

Landlord may not remove tenant to correct illegal occupancy until there has been compliance with provisions of relocation assistance laws. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Landlord may require tenants in violation of occupancy limits to sign leases containing those limits. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Landlord requiring tenant to sign renewal lease containing new occupancy limit which will force tenant or some members of tenant's household to relocate may be liable for relocation assistance. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Landlord seeking to enforce occupancy limits against tenants who are in violation of limits may be liable for same or similar benefits as tenants would be entitled to receive if they were removed as result of building code enforcement proceedings. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Tenant evicted as result of enforcement of occupancy limit regulations may claim relocation assistance benefits unless tenant's own conduct was primary cause of overcrowding. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Tenant responsible for overcrowding of apartment may be required to sign lease containing occupancy limit without being offered relocation assistance benefits. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

Tenants are not to be deprived of relocation assistance by landlord enforcing occupancy limits through renewal leases; Anti-Eviction Act subsection authorizes landlord to establish reasonable rules and regulations governing conduct of its tenants. *M.C. Associates v. Shah*, 226 N.J.Super. 173, 543 A.2d 1006 (A.D.1988).

5:10-22.4 Prohibited sleeping areas

Kitchens, bathrooms, and toilet rooms shall not be used for sleeping purposes.

5:10-22.5 Required ceiling height

(a) Except as otherwise provided in (a)1 and 2 below, no room or space or portion of a room or space shall be considered habitable unless that room or space or portion of a room or space has a clear ceiling height of at least seven feet, zero inches.

1. Rooms, spaces, and portions of rooms and spaces in hotels that are open and operating less than six months of each year, are located in municipalities bordering on the Atlantic Ocean and are used exclusively for transient occupancy, and were so used prior to November 5, 1990 in conformity with any applicable mercantile license requirement, shall be deemed to be habitable regardless of ceiling height unless there is a clear and present danger to the health or safety of the occupants.

2. Dwelling units and portions of dwelling units in multiple dwellings located in municipalities bordering on the Atlantic Ocean shall be deemed to be habitable with a ceiling height of less than seven feet, zero inches provided that the dwelling unit was occupied prior to the effective date of this amendment and is in conformity with any applicable mercantile license requirement prior to May 27, 1991 and:

i. The ceiling height is less than seven feet, zero inches but at least six feet, four inches and there is no

clear and present danger to the health or safety of the occupants;

ii. If the ceiling height is less than six feet, four inches but at least five feet, 10 inches, there is no clear and present danger to the health or safety of the occupants and the volume of the unit, as measured in cubic feet, is at least seven times the minimum square footage required for the number of occupants in the unit; or

iii. If the ceiling height is less than five feet, 10 inches, an exception is granted by the Bureau in accordance with N.J.S.A. 55:13A-11 and N.J.A.C. 5:10-1.15.

(b) Read in context with the definition of habitable room and the occupancy standards found in this subchapter, this section requires an attic apartment to contain at least 150 square feet of floor space having a ceiling height of seven feet, zero inches, and that every attic room have at least 59 square feet of floor area having a ceiling height of at least seven feet, zero inches. While additional floor area having less than seven feet, zero inches ceiling height is permitted, it cannot be counted for purposes of determining habitability.

Amended by R.1990 d.544, effective November 5, 1990.

See: 22 N.J.R. 2207(a), 22 N.J.R. 3363(b).

Shore hotels permitted to use rooms and spaces with ceilings less than seven feet.

Amended by R.1991 d.59, effective February 19, 1991.

See: 22 N.J.R. 3430(a), 23 N.J.R. 405(a).

Exception to ceiling height requirement added for certain Atlantic Shore multiple dwellings.

SUBCHAPTER 23. SPECIAL PROVISIONS FOR HOTELS AND MULTIPLE DWELLINGS WITH ROOMING UNITS

5:10-23.1 Registry and rate-posting

(a) Every hotel and multiple dwelling containing rooming units shall:

1. Maintain at all times a registry identifying the name of each occupant of each rooming unit, together with the principal residence address of each such occupant and the date upon which his occupancy of such rooming unit commenced, which registry shall be signed by the person renting the rooming unit.

