

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Maintenance of Hotels and Multiple Dwellings

Proposed Amendments: N.J.A.C. 5:10-1.3, 1.4, 1.10, 1.11, 1.12, 1.15, 1A.4, 1B.1, 2.1, 2.2, 4.2, 5.2, 7.7, 14.1, 14.4, 14.7, 19.1, 19.2, 27.1, 27.4, and 28.1

Authorized By: Lieutenant Governor Sheila Y. Oliver, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 55:13A-1.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2022-090.

Submit written comments by September 3, 2022, to:

Geraldine Callahan

Department of Community Affairs

PO Box 800

Trenton, New Jersey 08625

Fax No. (609) 984-6696

Geraldine.callahan@dca.nj.gov

The agency proposal follows:

Summary

The proposed amendments at N.J.A.C. 5:10 implement the requirements at P.L. 2019, c. 202, which creates a tiered inspection system for multiple dwellings and requires owners to annually update their certificates of registration to ensure the Department of Community Affairs (Department) has the most current information. P.L. 2019, c. 202 also authorizes the Department

to establish recertification fees and amend registration fees. In addition, the proposed amendments update the chapter to reflect current administrative and enforcement practices and correct grammatical and usage errors.

A section-by-section summary of the proposed amendments follows.

1. At N.J.A.C. 5:10-1.3(b)17, regarding municipalities and counties authorized to enforce this chapter through the State and Local Cooperative Inspection Program (SLCIP), proposed amendments would update the paragraph to consolidate the way in which the Bureau must pay (credit) municipalities. Instead of providing the list and amount of all credits, the paragraph would continue to require the Bureau of Housing Inspection (Bureau) to annually establish and distribute a payment schedule. Subparagraphs (b)17i, ii, and iii are to be deleted. This allows for flexibility in the amounts to be credited to a municipality or county. The set amount for inspections performed as a result of a complaint, as well as the standards for when no credit is allowed would remain.

2. At N.J.A.C. 5:10-1.3(g) and 1B.1(a), (b), and (c), proposed amendments would update the reference to the Bureau of Code Services to the Director's Office. Due to reorganization within the Department, the Bureau of Code Services no longer exists; the Licensing and Education Unit is now a part of the Director's Office.

3. At N.J.A.C. 5:10-1.4(b)4, proposed amendments would rewrite the paragraph to ensure clarity among code users as to what fire-rating standards apply without any substantive change in the requirements.

4. At N.J.A.C. 5:10-1.10(b), proposed amendments would rewrite the subsection for clarity. Additionally, proposed amendments would establish the tiered inspection schedule for multiple dwellings, as provided at P.L. 2019, c. 202. This indicates that multiple dwellings in

which no violations are found, or all violations have been abated by the first reinspection are inspected every seven years. Multiple dwellings in which all violations have been abated by the second or third reinspection are inspected every five years. Multiple dwellings in which all violations have not been abated by the third reinspection are inspected every two years. An amendment would also be made at N.J.A.C. 5:10-1.10(i) to delete the five-year cyclical inspection reference for the tiered inspection timeframes for multiple dwellings only.

5. At N.J.A.C. 5:10-1.11(a) and (b), proposed amendments would clarify that an owner must submit an application in order to receive a certificate of registration.

6. At N.J.A.C. 5:10-1.11(b), the registration fee would be raised from \$10.00 to \$100.00 for each building in a project. This increase accounts for inflation and ensures the cost for registration covers administrative costs. The cost of registration has not been increased since the adoption of this chapter in the 1960s. Additionally, this proposed amendment would state that the registration fee includes any amendments to the registration within one year from the date of registration, excluding a transfer of ownership, which is covered at N.J.A.C. 5:10-1.11(i). Language at N.J.A.C. 5:10-1.11(j), stating that a separate certificate shall be submitted for each building in a project, would be deleted because that language would be included at subsection (b).

