All public or private boarding schools and institutions of higher education which utilize dormitories or similar occupancies for the housing of students, as well as all owners of residences being utilized as dormitories, shall submit to the Division an action plan for the installation within those occupancies of complete automatic fire sprinkler systems, as required by N.J.A.C. 5:70-4.7(j). Projects shall not include new construction for which suppression is required by the Uniform Construction Code.

1. The action plan shall be submitted for approval no later than November 3, 2000. Submittal shall include an original plan and a copy, plus a copy for the local enforcing agency having code enforcement jurisdiction of the subject facility. The action plan shall outline the total fire protection project, including automatic fire sprinkler system installation and the best estimate of cost provided by a professional engineer who is independent of the school or institution. For purposes of the Dormitory Safety Trust Fund and Life Safety Improvement Loan programs, automatic fire sprinkler system components shall be limited to those covered by National Fire Protection Association Standards 13, 13R and 13D, as applicable. The action plan shall also include:

- i. All buildings within the facility which are to be protected, as well as a description of all buildings of



similar occupancy which are considered to be in compliance with the current fire safety requirements of the Uniform Construction Code;

ii. For each facility, a timetable of compliance specifying projected dates of completion in accordance with the following schedule:

(1) At least 25 percent of the total square footage of the buildings identified in (b)1i above as requiring protection are to be protected by a required automatic fire sprinkler system, to be operational no later than July 31, 2001;

(2) At least 50 percent of the total square footage of the buildings identified in (b)1i above as requiring protection are to be protected by a required automatic fire sprinkler system, to be operational no later than July 31, 2002;

(3) At least 75 percent of the total square footage of the buildings identified in (b)1i above as requiring protection are to be protected by a required automatic fire sprinkler system, to be operational no later than July 31, 2003; and

(4) All of the buildings identified in (b)1i above shall be equipped throughout with an operational automatic fire sprinkler system no later than July 31, 2004;

iii. A schedule for submitting a complete application for a construction permit to the agency having Uniform Construction Code jurisdiction;

iv. Installation projects which were begun within the 12 month period prior to July 5, 2000 may be included in the plan for purposes of funding only to the extent that their components are covered by National Fire Protection Association Standards 13, 13R and 13D.

(1) Projects begun within that same 12 month period, for which a Certificate of Occupancy or Certificate of Acceptance had not been issued prior to July 5, 2000, may also be included in the initial 25 percent of total square footage identified in (b)1ii above; and

v. Quarterly progress reports shall be submitted to the Division to arrive within the two week period following the first business day of the months of January, April, July and October of each year. Such reports shall include, but shall not be limited to, the following:

(1) Documentation of the date(s) on which requests have been distributed for bids on work contained in the approved plan;

(2) Dates on which bids have been accepted and contracts awarded for work covered under the approved plan;

(3) Amounts of awards;

(4) Dates on which applications for construction permits have been submitted and permits issued; and

(5) Dates on which the percentage of work required by the timetable of compliance in ii above shall have been completed.

2. Upon review of an application for extension from an entity responsible for submitting a plan, and following consultation with the local enforcing agency having code enforcement jurisdiction, the Commissioner may extend the time frames set forth in this section upon a showing:

i. That the time frame poses an unreasonable hardship; or

ii. That installation is not possible by the dates established in this subsection for reasons beyond the control of the entity.

iii. In the case of a hardship related to asbestos which will be disturbed by the work or to an historic building, there shall be a presumption of granting the extension.

3. A written application for a variance may be submitted to the Division in accordance with N.J.A.C. 5:70-2.14, for any proposed deviation from these requirements or from the requirements of N.J.A.C. 5:70-4.7(j).

Repeal and New Rule. R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Formerly "Modifications".

Emergency amendment, R.2000 d.402, effective September 8, 2000 (to expire November 7, 2000).

See: 32 N.J.R. 3647(a)

Added (b).

Adopted concurrent proposal. R.2000 d.486, effective November 6, 2000.

See: 32 N.J.R. 3647(a), 32 N.J.R. 4310(a).

Readopted provisions of R.2000 d.402 with changes, effective December 4, 2000.

#### 5:70-4.6 Pre-existing violations

No violation committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred, prior to the repeal or revision of any regulation or any part thereof by the enactment of this subchapter, shall be discharged, released or affected by the repeal or revision of the regulation or part thereof under which such offense, liability, penalty or forfeiture was incurred, and indictments, prosecutions and actions for such offenses, liabilities, penalties or forfeitures committed or incurred, prior to the effective date of this subchapter, shall be commenced or continued and be proceeded with in all respects as if the regulation or part thereof had not been repealed or revised.