2. Not have posted on any advertising sign, or placed before the public in any advertising matter or information pertaining to such hotel or multiple dwelling, any rates for accommodation in such hotel or multiple dwelling unless there are available therein, when vacant, accommodations for immediate occupancy at the advertised rate.

3. Have posted in a conspicuous place or manner in each rooming unit a statement of the range of rates

charged by the hotel or multiple dwelling, including seasonal rates, and a legible printed copy of P.L. 1967, c.95 (N.J.S.A. 29:4-5 et seq.).

5:10-23.2 Linen, towels and housekeeping services

(a) The owner or operator of every hotel or dwelling space for which housekeeping services are provided shall:

1. Supply a fresh change of bed linen and towels, all of which shall be in good condition, at least once a week or when there is a change of occupancy of the unit;
2. Provide housekeeping and interior maintenance on a daily basis if a hotel, or weekly basis if a rooming house, but under any circumstances each such unit shall be completely inspected and cleaned where the occupancy thereof is changed.

SUBCHAPTER 24. PARKING AREAS AND DRIVEWAYS

5:10-24.1 Design requirements

(a) Driveways shall have two traffic lanes for their entire length, in addition to any parking space, except that a single lane may be used for short straight service driveways where two-way traffic is not anticipated.

(b) Buildings, walls, fences, planting and other sight obstructions shall be so located and designed that a driver backing out of a garage, carport or parking space can see approaching traffic speed and volume.

5:10-24.2 Maintenance requirements

Driveways and parking areas shall be maintained free of potholes or other unsafe or unsanitary conditions.

5:10-24.3 Parking in approach drives

No parking will be permitted in approach drives to parking areas where such parking will obstruct ingress of fire-fighting equipment.

5:10-24.4 Parking for handicapped residents

(a) Any owner of a multiple dwelling with five or more dwelling units which provides parking to the occupants thereof, and in which a handicapped person resides, shall provide parking spaces for occupants who are handicapped located at the closest possible proximity to the principal accesses of the multiple dwelling.

(b) A minimum of one percent of the total number of parking spaces provided for the occupants of the multiple dwelling, but not less than one parking space, shall be set aside as parking for the handicapped.

1. Each space or group of spaces shall be identified with a clearly visible sign displaying the International Symbol of Access along with the following words: "This space reserved for physically handicapped drivers."

2. Each reserved space shall be 12 feet wide to allow room for a person in a wheelchair or on braces or crutches to get in and out of either side of an automobile onto a level, paved surface suitable for wheeling and walking and shall be located so that a person in a wheelchair or using braces or crutches is not compelled to wheel or walk behind parked cars.

3. Where applicable, curb ramps shall be provided to permit a handicapped person access from the parking area to the sidewalk.

(c) For purposes of this section "handicapped" means a physical impairment which confines a person to a wheelchair; causes a person to walk with difficulty or insecurity; affects the sight or hearing to the extent that a person functioning in public areas is insecure or exposed to danger; causes faulty coordination; or reduces mobility, flexibility, coordination and perceptiveness to the extent that facilities are needed to provide for the safety of that person.

New Rule R.1986 d.61, effective March 17, 1986.
See: 18 N.J.R. 16(a), 18 N.J.R. 555(b).

SUBCHAPTER 25. METHODS, DEVICES AND SYSTEMS FOR INDIRECT APPORTIONMENT OF HEATING COSTS IN MULTIPLE DWELLINGS

5:10-25.1 Scope

(a) This subchapter establishes standards and procedures for the Bureau of Housing Inspection's approval of methods and devices for indirect apportionment of heating costs in multiple dwellings, in accordance with P.L. 1991, c.453.