7. At N.J.A.C. 5:10-1.11(c), the requirements for the registration application would be amended to delete “construction class” from the list of required information because there is no value added in its inclusion in the registration. Further, the existing rule requires that if an owner of record is a corporation, the name and address of the registered agent must be provided; the proposed amendment would revise this requirement to apply to all entities required to file a

certificate of business formation with the State and require that the certificate of formation be provided.

8. At N.J.A.C. 5:10-1.11(d), the subsection would be amended to clarify, without substantive change, the Department's process for approving the application for a certificate of registration. In addition, the subsection would establish that the certificate of registration shall be valid for one year.

9. At N.J.A.C. 5:10-1.11(e), proposed amendments would clarify that the application and certification of registration shall be in such form, as prescribed by the Commissioner, rather than the Bureau of Housing Inspection.

10. Proposed new N.J.A.C. 5:10-1.11(f) would implement P.L. 2019, c. 202, by establishing requirements that owners annually recertify that the information on the certificate of registration is current and accurate. Where amendments are needed, the owner shall amend the information and confirm its accuracy. The subsection would specify that the annual certification is due on or before the expiration date of the current certificate and establish that the annual recertification is valid for one year from the anniversary date of the issuance of the certificate of registration. Additionally, a \$25.00 per building, up to four buildings (\$100.00 maximum for all registered owners) cost is established for the recertification. Amendments made during the year to maintain the accuracy of the certificate would not require additional fees.

11. Proposed new N.J.A.C. 5:10-1.11(g) would require owners to file an amendment to the certificate of registration within 20 days after any change in information required to be included thereon. This reflects the requirements established at P.L. 2019, c. 202. Existing N.J.A.C. 5:10-1.11(h) is to be deleted, as this information is updated and included in new subsection (g).

12. At N.J.A.C. 5:10-1.11(j), proposed amendments would correct the process of obtaining a certificate of occupancy for any newly constructed hotel, retreat lodging facility, or multiple dwelling. The subsection currently necessitates that the certificate of occupancy required in the Uniform Construction Code (UCC), N.J.A.C. 5:23, be issued prior to the certificate of registration. In the UCC, at N.J.A.C. 5:23-2.24(e), the certificate of registration is a prior approval for the certificate of occupancy. This proposed amendment would align this chapter with the UCC by requiring the certificate of registration to be issued prior to the certificate of occupancy.

13. At N.J.A.C. 5:10-1.11(k), proposed amendments would replace the terms “signed” and “signer” with “certified” and “certifier,” and delete the requirement that the name of the person signing be printed beneath the signature in a legible manner. This would update the subsection to allow for online submissions. This is not intended to restrict paper submissions.

14. Proposed new N.J.A.C. 5:10-1.11(l) would incorporate the penalty for failure to register or recertify; the penalty is the same as that provided in the Act, at N.J.S.A. 55:13A-12, and is included for clarity.

15. At N.J.A.C. 5:10-1.12(a), the timeframe for submitting an application for a certificate of inspection would be changed from 90 days to 30 days. This timeframe was changed pursuant to the requirements at P.L. 2019, c. 202.

16. At N.J.A.C. 5:10-1.12(b), the provisions at paragraph (d)1 would be relocated to paragraph (b)3, with no change in requirements. This section requires that for hotels and motels, the application for a certificate of inspection includes a certification that all employees required to be trained to recognize and report human trafficking have viewed the informational video. In addition, N.J.A.C. 5:10-1.12(d) would be deleted in its entirety; this subsection required that the

application for a certificate of inspection be signed by at least one owner or duly authorized representative. This deletion, thus, allows for the online submission of an application.

17. N.J.A.C. 5:10-1.12(g) allows for the payment of an annual fee in lieu of the inspection fee otherwise payable as a condition of the issuance of a certificate of inspection for the hotel or multiple dwelling. This is an annual fee paid over five years and totaling the amount of the cost of the inspection. Proposed amendments would state that this subsection shall not apply to multiple dwellings inspected on a two-year cyclical basis; this is because the payments cannot be broken down over a five-year period for a two-year cycle and because repeat violators must be held accountable for their violations.