#### Case Notes

Safety violations in multiple dwelling continued to exist where repairs did not meet state standards. 101 Lincoln Street, Jersey City v. Bureau of Housing Inspection, 96 N.J.A.R.2d (CAF) 87.

required for individual properties covered by such general determination.

ii. If a determination is made that full compliance with the ordinance is an acceptable substitute for partial compliance with the requirements of this section, the fire official shall specify all respects in which a building fully complying with the ordinance must be made to comply with this section.

7. In all buildings used as child day care centers, regardless of Use Group.

8. In all buildings of Use Group E up to and including the 12th grade, the system shall consist of:

i. An approved system of automatic smoke detectors; or

ii. An approved automatic fire suppression system equipped with automatic fire alarm devices; or

iii. An approved system which combines the following elements shall be acceptable when devices are located as indicated below:

(1) Combination fixed temperature/rate-of-rise detectors in classrooms and ancillary spaces; and

(2) Photoelectric or projected-beam smoke detectors in exit access corridors and at the top of the exit stair enclosures.

(3) Fixed temperature detectors in such a system shall be accepted in locations such as boiler rooms, garage areas and other spaces in which conditions render other detectors inappropriate.

iv. Existing fire detection systems, installed and maintained in accordance with the manufacturer's recommendations, and meeting the intent of current standards for automatic fire alarms, shall be acceptable, provided:

(1) The existing system is tested, in accordance with the provisions of N.J.A.C. 5:70-3.4(c)6, by an approved service agency competent in the manufactured system, in the presence of the fire official or his designated representative. The fire official may accept a written report of test results in lieu of witnessing the test.

(2) Where a portion of an existing system is not serviceable and cannot be repaired, the existing system shall be replaced in accordance with the provisions of this Code.

9. In all buildings or portions thereof of Use Group A-2 (nightclubs) with an occupant load of 100 or more that are not otherwise required to have an automatic fire suppression system.

i. If the alarm is activated by smoke detectors, it shall be activated by either two cross-zoned smoke detectors within a single protected area or a single smoke detector monitored by an alarm verification zone or an

approved equivalent method and the smoke detectors shall be of a type designed to reduce the possibility of false notifications based on the conditions present in the area protected.

ii. The automatic fire alarm system shall be tied to the performance sound system and to the house lights in such a way that activation of the fire detection system mutes the performance sound system and restores the intensity of illumination to that required by N.J.A.C. 5:70-4.11(i)2.

(b) An automatic fire alarm system shall not be required in buildings, other than boarding homes of Use Group I-1, equipped throughout with an automatic fire suppression system, a manual fire alarm system and single station smoke detectors located in the immediate vicinity of sleeping areas in accordance with NFIPA 72E or 74 as applicable.

(c) Automatic fire alarm systems required to be supervised by this Code shall employ one of the following methods as determined by the fire official:

1. Approved central station system in accordance with NFIPA 71;

2. Approved proprietary system in accordance with NFIPA 72D;

3. Approved remote station system of the jurisdiction in accordance with NFIPA 72C;

4. Approved local alarm service which will cause the sounding of an alarm in accordance with NFIPA 72A.

Amended by R.1987 d.247, effective June 15, 1987.

See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).

(a)2 through (a)4 added.

Amended by R.1987 d.373, effective September 21, 1987.

See: 19 N.J.R. 1023(a), 19 N.J.R. 1720(a).

Deleted day nursery exception at (a)1i(1); added (a)2vi.

Administrative correction to (a)2iv(12).

See: 21 N.J.R. 3085(a).

Amended by R.1989 d.556, effective November 6, 1989.

See: 21 N.J.R. 2431(a), 21 N.J.R. 3453(a).

Exception established at (b).

Amended by R.1993 d.197, effective May 3, 1993.

See: 25 N.J.R. 393(a), 25 N.J.R. 1868(a).

Citation corrected at (a)4iv(1).

Amended by R.1995 d.59, effective March 6, 1995.

See: 26 N.J.R. 4249(a), 27 N.J.R. 891(a).

Amended by R.1996 d.549, effective December 2, 1996.

See: 28 N.J.R. 2111(a), 28 N.J.R. 5070(a).

Amended by R.2002 d.372, effective November 18, 2002.

See: 34 N.J.R. 2636(a), 34 N.J.R. 3958(a).

In (a), added 1ii, amended the N.J.A.C. reference in 2i and 3v and added 3vi.

Administrative correction.

See: 35 N.J.R. 219(d).

Amended by R.2006 d.74, effective February 21, 2006.

See: 37 N.J.R. 3877(a), 38 N.J.R. 1182(a).

Added (a)3vii.

Amended by R.2007 d.51, effective February 5, 2007.

See: 38 N.J.R. 375(a), 39 N.J.R. 371(a).

Added (a)9.

