

(b) The Bureau shall have discretion not to enforce any maintenance requirement herein set forth in a particular case if it determines that the violation of such requirement in such case, if allowed to continue, would not jeopardize the health, safety or welfare of occupants or intended occupants or of the public generally. In no case, however, shall the Bureau fail to enforce any standards or requirements pertaining to fire safety, building security, occupancy, health or providing of required facilities or equipment except pursuant to an exception granted in accordance with N.J.S.A. 55:13A-11.

5:10-1.3 Administration and enforcement

(a) The Bureau of Housing Inspection shall administer and enforce these regulations.

(b) Each municipality and county of this State may be authorized by the Commissioner to enforce the provisions of this chapter within the corporate limits thereof, subject to the control and supervision of the Commissioner. Any such authorization shall be in accordance with the following terms and conditions:

1. The municipality or county shall comply with all provisions of the Act and regulations and with all directives of the Bureau issued pursuant thereto.

2. The Bureau shall create a reservation for the purchase of inspection services, from the municipality or county during each period from July 1 to the following December 31 and from January 1 to the following June 30 and shall give notice to the municipality or county of the amount of such reservation for each such period. The municipality or county may make requisitions against this reservation in amounts not to exceed credits earned up to the time of requisition. Said reservation may be decreased by the Bureau, if, in its sole discretion, it determines that the municipality or county cannot reasonably be expected to do enough work satisfactory to the Bureau to earn the full amount of the reservation before the end of the State's fiscal year.

3. The municipality or county shall identify all unregistered buildings within its jurisdiction. A separate information form prescribed by the Bureau shall be completed and promptly forwarded to the Bureau for each such building.

4. The municipality or county shall be obligated to keep the local registry accurate by promptly reporting to the Bureau all transfers of ownership, demolitions, alterations, and construction of buildings within its jurisdiction and by reporting all errors that may appear.

5. The municipality or county shall inspect, in each State fiscal year, one-fifth of all the multiple dwellings and hotels and units of dwellings space therein.

6. Twenty-five percent of the inspections required to be performed pursuant to (b)5 above shall be completed prior to October 1 of each State fiscal year, 50 percent prior to January 1 of each State fiscal year and 75 percent prior to May 1 of each State fiscal year.

7. All buildings are to be inspected in accordance with the most recently promulgated regulations.

8. The municipality or county shall, in addition to whatever local procedures it chooses to adopt, make an inspection report concerning each inspected building upon forms prescribed by the Bureau.

i. All inspection and reinspection reports submitted to the Bureau shall be signed by the local program official(s) designated by the municipality or county and approved by the Bureau.

ii. Such reports shall include the name of the inspector who performed the inspection and shall be submitted to the Bureau not less frequently than once per month.

iii. In the event that an inspection of a building discloses a violation of the regulations constituting an imminent hazard to the health, safety or welfare of its occupants, the municipality or county shall, without delay, transmit its inspection report and findings to the Bureau for appropriate action.

iv. All reports submitted to the Bureau which disclose violations shall be clearly segregated from reports which disclose no violations.

9. When specifically requested by the Bureau, the municipality or county shall conduct, within one week of the request, reinspection of those buildings where violations were discovered at the time of the original inspection.

i. The municipality or county shall make a reinspection report concerning such building upon forms prescribed by the Bureau and forward such reports to the Bureau upon completion thereof.

ii. No reinspection reports will be accepted for credit unless all original reported violations have been reinspected.

iii. The Bureau shall be responsible for notifying the municipality or county when such reinspections are to be conducted.

iv. The municipality or county shall be responsible for any other functions of the enforcement procedure which can be undertaken on a local level.

v. Extensions of time to complete abatement shall be granted only by the Bureau.

10. The municipality or county shall provide the Department with such information as may be necessary to determine the eligibility of the municipality or county for funds that may be requisitioned by it, including, without limitation, copies of past, current and projected operation budgets and tables of organization for the agency undertaking inspection and related duties.

i. The municipality or county shall also supply the Bureau with a list of appropriate totals of those buildings within its boundaries which are not registered or inspected by the end of each State Fiscal Year.

11. The municipality or county shall be solely responsible for compliance with local, State, and Federal law pertaining to the dislocation and relocation of individuals, families and businesses, provided, however, that the municipality or county may apply to the Department for relocation assistance as it may deem necessary.