(b) No method, device or system of devices for apportionment of heating costs in multiple family dwellings shall be used without prior approval of the Bureau pursuant to this subchapter, except that methods or devices in use on April 17, 1992 may continue in use pending application for and issuance of approval by the Bureau, until not later than October 17, 1992, unless an application for approval is filed by January 19, 1993. Any system not approved by the Department by April 19, 1993, or undergoing testing or other procedures required by the Department as part of the approval process as of that date, shall be removed or permanently shut out of service.

(c) This subchapter shall not apply to devices for direct apportionment of heating costs that are approved by the Board of Regulatory Commissioners.

(d) This subchapter shall not apply to any charges for the separate heating of domestic hot water, charges for cooking fuel or charges for the heating of common areas in buildings. Charges for any such energy uses are not covered by this subchapter.

(e) This subchapter shall apply to all multiple dwellings, including, without limitation, condominiums, cooperatives and mutual housing corporations that are not excluded from jurisdiction under the act in accordance with N.J.S.A. 55:13A-3(k).

5:10-25.2 Application to the Department

(a) Any manufacturer, distributor or other person seeking approval for use of a device or system of devices for indirect apportionment of heating costs in a multiple dwelling shall submit two copies of the following information, as well as the appropriate fee, at such time as the fee shall be determined in accordance with N.J.A.C. 5:23-4.20(d), to the Bureau of Construction Project Review, PO Box 817, Trenton, NJ 08625. The Bureau of Construction Project Review will forward one copy of the information document to the Bureau:

1. The name and address and social security or taxpayer identification number of the applicant for approval;
2. The name and address of the general partner(s) or corporate officer(s), if applicable;
3. A description of the device or system of devices, including a narrative description, schematics, and any test certifications or listings of components;
4. A description of the method for computing energy consumption based on measurements recorded by the device or system of devices, using commonly recognized standard American units;
5. A description of any calculations used to convert standard units and any subsequent calculations used to arrive at occupant usage; and
6. A description of any calculations used to arrive at a unit cost charged occupants.

(b) Approved devices and systems shall be placed on a list to be maintained by the Bureau of Construction Project Review. The list shall be made available to any interested party on request.

1. An owner of a multiple dwelling shall not submit an application for use of such a device or system to the Bureau unless the device or system is on the Department's list of approved devices and systems.

(c) An owner of a multiple dwelling who proposes to institute a method or system for indirect apportionment of heating costs shall provide the following information to the Bureau:

1. The make and identifying number of the device or system for indirect apportionment of heating costs that is proposed to be installed;
2. The name, address and social security or taxpayer identification number of the owner of the building;
3. The name and address of the building manager, if applicable;
4. The address and registration number of the multiple dwelling;
5. The number of dwelling units;
6. A copy of all written information related to heating costs that is provided to existing or prospective occupants, including applicable lease terms;
7. A copy of the billing format used or proposed to be used to bill unit occupants for apportioned heating costs, which shall include, but not be limited to, the following:
 - i. Billing date;
 - ii. Billing period;
 - iii. Measurement units and formula used for calculating energy use, the energy usage calculated from that reading, and the charge per unit for energy;
 - iv. A statement that the bill is not from the utility;
 - v. A statement that the total of the bills for the dwelling units shall not exceed the cost for the heating of all dwelling units that is paid to the utility, and the amount of that total charge; and
 - vi. A local or toll-free number of the landlord or the landlord's authorized agent that an occupant can call to obtain information, to request service or maintenance, or to submit complaints.
8. A copy of information concerning indirect apportionment of heating costs, which shall be provided to existing and prospective occupants, including:
 - i. A statement of the range of accuracy of the system when it is functioning properly;
 - ii. Average square foot apportioned heating cost for the building over the last heating season, if the apportionment system was already installed, or an estimate based upon manufacturer's data or information from a similar installation;
 - iii. For each occupant, the square footage of that occupant's unit; and
 - iv. A statement of the maintenance schedule for the system;
9. A proposed schedule of inspection and maintenance of the indirect apportionment system.