#### Case Notes

Under the Hotel and Multiple Dwellings Law and implementing regulations, the building owner's obligation is not only to make smoke detec-

tors and carbon monoxide alarms available to tenants, but to install them and then make sure on an ongoing basis that they remain installed and operative; tenants who refuse to comply should be advised that such refusal violates the law and constitutes grounds for eviction. *Nostrame v. Dep't of Community Affairs, Bureau of Housing Inspection, OAL Dkt. No. CAF 05703-02 and CAF 11012-03 (On Remand), 2007 N.J. AGEN LEXIS 846, Final Decision (August 4, 2007).*

Apartment building three and one-half stories high was required to have manual fire alarm system. *80-2 De Hart Place v. Department of Community Affairs, 95 N.J.A.R.2d (CAF) 61.*

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.*

Failure to install a smoke detector violated Uniform Fire Code. *Bureau of Housing Inspection, Dept. of Community Affairs v. Taylor, 92 N.J.A.R.2d (CAF) 63.*

#### 5:70-4.10 Manual fire alarms

(a) A manual fire alarm system, designed and installed in accordance with the Uniform Construction Code, shall be required:

1. In all buildings more than three stories in height having an occupant load of 25 or more;
2. In all buildings of Use Group E up to and including the 12th grade; and
3. In all buildings required to have an automatic fire alarm system in accordance with N.J.A.C. 5:70-4.9, except hotels and multiple dwellings having an occupant load of less than 25 and having less than 10 dwelling units.

Amended by R.1987 d.247, effective June 15, 1987.  
See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).

#### Case Notes

Failure to install fire alarms and enclose open stairwells was violative of fire codes warranting issuance of abatement order. *111 Halstead Street v. Department of Community Affairs, 95 N.J.A.R.2d (CAF) 77.*

Apartment building three and one-half stories high was required to have manual fire alarm system. *80-2 De Hart Place v. Department of Community Affairs, 95 N.J.A.R.2d (CAF) 61.*

#### 5:70-4.11 Means of egress

(a) Every story utilized for human occupancy having an occupant load of 500 or less shall be provided with a minimum of two exits, except as provided in (b) below. Every story having an occupant load of 501 to 1,000 shall have a minimum of three exits. Every story having an occupant load of more than 1,000 shall have a minimum of four exits.

1. Each mezzanine with an occupant load of more than 50 and in which the travel distance to an exit exceeds 75 feet shall have access to at least two independent means of egress by November 6, 1990.
2. When more than one exit is required, an existing fire escape shall be accepted as providing one of the required means of egress unless judged to be dangerous for use under emergency exiting conditions.

3. Any new fire escapes shall be constructed and installed in accordance with the Uniform Construction Code Formal Technical Opinion No. FTO-3 dated June 2001.

- i. Access to a fire escape shall be through a door, except that window access shall be permitted from single dwelling units or guestrooms in Use Groups R-1, R-2 and I-1 or when serving spaces having a maximum occupant load of 10 in other use groups.

4. In all buildings of Use Group A, Use Group E, up to and including the 12th grade, buildings of Use Group I, rooming houses and child care centers, ladders of any type are prohibited on all new and existing fire escapes used as a required means of egress.

5. All occupants shall have unobstructed access to all new and existing fire escapes without having to pass through a room subject to locking.

6. In all bed and breakfast homestays, every sleeping room shall be provided with an approved window having sill height of not more than 44 inches.

7. In dwelling units in basements or stories below grade in buildings of Use Group R-2 that are not equipped throughout with an automatic fire sprinkler system, there shall be at least two exits from each dwelling unit.

- i. An approved window providing a clear opening of at least five square feet in area, a minimum net clear opening of 24 inches in height and 20 inches in width, and a sill height of not more than 44 inches above the finished floor, shall be acceptable as one of the required exits.

(b) In buildings having only one exit, the single exit condition shall be permitted to continue as follows:

1. In buildings of Use Group R-3;
2. In all buildings, in the story at the level of exit discharge when the occupant load of the story does not exceed 50 and the exit access travel distance does not exceed 75 feet;
  - i. Exception to (b)2 above: In buildings of Use Group I and in rooming houses and child care centers, regardless of Use Group, two means of egress shall be required.
3. In buildings of Use Groups R-1 and R-2, from floors that are not more than 16 feet above exterior grade.
  - i. In community residences for the developmentally disabled, the maximum occupant load, excluding staff, is 12.
4. In buildings of Use Groups R-1 and R-2, not more than two stories in height, from floors that are not more than 16 feet above exterior grade, when there are not more than four dwelling units per floor and the exit access travel distance does not exceed 50 feet. The minimum fire resistance rating of the exit enclosure and of the opening protection shall be one hour.

i. In community residences for the developmentally disabled, the maximum occupant load, excluding staff, is 12.