12. The municipality or county shall perform, within its jurisdiction, inspections of those buildings that are the subject of complaints received by the Bureau.

i. Such inspections shall be complete and performed in accordance with (b)7 above and included in the regular cycle of inspections.

ii. However, in the event that the building that is the subject of the complaint has been issued a valid Certificate of Inspection by the Bureau, the first inspection and reinspection shall be limited to the subject matter of the complaint.

13. All inspections performed pursuant hereto shall be performed by inspectors acceptable to the Bureau.

i. The municipality or county shall provide to the Bureau resumes of all inspectors whom the municipality or county intends to assign to the performance of inspections pursuant hereto.

ii. No inspector disapproved by the Bureau shall perform any inspections pursuant hereto.

iii. Upon request of the Bureau, the municipality or county shall provide to the Bureau such further information concerning any inspector whom the municipality or county assigns or intends to assign to perform inspections pursuant hereto as the Bureau may require.

iv. In the event that the Bureau deems the quality of an inspector's work to be unsatisfactory and so advises the municipality or county, then the municipality or county shall immediately cease to assign inspections required to be performed pursuant hereto to the said inspector.

v. All inspectors assigned by the municipality or county to perform inspections pursuant hereto shall attend, and shall be required by the municipality or county to attend, training sessions scheduled by the Bureau when such attendance is required by the Bureau and any such inspector is not specifically excused by the Bureau.

14. The Bureau shall supply the municipality or county with a listing of all buildings within its jurisdiction registered or on file with the Bureau, and such other information regarding inspection and enforcement activities of the municipality or county and the Bureau as may reasonably be required.

15. The Bureau shall furnish to the municipality or county all forms or documents which are or may become necessary to carry out the duties assumed hereunder.

16. The Bureau, upon receipt of each inspection report disclosing a violation or violations, may initiate whatever enforcement or compliance proceedings as it deems fit and appropriate.

17. The Bureau shall credit the municipality or county in accordance with the following formula:

i. Upon formal registration of each building not now registered, the municipality or county shall be credited with an amount of \$10.00.

ii. In the event of administrative hearings and/or court appearances, the Bureau shall credit the municipality or county with a maximum of \$25.00 per full day for each local witness required to appear. Without prior permission, local attendance at administrative hearings shall be limited to one person per day.

iii. The municipality or county shall be credited with \$10.00 for each transfer of ownership, or creation of a building when the municipality or county is responsible for such information reaching the Bureau in the first instance.

iv. The Bureau shall annually establish and distribute to authorized municipalities a regular inspection payment schedule which shall set forth the payments to be made by the Bureau to each municipality or county for each unit inspected and reinspected and for inspection and reinspection of common areas. Maximum payments per building or per project may be established. The regular inspection payment schedule established each year shall be uniform for all counties and municipalities and notice of it shall be published annually in the New Jersey Register.

v. The municipality or county shall be credited with an amount of \$10.00 for each first inspection and \$10.00 for each reinspection when the inspection is performed as a result of a complaint received by the Bureau, and when the building that is the subject of the complaint has been issued a valid Certificate of Inspection by the Bureau. In the event that the building complained of has not been issued a Certificate of Inspection, the municipality will be credited in accordance with the regular inspection payment schedule.

vi. No credit shall be allowed for any work that is not satisfactory to the Bureau or for inspections by construction or subcode officials of newly constructed or altered buildings pursuant to (c) below.

18. The municipality or county may from time to time make requisitions against the reservation, as may be approved by the Bureau, up to but not in excess of the amount of credits outstanding in said account as of the date of the requisition. Said requisition shall be expressly limited to reimbursement to the municipality or county for existing or additional expenses incurred in carrying out the duties assumed by it hereunder or to improve its housing inspection program and to supplement the locally approved budget dedicated to local housing inspection program; provided, however, in the event the municipality or county shows to the satisfaction of the Bureau that such funds are not needed for the above, requisitions may request payment to the general surplus or other account designated by the municipality or county.

19. The municipality or county shall submit such data as the Bureau shall from time to time require and shall from time to time make its books available for the Bureau's inspection at such times as the Bureau shall require.

20. The municipality or county shall conscientiously enforce all local ordinances related to housing and shall proceed under such ordinances with respect to all cases referred by the Bureau for enforcement under such ordinances. No payment shall be made by the Bureau for enforcement under local ordinances.

21. The Bureau expressly reserves the right, at its option, to carry out inspection and enforcement activities within the boundaries of the municipality or county as it deems necessary to fulfill the duties imposed upon it by the Act or to assure faithful discharge by the municipality or county of its duties and responsibilities pursuant to (b) of this section.

22. The municipality or county shall not utilize any funds received pursuant to this subsection to employ or otherwise compensate any employee of the Department of Community Affairs who has directly participated in the negotiation or approval of the authorization.