Amended by R.1993 d.39, effective January 19, 1993.
See: 24 N.J.R. 3597(a), 25 N.J.R. 299(a).

Text added at (c)7 and 8 regarding billing format and information on direct apportionment.
 Administrative correction.
 See: 36 N.J.R. 648(b).

5:10-25.3 Criteria for acceptance

(a) Before accepting a device or system of devices for indirect apportionment of heating costs for use in multiple dwellings, the Bureau, after consultation with the Bureau of Construction Project Review, shall be satisfied that it is:

1. Reliable and accurate;
2. Subject to an appropriate inspection and maintenance schedule;
3. Capable of equitably measuring distribution of energy to all occupancies based on actual usage;
4. Equipped with individual thermostats for each dwelling unit;
5. Designed to produce itemized billing statements, or to produce data for itemized billing statements, based on actual use in each dwelling unit; and,
6. Not designed so as to include additional costs or usages, whether apportioned or not, in the data or billings for individual dwelling units.

(b) The Bureau, in consultation with the Bureau of Construction Project Review, shall review testing records for all devices and systems, inspection and maintenance records for devices and systems previously in use and proposed schedules for inspection and maintenance.

(c) The following general classes of systems may be approved:

1. Gas, oil, or electric-fired furnace systems that monitor time of delivery of gas, or electricity or oil consumed, rate of consumption and accuracy of timer activation;
2. Hydronic heated/cooled systems that monitor changes in water temperature, volume of water, and time period of usage; and
3. Any other type of system that the Department approves in accordance with these rules.

(d) The following general classes of methods, devices and systems shall not be approved because of inherent inaccuracy:

1. Elapsed time monitors for hydronic systems;
2. Time/temperature monitors for hydronic systems which do not measure flow rate;
3. Systems for any heat source based solely on thermostat settings in individual dwelling units; and
4. Methods that rely on any means of calculation other than the use of approved devices or systems.

(e) The Bureau shall not reject, on technical grounds, any device or system that is approved by the Bureau of Construction Project Review.

Administrative correction.
 See: 36 N.J.R. 648(b).

5:10-25.4 Approval of methods, devices and systems

(a) When the Bureau of Construction Project Review is satisfied that a device or system proposed to be used complies with N.J.A.C. 5:10-25.3, it shall issue a letter of technical adequacy to the Bureau and shall place such device or system on the list that it maintains. When the Bureau has determined that all requirements of P.L. 1991, c.453 and of this subchapter are met, it shall issue to the applicant a notice of approval of the method, device or system; provided, however, that any such notice of approval shall be subject to, and contingent upon, receipt by the Bureau of a copy of the certificate of approval issued by the local construction official for the installation of the device or system.

(b) The Bureau, with the assistance of the Bureau of Construction Project Review or of local construction officials, may make such inquiries and inspections regarding the use and installation of methods, devices and systems for indirect apportionment of heating costs in multiple dwellings as it may deem necessary in order to properly enforce P.L. 1991, c.453 and this subchapter.

(c) The Bureau shall revoke any notice of approval of a method, device or system for the indirect apportionment of heating costs if the use, installation or operation of such method, device or system is in violation of P.L. 1991, c.453 or of this subchapter.

Administrative correction.
 See: 36 N.J.R. 648(b).

5:10-25.5 Maintenance requirements

(a) The owner of a multiple dwelling in which a device or system for indirect apportionment of heating costs has been installed shall maintain the device or system, and cause it to be inspected, in accordance with the inspection and maintenance schedule filed as part of the application for approval and approved by the Bureau.

(b) The owner shall at all times have available for examination by the Bureau's representatives documentation evidencing the maintenance and inspection of the device or system in accordance with the approved schedule.

(c) Complaints concerning methods, devices or systems for indirect apportionment of heating costs in multiple dwellings may be filed with the Bureau. Any such complaint shall include all available relevant information.