5. In buildings of Use Group B or S-2, not more than two stories in height, which are not greater than 3000 square feet per floor, when the exit access travel distance does not exceed 75 feet. The minimum fire resistance rating of the exit enclosure and of the opening protection shall be one hour.

6. Open parking structures where vehicles are mechanically parked.

(c) In multi-level dwelling units in buildings of Use Groups R-1 or R-2, an exit shall not be required from each level of the dwelling unit provided that the following conditions are met:

1. The building in which such dwelling units are contained is of type 1 or type 2 construction and the travel distance within the dwelling unit does not exceed 75 feet; or

2. The building in which such dwelling units are contained is not more than three stories in height and all third floor space is part of one or more dwelling units located in part on the second floor and no habitable room within any such dwelling unit shall have a travel distance that exceeds 50 feet from the outside of the habitable room entrance door to the inside of the entrance door to the dwelling unit.

(d) All rooms and spaces having an occupant load greater than 50 or in which the travel distance exceeds 75 feet shall have a minimum of two egress doorways.

1. The following are exceptions to (d) above:

i. Storage rooms having a maximum occupant load of 10;

ii. Classrooms having a maximum occupant load of 75 in buildings equipped throughout with an automatic fire suppression system;

iii. In buildings of Use Group I-2, any patient sleeping room or suite of rooms greater than 1,000 square feet shall have a minimum of two egress doorways.

(e) When buildings of Use Groups A-2 and A-3 have more than two individual rooms which can be used for separate functions and each room has an occupant load of more than 300, the required egress doors from such rooms shall lead directly outside or to an exit passageway.

1. Such passageways shall be completely enclosed by assemblies having a fire-resistance rating of not less than two hours.

2. Such passageways shall not be used for any other purpose and shall lead directly outside.

(f) The capacity of means of egress in each story shall be sufficient for the occupant load thereof.

1. The capacity per unit of egress width shall be computed in accordance with the Table 5:70-4.11(f)1 for the specified use groups.

Table 5:70-4.11(f)1  
CAPACITY PER UNIT EGRESS WIDTH

Use group	Without fire suppression system Number of occupants		With fire suppression system Number of occupants	
	Stairways	Doors, Ramps and Corridors	Stairways	Doors, Ramps and Corridors
A	75	100	113	150
B	60	100	90	150
E	75	100	113	150
F	60	100	90	150
H	—	—	60	100
I-1	60	100	90	100
I-2	22	30	35	45
I-3	60	100	90	150
M	60	100	90	150
R	75	100	113	150
S	60	100	90	150

2. The unit of egress width for all approved types of means of egress parts and facilities shall be 22 inches with a credit of one half unit for each 12 inches width in addition to one or more 22 inch units. Fractions of a unit of width less than 12 inches shall not be credited.

3. The maximum permitted occupant load of a given space shall be determined by dividing the floor area for a given use by the occupant load factor in Table 5:70-4.11(f)3.

i. Except in Use Group A-2 (nightclubs), the occupant load may be equal to the total number of occupants for whom exit capacity is provided as determined by (f)1 above. The resulting total occupant load shall not exceed one occupant per five square feet of net floor area over the entire use.

Table 5:70-4.11(f)3  
Floor Area Per Occupant

Use	Occupant Load Factor in square feet per occupant
Assembly	
Fixed seating	Note 1
Tables and chairs	15 net
Chairs only	7 net
Dance floors	7 net
Standing space	5 net
Waiting space (Note 2)	3 net
Bowling centers	
Lanes	5 persons
Other areas	per assembly above
Business	100 gross
Educational	
Fixed seating	Note 1
Classrooms	20 net
Shops and vocational areas	50 net
Industrial	100 gross

Use	Occupant Load Factor in square feet per occupant
Institutional	
Inpatient treatment	240 gross
Outpatient	100 gross
Sleeping rooms	120 gross
Library	
Reading room	50 net
Stack area	100 gross
Mercantile	
Grade floor or basement	30 gross
All other floors	60 gross
Storage, stock, shipping	300 gross
Parking garages	200 gross
Residential	200 gross
Storage areas, mechanical equipment room	300 gross

Note 1. The occupant load for that portion of an assembly area having fixed seats shall be determined by the number of fixed seats installed. Capacity of seats without dividing arms is one person per 18 inches. For booths, one seat equals 24 inches. One person is allowed for each fixed seat with dividing arms or fixed stand alone stool.

Note 2. Waiting space means that space in an assembly occupancy where persons are admitted to the building at times when seats are not available to them and are allowed to wait in a lobby or similar space until seats are available. Such use of the lobby or similar space shall not encroach upon the required clear width of exits.