18. At N.J.A.C. 5:10-1.15(b), proposed amendments would state that an application for exception must be filed as prescribed by the Commissioner, rather than just “in triplicate.”

19. At N.J.A.C. 5:10-1A.4, proposed amendments would reference the tiered cyclical inspections established at N.J.A.C. 5:10-1.10(b).

20. At N.J.A.C. 5:10-2.1, proposed amendments would clarify the language in the section regarding tense, gender, and number, without any change in the requirements.

21. At N.J.A.C. 5:10-2.2, the definition of “BOCA” would be deleted because that building code is outdated and no longer used and because BOCA is not cited elsewhere in the chapter. The definition of “construction class” would also be deleted because the construction class is no longer required on the certificate of registration, and the term is not used elsewhere in the chapter. Lastly, the definition of “Director” would be updated to correct the outdated reference to the Division of Housing and Development and refer appropriately to the Division of Codes and Standards instead.

22. At N.J.A.C. 5:10-4.2(a), proposed amendments would expand the section to state that no person shall intentionally cause any service, facility, equipment, or utility to be shut off or discontinued when the condition affects any occupied unit, building, exterior space, or common area. This section used to only apply to occupied units; however, the Department determined it was necessary to ensure that all required services, facilities, equipment, and utilities be maintained throughout a property.

23. At N.J.A.C. 5:10-5.2, reporting of violations, proposed amendments would include an additional person to the list of people that building occupants could notify about problems with service failures, equipment deficiencies, and improper conditions. This person is referred to as the emergency repair expenditure authorizer (EREA). EREAs have been named in registration documents since the adoption of the rules and are referenced at N.J.A.C. 5:10-1.11(c); this proposed amendment would ensure consistency with other sections of the rules.

24. At N.J.A.C. 5:10-7.7(b), the requirements for guard rails would be reworded to ensure clarity with no change in requirements.

25. At N.J.A.C. 5:10-14.1(a) and 14.4(a), proposed amendments would extend the timeframe in which heat must be provided from October 1 through May 1 to October 1 through June 1. This would ensure that occupied spaces are provided with heat in the event of unseasonably cold weather throughout the month of May.

26. At N.J.A.C. 5:10-14.7(a)1, a grammatical correction would be made to use the term “ensure” instead of “insure.”

27. At N.J.A.C. 5:10-19.1 and 19.2, proposed amendments would allow hotels and multiple dwellings to provide ANSI/BHMA 156.2 locksets; this is an update to allow newly constructed hotels and multiple dwellings to use the most up-to-date and available locksets.

28. At N.J.A.C. 5:10-27.1, Child-protection window guards, proposed amendments would reorganize the section for clarity without any changes in the requirements.

29. At N.J.A.C. 5:10-27.4(e)1, an outdated deadline for the installation of window guards would be removed, and the requirements at N.J.A.C. 5:10-27.4(e)2 would be merged into (e).

30. At N.J.A.C. 5:10-28.1, Carbon monoxide alarms, would be amended to ensure clarity regarding how alarms may be installed, in accordance with the UCC or the Uniform Fire Code, N.J.A.C. 5:70.

As the Department of Community Affairs has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Department anticipates that the proposed amendments that implement tiered inspections, as required by law, and update the rules, would have a positive social impact. Tiered inspections would allow for a system where multiple dwellings with higher volumes of violations upon reinspection would be inspected more frequently to better ensure the safety of residents of those multiple dwellings. In addition, rules that reflect the current administrative and enforcement practices of the Department provide clarity for code users.