23. The authorization may be terminated at any time by the Bureau for any of the following reasons:

i. Failure for any reason of the municipality or county to fulfill in a timely and proper manner any of the conditions herein set forth;

ii. Submission of reports by the municipality or county to the Bureau that are incorrect or incomplete in any material respect;

iii. Improper use of funds provided pursuant hereto;

iv. Any conduct on the part of a local employee which would constitute a violation of the New Jersey Conflict of Interest Law, N.J.S.A. 52:13D-12 et seq., if that conduct were engaged in by a State employee.

24. In the event of termination, the municipality or county shall deliver to the Bureau all inspection reports and registration information in its possession.

25. Any authorization given by the Bureau shall be effective as of the date stated in the letter of authorization and shall continue in effect until revoked by the Bureau.

26. Any authorization conferred pursuant to this subsection shall be deemed to be extended to the territory of one or more other local units of government upon submission by such other local units of government and proof of compliance with the requirements of the Interlocal Services Act (N.J.S.A. 40:8A-1 et seq.).

27. Any municipality or county acting under an authorization granted by the Bureau pursuant to this subsection shall be solely responsible for, and shall keep, save and hold the Department of Community Affairs, Division of Housing, the Bureau of Housing Inspection and their officers, directors, employees, agents and servants harmless from, all claims, loss, liability, expense, damage and judgments, including all legal expenses incurred, resulting from any and all injury, and damage to agents or employees or anyone connected with performance pursuant to the authorization or to any other persons caused by any and all acts of the municipality or any of its officers, directors, employees, agents, or any person or persons in connection with the performance of this agreement, or from any and all injury and damage to any property caused by any and all acts of the municipality or county or any of its officers, directors, employees, agents and servants or any other person or persons in connection with performance pursuant to this authorization:

i. The liability of the municipality or county pursuant hereto shall continue after the termination of the authorization with respect to any liability, claims, loss, expense, damage or judgments resulting from acts occurring prior to termination.

ii. The municipality or county shall be solely responsible to defend any and all suits that may be brought against the Department, the Division, or the Bureau or any of its officers, directors, employees, agents or servants on account of any and all acts of the municipality or county and shall make good to, and reimburse the Department for any expenditures that the Department may make by reason of such acts.

28. No municipality or county shall unilaterally discontinue performing inspections pursuant to the authorization except upon six months' notice to the Bureau.

(c) The Construction Official in each municipality is hereby designated as an agent of the Bureau of Housing Inspection for the purpose of inspecting newly constructed or altered hotels and multiple dwellings in order to enforce the provisions of these regulations. Responsibility for in-

spection may be delegated to the appropriate subcode official(s).

(d) The local enforcing agency, as the term is defined in N.J.A.C. 5:70-1.5, authorized to enforce the Uniform Fire Code in each municipality is hereby designated as the agent of the Bureau for the purpose of inspecting existing buildings in order to enforce all provisions of the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq., and the Uniform Fire Code, N.J.A.C. 5:70, applicable to hotels and multiple dwellings; provided, however, that such provisions shall continue to be enforced by the Bureau in multiple dwellings and hotels that are not life hazard uses, as defined in N.J.A.C. 5:70-2.4A or 2.4B, until such time as the Bureau has been advised by the Division of Fire Safety that the local enforcing agency has agreed to accept responsibility for periodic fire safety inspections in such buildings.

Amended by R.1981 d.95, effective March 11, 1981.
See: 12 N.J.R. 383(d), 13 N.J.R. 189(d).

Amended by R.1981 d.363, effective October 8, 1981.
See: 13 N.J.R. 387(b), 13 N.J.R. 704(a).

(b) "Any such authorization . . ." added; (b)(1-2) added.
(d) added.

Amended by R.1983 d.389, effective September 19, 1983.
See: 15 N.J.R. 1054(a), 15 N.J.R. 1575(c).

Added 28 to (b).

Amended by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989).

See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Subsection (d) substantially amended.

Notice of Correction, effective May 4, 1992.

See: 24 N.J.R. 1791(b).

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

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

Administrative change.

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

Case Notes

Standards for denial of exception from two exit requirement (citing former N.J.A.C. 5:10-19.4). *Renan Realty Corp. v. Dept. of Community Affairs*, 182 N.J.Super. 415, 442 A.2d 614 (App.Div.1981).