(g) All buildings of Use Group A with an occupant load of 100 or more shall be provided with a main entrance capable of serving as the main exit with an egress capacity for at least one-half the total occupant load. The remaining exits shall be capable of providing two-thirds of the total required exit capacity.

1. For Use Group A-2 (nightclubs), the main exit and at least one remaining exit shall be placed a distance apart equal to one-half the length of the maximum overall diagonal distance of the area served in buildings not equipped throughout with an automatic fire sprinkler system and one-third the maximum overall diagonal distance of the area served in buildings or portions thereof that are equipped throughout with an automatic fire sprinkler system.

2. Use Group A-2 (nightclub) buildings or portions thereof with an occupant load of more than 300 shall have a main entrance capable of serving as the main exit with an egress capacity for at least two-thirds of the total occupant load. The remaining exits shall also be capable of providing two-thirds of the total required exit capacity.

(h) The length of a dead end corridor shall not exceed 35 feet.

1. The following are exceptions to (h) above:

i. The maximum length of a dead end corridor shall be 50 feet in buildings equipped throughout with an automatic fire alarm system installed in accordance with the New Jersey Uniform Construction Code.

ii. The maximum length of a dead end corridor shall be 70 feet in buildings equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code.

(i) All means of egress shall be provided with artificial illumination as follows:

1. All means of egress in other than buildings of Use Group R-3 shall be equipped with artificial lighting facilities to provide the intensity of illumination herein prescribed continuously during the time that conditions of occupancy of the building require that the exits be available. Lighting shall also be provided to illuminate the exit discharge in all buildings other than Use Groups F, H and S. In buildings of Use Group R-2, means of egress lighting, except that lighting within a dwelling unit, shall be wired on a circuit independent of circuits within any dwelling unit. The disconnecting means and overcurrent protection device shall not be located within a dwelling unit or such that access must be obtained by going through a dwelling unit.

2. The intensity of light at floor level shall be not less than one foot candle.

3. In buildings of Use Groups A and E used for the exhibition of motion pictures or other projections by means of directed light, and in buildings or spaces of Use Group A-1 or A-2 (nightclubs) used for performances, illumination may be reduced during periods of projection or performance to not less than 0.2 foot candle.

i. The lighting of exits, aisles, auditoriums and other assembly spaces shall be controlled from a location inaccessible to unauthorized persons. Supplementary control shall also be provided in the motion picture projection room or lighting booth, if any.

ii. In assembly spaces, illumination shall be restored automatically to the level required by (i)2 above upon activation of the fire suppression or fire alarm system.

(j) Means of egress lighting shall be connected to an emergency electrical system conforming to NFPA 70 (National Electrical Code) to assure continued illumination for a duration of not less than one hour in case of primary power loss in all buildings, rooms, or spaces required to have more than one exit or exit access.

(k) In all buildings, rooms or spaces required to have more than one exit or exit access, all required means of egress shall be indicated with approved internally illuminated or self-luminous signs reading "Exit", visible from the exit access and, when necessary, supplemented by directional signs in the exit access indicating the direction and way of egress. All "Exit" signs shall be located at exit doors or exit access areas, so as to be readily visible.

1. Exceptions to (k) above:

i. Exit signs shall not be required in buildings of Use Groups I-1, R-2 and R-3 having a total occupant load, excluding staff, of 20 or less.

ii. Exit signs shall not be required when the second means of egress is a fire escape that is accessed directly from the individual sleeping rooms.

iii. Approved main exterior doors that are clearly identified as exits are not required to have "Exit" signs.

2. "Exit" signs shall have red or green letters at least six inches high and the minimum width of each stroke shall be three-quarter inch on a white background or in other approved distinguishable colors. If an arrow is provided as part of an "Exit" sign, the construction shall be such that the arrow direction cannot be readily changed. The word "Exit" shall be clearly discernible when the internally illuminated sign is not energized.

3. Each sign shall be illuminated by a source providing not less than five foot candles at the illuminated surface.

i. Exception to (k)3 above: Approved self-luminous signs which provide evenly illuminated letters shall have a minimum luminance of 0.06 foot lamberts.

4. All "Exit" signs shall be illuminated at all times when the building is occupied. To assure continued illumination for a duration of not less than one hour in case of primary power loss, the "Exit" signs shall be connected to an emergency electrical system.

i. Exception to (k)4 above: Approved self-luminous signs which provide continuous illumination independent of external power sources need not be connected to an emergency electrical system.

(l) Means of egress doors shall conform to the following:

1. All egress doors serving an occupant load greater than 50 shall swing in the direction of exit travel;

2. In building of Use Groups R-1 and R-2 all doors opening onto a passageway at grade or exit stair shall be self-closing or automatic closing by listed closing devices.

3. All dwelling unit, guest room or rooming unit corridor doors in buildings of Use Groups R-1, R-2, and I-1 shall be at least 1 $\frac{3}{8}$  inch solid core wood or approved equal with approved door closers and shall not have any glass panels, other than approved wire glass in metal frames. Corridor doors shall not be constructed of hollow core wood, shall not contain louvers and shall not be of panel construction. Doors shall fit both plumb and level in frames, and be reasonably tight fitting. All replacement doors shall be 1 $\frac{3}{4}$  inch solid core wood or approved equal, unless existing frame will accommodate only a 1 $\frac{3}{8}$  inch door.

i. Existing doors meeting the requirements of Federal Housing and Urban Development Rehabilitation Guidelines No. 8 or of Section 5 of Appendix B of the

BOCA Basic/National Existing Structures Code, 1984 Ed. for a rating of 15 minutes or better shall be accepted as meeting the provisions of this requirement.

(1) Modifications made to existing doors to achieve the required rating shall be conducted in accordance with the Uniform Fire Code.

ii. Existing doors in buildings provided with approved, complete automatic suppression shall be required only to provide a smoke barrier; shall not contain louvers; shall fit plumb and level; and be reasonably tight fitting.

iii. In group homes with a maximum of 15 occupants, and which are protected with an approved automatic detection system, closing devices may be omitted.

4. Buildings of Use Group I-3 having remote power unlocking capability on more than 10 doors shall be provided with an emergency power source for such locks. Power shall be arranged to automatically operate upon failure of normal power within 10 seconds and for a duration of not less than one hour.

5. All required exit doors equipped with latching devices in buildings or portions thereof of Use Group A with an occupant load greater than 100 shall be equipped with approved panic hardware by November 6, 1990.

(m) Every required exit stairway having three or more risers and not provided with handrails or in which the existing handrails are judged to be in danger of collapsing when used under emergency exiting conditions, shall be provided with handrails for the full length of the run of steps on at least one side. All exit stairways more than 66 inches wide and subject to the maximum designed occupancy load shall have handrails on both sides. Where there are no handrails or where the existing handrails must be replaced in order to correct a hazardous condition, the handrails shall be designed and installed in accordance with the provisions of the New Jersey Uniform Construction Code.

(n) Every open portion of a stair, landing, or balcony which is more than 30 inches above the floor or grade below and not provided with guards or those in which the existing guards are judged to be in danger of collapsing when used under emergency exiting conditions, shall be provided with guards. Where there are no guards or where the existing guards must be replaced in order to correct a hazardous condition, the guards shall be designed and installed in accordance with the New Jersey Uniform Construction Code.

(o) In all buildings of Use Group R-1 and R-2 all transoms shall be either glazed with  $\frac{1}{4}$ " wire glass set in metal frames and permanently secured in the closed position or sealed with materials consistent with the corridor construction. Any other sash, grill or opening in a corridor, and any window in a corridor not opening to the outside air, shall be sealed with materials consistent with the corridor construction.



Amended by R.1987 d.247, effective June 15, 1987.

See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).

Substantially amended.

Amended by R.1989 d.556, effective November 6, 1989.

See: 21 N.J.R. 2431(a), 21 N.J.R. 3453(a).

Changes made at (a)1 and (f)2, 3, and new 5.

Amended by R.1992 d.104, effective March 2, 1992.

See: 23 N.J.R. 3552(a), 24 N.J.R. 739(a).

Text on transoms added at (o).

Amended by R.1993 d.197, effective May 3, 1993.

See: 25 N.J.R. 393(a), 25 N.J.R. 1868(a).

Added (a)3, Table (f)3 and (g); occupant load specified at (f)3.

Amended by R.1995 d.59, effective March 6, 1995.

See: 26 N.J.R. 4249(a), 27 N.J.R. 891(a).

Amended by R.2000 d.30, effective January 18, 2000.

See: 31 N.J.R. 3257(a), 32 N.J.R. 273(c).

In (b)4, inserted "not" following "that are" in the first sentence.

Amended by R.2002 d.372, effective November 18, 2002.

See: 34 N.J.R. 2636(a), 34 N.J.R. 3958(a).

In (f), rewrote 3i.

Administrative correction.

See: 35 N.J.R. 222(a).

Amended by R.2007 d.51, effective February 5, 2007.

See: 38 N.J.R. 375(a), 39 N.J.R. 371(a).

In (f)3i, substituted "Except in Use Group A-2 (nightclubs), the" for "The"; added (g)1 and (g)2; in (i)3, inserted "and in buildings or spaces of Use Group A-1 or A-2 (nightclubs) used for performances," deleted "of aisles" following "illumination" and "such" following "during", sub-

stituted "periods" for "period" and inserted "or performance"; in (i)3i, substituted "aisles, auditoriums and other assembly spaces" for "aisles and auditoriums" and inserted "or lighting booth, if any"; and added (i)3ii.