Authority to promulgate regulations; regulations reasonably necessary and appropriate. *Rumson Country Club v. Commissioner of Community Affairs*, 134 N.J.Super. 54 (App.Div.1975) certification denied 68 N.J. 482, 338 A.2d 219.

Penalty assessment compromise accepted for corrections of violations. *Paganelli v. Bureau of Housing Inspection, Department of Community Affairs*, 97 N.J.A.R.2d (CAF) 86.

Numerous unabated safety violations in apartment building, including unrepaired stairways, ceilings, walls and window screens, defective smoke detectors and roach infestations, warranted penalty assessment. *Bureau of Housing Inspection v. Scott*, 96 N.J.A.R.2d (CAF) 119.

Owner of multiple dwelling who failed to prove correction of past fire safety violations was subject to penalty assessment. *Bureau of Housing Inspection v. Taylor*, 96 N.J.A.R.2d (CAF) 80.

Condominium association qualifies as owner subject to Hotel and Multiple Dwelling Law. *Three Hundred Twenty Five Saw Mill Road v. Bureau of Housing Inspection*, 96 N.J.A.R.2d (CAF) 69.

Reinspection of defective premises was required to establish continuing violations for possible penalties. *20 President Street v. Department of Community Affairs*, 95 N.J.A.R.2d (CAF) 101.

Failure to abate all outstanding building violations as agreed rendered owner liable for higher penalty assessment. *Gertner v. Department of Community Affairs*, 95 N.J.A.R.2d (CAF) 65.

Failure to pay reinspection fee once building violations were abated warranted imposition of minimum \$50 penalty. *Department of Community Affairs v. 19 Bruen Avenue*, 95 N.J.A.R.2d (CAF) 54.

Building owner required to pay penalty for violations of building code was not entitled to a reduction in the fine. *Radzik v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 26.

Multiple dwelling owner with address and phone number in another state is not in compliance with the statute which requires an "in-county agent". In the Matter of 1151 Washington Street, 93 N.J.A.R.2d (CAF) 62.

Penalty was due to the unabated violations at reinspection and was not based on the unabated screening violations at the time of reinspection. *Romano v. Department of Community Affairs*, 93 N.J.A.R. 2d (CAF) 49.

Inspection report and issuance of green card in 1983 did not prevent the enforcement of requirements for installation of self-closing/self-locking doors and installation of doorbells. *Department of Community Affairs v. Bistricher*, 93 N.J.A.R.2d (CAF) 43.

Landlords' failure to correct code violations; imposition of fine. 142 Mill Street, Paterson, New Jersey (Bonafield) v. Department of Community Affairs, Bureau of Housing Inspection, 93 N.J.A.R.2d (CAF) 31.

Rapid abatement efforts following citation; reduction in fine. N.J.S.A. 55:13A-6(g). *Bajinath v. Department of Community Affairs, Bureau of Housing Inspection*, 93 N.J.A.R.2d (CAF) 30.

Failure to abate violations of the Hotel and Multiple Dwelling Law justified monetary penalty. 17-19 Calhoun Street v. Department of Community Affairs, 93 N.J.A.R.2d (CAF) 15.

Owner of apartment buildings was subject to penalties of \$21,550 for continuing violations of Hotel and Multiple Dwelling Law. *Department of Community Affairs, Bureau of Housing Inspection v. Salsburg*, 92 N.J.A.R.2d (CAF) 91.

Violations unabated as of reinspection date were not deemed abated by subsequent action. *Bureau of Housing Inspection v. 1000-58 Cincinnati Ave., Egg Harbor City*, 92 N.J.A.R.2d (CAF) 51.

Penalty for failure to timely correct building code violations would not be reduced by prior repairs. N.J.S.A. 55:13A-19. 22 South Illinois Ave. v. Department of Community Affairs, 91 N.J.A.R.2d (CAF) 7.

Smoke detector compliance; penalty for failure to install in common areas; penalty policy unenforceable as not promulgated as a rule. *Bureau of Housing Inspection v. Roger Gardens, Inc.*, 5 N.J.A.R. 120 (1983).

5:10-1.4 Scope

(a) This chapter shall apply to the repair, demolition, removal, maintenance, occupancy and use of new and existing hotels and multiple dwellings in the State of New Jersey.

(b) A building section containing not more than four dwelling units shall not be considered to be a portion of a multiple dwelling if it:

1. Is held under a condominium or cooperative form of ownership or by a mutual housing corporation;

2. Is in a building that has no occupied dwelling units not occupied by unit owners, if a condominium, or by shareholders, if a cooperative or mutual housing corporation;

3. Has at least two exterior walls unattached to any adjoining building section; and