Amended by R.2007 d.60, effective February 20, 2007.

See: 38 N.J.R. 3727(a), 39 N.J.R. 651(a).

In (a)3, substituted "June 2001" for "March 1985"; and in (a)4, inserted "Use Group A,".

#### Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 241) adopted, which concluded that respondent's property was Use Group R-2 and therefore not exempt from the alternate-means-of-egress requirements of N.J.A.C. 5:70-4.11; Use Group R-2 includes "all multiple family dwellings having more than two dwelling units," whereas Use Group R-3 is limited to "detached one- and two-family dwelling units." Respondent's property consisted of three dwelling units in one house, which fit within the plain language of the definition of Use Group R-2 in N.J.A.C. 5:70-1.5. *Bureau of Housing Inspection v. Tider*, OAL Dkt. No. CAF 03540-05, 2007 N.J. AGEN LEXIS 340, Final Decision (May 22, 2007).

Owner of three-unit building would be required to bring her property into compliance with fire safety regulations. *Iadipaoli v. Bureau of Housing Inspection*, 96 N.J.A.R.2d (CAF) 115.

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.

**5:70-4.12 Interior finish**

(a) The interior finish of walls and ceilings shall have a flame spread rating not greater than the class prescribed by Table 5:70-4.12(a).

1. The following are exceptions to (a) above:

i. The use of vinyl or paper wall coverings not exceeding  $\frac{1}{28}$ th of an inch in thickness which is applied directly to a noncombustible or fire retardant treated wood substrate shall not be regulated by this section.

ii. Interior trim which does not exceed 10 percent of the aggregate wall and ceiling area of any room or space shall not be regulated by this section.

iii. When an approved automatic fire suppression system is provided, interior finish of Class II or III materials shall be permitted where Class I or II materials, respectively, are required by this section.

iv. Exposed portions of structural members complying with the requirements for heavy timber construction in accordance with the Uniform Construction Code shall not be regulated by this section.

Table 5:70-4.12(a)

Interior Finish Requirements

Use Group	Exit Enclosures	Exit Access Enclosures	Rooms or Spaces
A <sup>†</sup> , E, I, R-1	I	II	III
All Other Use Groups	I	II	No Minimum

<sup>†</sup> See N.J.A.C. 5:70-4.16(a)2 for amusement buildings.

(b) The classification of interior finishes referred to herein corresponds to flame spread ratings determined by ASTM E84 as follows: Class I flame spread, 0-25; Class II flame spread, 26-75; Class III flame spread, 76-200. In all cases, the smoke developed rating determined by ASTM E84 shall not exceed 450.

(c) All existing interior finish materials which do not comply with the requirements of this section shall be removed or shall be treated with an approved fire retardant coating in accordance with the manufacturer's instructions to secure compliance with the requirements of this section.

(d) In buildings of Use Group I-3, interior furnishings, drapes, curtains, carpeting, decorations, bedding, etc. shall be flame retardant.

Amended by R.1987 d.247, effective June 15, 1987.

See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).

Additions to table and (d) added.

Correction to rule, see 19 N.J.R. 1190(a).

Amended by R.1993 d.197, effective May 3, 1993.

See: 25 N.J.R. 393(a), 25 N.J.R. 1868(a).

Interior finish requirements include all use groups; educational facilities and hotels must meet requirements for enclosed rooms.

**5:70-4.13 Protection of interior stairways and other vertical openings**

(a) All interior stairways and other vertical openings connecting more than six floor levels shall be enclosed with approved assemblies having a fire resistance rating of not less than two hours with approved opening protectives.

(b) All interior stairways and other vertical openings connecting four to six floor levels shall be enclosed with approved assemblies having a fire resistance rating of not less than one hour with approved opening protectives.

(c) Interior stairways and other vertical openings connecting no more than three levels shall be enclosed with approved assemblies and opening protectives having a fire resistance as follows:

1. In Use Group A, a minimum 30 minute fire barrier shall be provided to protect all interior stairways and other vertical openings not exceeding three stories. Such fire barrier may be omitted:

i. When connecting the main floor and mezzanines; or

ii. When all the following conditions are met:

(1) The communicating area has a low hazard occupancy, or has a moderate hazard occupancy which is protected throughout by an automatic suppression system; and

(2) The lowest or next to the lowest level is a street floor; and

(3) The entire area is open and unobstructed in a manner such that it may be assumed that a fire in any part of the interconnected spaces will be readily obvious to all of the occupants; and

(4) Exit capacity is sufficient to provide egress simultaneously for all the occupants of all levels by considering all areas to be a single floor area for the determination of required exit capacity; and

(5) Each floor level, considered separately, has at least one-half of its individual required exit capacity provided by an exit or exits leading directly out of that level without having to traverse another communicating floor level or be exposed to the smoke or fire spreading from another communicating floor level.

2. In Use Group B, a minimum 30 minutes fire barrier shall be provided to protect all interior stairways and other vertical openings not exceeding three stories. Such fire barriers may be omitted in buildings not exceeding 3,000 square feet per floor or when the building is protected throughout by an approved automatic fire suppression system.

3. In Use Group E, a minimum one-hour fire barrier shall be provided to protect all interior stairways and other

vertical openings connecting not more than three floor levels. Such barrier may be omitted when the building is protected throughout by an approved automatic fire suppression system.

4. In Use Group F, a minimum one-hour fire barrier shall be provided to protect all interior stairways and other vertical openings not exceeding three floor levels. Such fire barrier may be omitted:

- i. In special purpose occupancies when necessary for manufacturing operations and direct access is provided to at least one protected stairway;
- ii. In buildings which are protected throughout by an approved automatic fire suppression system;

5. In Use Group H, a minimum one-hour fire barrier shall be provided to protect all interior stairways and other vertical openings not exceeding three floor levels. Such fire barrier may be omitted when necessary for manufacturing operations in a building where every floor level has direct access to at least two remote enclosed stairways or other approved exits.

6. In Use Group I-1, a minimum one-hour fire barrier shall be provided to protect all interior stairways and other vertical openings not exceeding three floor levels. Such fire barrier may be omitted at either the top or bottom of a stairway which connects not more than two floor levels when such stairway does not serve as a required means of egress and the occupant load does not exceed 12, excluding staff.

7. In Use Group I-2, a minimum one-hour fire barrier shall be provided to protect all interior stairways and other vertical openings not exceeding three floor levels. Such fire barrier may be omitted when connecting not more than two floor levels which are separated by a one-hour fire barrier equipped with a self-closing or automatic-closing 20 minute door at the top or bottom of the stairway, when such stairway does not serve as a required means of egress.

8. (Reserved)

9. In Use Group M, a minimum 30 minute fire barrier shall be provided to protect all interior stairways and other vertical openings not exceeding three floor levels. Such fire barrier may be omitted when:

- i. Openings connect only two floor levels, such as between the street floor and mezzanine or second floor; or
- ii. Occupancies are protected throughout by an approved automatic fire suppression system.

10. In Use Group R-1, a minimum one-hour fire barrier shall be provided to protect all interior stairways and other vertical openings not exceeding three stories. Such fire barrier may be omitted:

i. In buildings which are protected throughout by an approved automatic fire suppression system installed in accordance with NFPA 13 or 13R; or

ii. In buildings with not more than 25 guests in which the following conditions are met:

- (1) Every sleeping room is provided with an approved window having a sill height not greater than 44 inches;
- (2) Every sleeping room above the second floor is provided with direct access to a fire escape or other approved secondary exit;
- (3) Any exit access corridor exceeding eight feet in length which serves two means of egress, at least one of which is an unprotected vertical opening, shall be separated from the vertical opening by a one-hour fire barrier; and
- (4) The building is protected throughout by an automatic fire alarm system, installed in accordance with the New Jersey Uniform Construction Code and supervised in accordance with N.J.A.C. 5:70-4.9(c).

11. In Use Group R-2, a minimum 30 minute fire barrier shall be provided to protect all interior stairways and other vertical openings not exceeding three stories. Such fire barrier may be omitted:

- i. In buildings which are protected throughout by an approved automatic fire suppression system;
- ii. When the vertical opening connects not more than two floor levels with not more than four dwelling units per floor and each dwelling unit has access to a fire escape or other approved secondary exit; or
- iii. In owner-occupied buildings with not more than four dwelling units per floor, and in which the following conditions are met:

- (1) Every sleeping room is provided with an approved window having a sill height not greater than 44 inches;
- (2) Every dwelling unit or sleeping room above the second floor is provided with direct access to a fire escape or other approved secondary exit; and
- (3) The building is protected throughout by an automatic fire alarm system, installed in accordance with the New Jersey Uniform Construction Code and supervised in accordance with N.J.A.C. 5:70-4.9(c).

Amended by R.1989 d.556, effective November 6, 1989.

See: 21 N.J.R. 2431(a), 21 N.J.R. 3453(a).

Requirements added regarding fire barriers protecting interior stairways and other vertical openings.

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

Amended by R.1995 d.59, effective March 6, 1995.

See: 26 N.J.R. 4249(a), 27 N.J.R. 891(a).

Administrative correction.

See: 38 N.J.R. 2795(c).

Administrative correction.

See: 40 N.J.R. 6541(a).