Economic Impact

This rulemaking would raise and establish fees in a few areas throughout the rules. The one-time fee for registration would be updated from \$10.00 for each building to \$100.00 for each building. The fee was originally established when the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq., was first passed in 1967, and has never been adjusted; the updated fee

accounts for inflation, and ensures that the price appropriately covers the cost of administration of the rules. Additionally, the new requirement for an annual recertification establishes a \$25.00 fee per building, up to four buildings for a \$100.00 maximum fee for all registered owners, to be paid annually with each recertification. These fees were determined by the Department to be appropriate for the cost of administration of these regulations. The proposed amendments throughout the rest of the chapter are not expected to have an economic impact.

Federal Standards Statement

No Federal standards analysis is required for the proposed amendments because the proposed amendments are not being proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The proposed amendments are not expected to have any impact on the creation or loss of jobs.

Agriculture Industry Impact

The Department does not anticipate that the proposed amendments will impact the agriculture industry.

Regulatory Flexibility Analysis

The proposed amendments establishing tiered inspections and recertification requirements and updating sections throughout the chapter would impose new recordkeeping or reporting requirements on “small businesses,” as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because many hotel and multiple dwelling owners would be considered small businesses, and are discussed in the Summary above. However, the

new reporting requirement to annually recertify the information provided to the Department ensures accurate records are kept. These proposed amendments are not expected to cause small businesses to need any professional services not already required in order to comply with the Regulations for the Maintenance of Hotels and Multiple Dwellings. There is no basis for differential treatment of small businesses in the application of this rulemaking.

Housing Affordability Impact Analysis

The proposed amendments are not expected to have an impact on housing affordability, nor the average costs associated with housing, because the proposed amendments implement the requirements at P.L. 2019, c. 202, and updated the chapter to reflect current administrative and enforcement practices.

Smart Growth Development Impact Analysis

The proposed amendments are not expected to have any impact upon housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan because the proposed amendments implement the requirements at P.L. 2019, c. 202, and updated the chapter to reflect current administrative and enforcement practices.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

5:10-1.3 Administration and enforcement

(a) (No change.)

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

1.-16. (No change.)

17. The Bureau shall credit the municipality or county [in accordance with the following formula], **as follows**:

[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.] **i.** The Bureau shall annually establish and distribute to authorized municipalities **or counties** 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] **registration, administrative hearings and court appearances, and units** 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] **for which a complaint has been filed** has not been issued a Certificate of Inspection, the municipality will be credited, in accordance with the regular inspection payment schedule.

[vi.] **ii.** (No change in text.)

18.–28. (No change.)

(c)–(f) (No change.)

(g) The [Bureau of Code Services] **Office of the Director of the Division of Codes and Standards** shall serve as the agent for the Bureau of Housing Inspection for the purpose of administering the licensing and training of housing officials, inspectors, and trainees.

5:10-1.4 Scope

(a) (No change.)

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

1.–3. (No change.)

4. Is attached to any adjoining building sections exclusively by fire separation walls. [having] **The fire separation wall shall have** a 1 1/2 hour minimum fire resistant rating [, in the case of] **for** buildings constructed prior to January 1, 1977, or [as] **the rating** required by the State Uniform Construction Code, N.J.A.C. 5:23, at the time of construction.

5:10-1.10 Bureau inspections

(a) (No change.)

(b) The Bureau of Housing Inspection shall [cause inspections to be made periodically of completed buildings] **ensure that periodic inspections are conducted.** Each [multiple dwelling and each] hotel shall be inspected once [in] every five years. **Each multiple dwelling shall be inspected, as follows:**

1. A multiple dwelling in which no violations are found, or all violations have been abated by the first reinspection, shall be placed in the highest tier and shall next be inspected in seven years, and the inspection fee shall be due at that time;

2. A multiple dwelling in which all violations have been abated by the second or third reinspection shall be placed in the middle tier and shall next be inspected in five years, and the inspection fee shall be due at that time; and

3. A multiple dwelling in which all violations have not been abated by the third reinspection shall be placed in the lowest tier and shall next be inspected in two years, and the inspection fee shall be due at that time.

(c)–(h) (No change.)

(i) Upon a finding by the Bureau that a building has been thoroughly inspected prior to resale since the most recent inspection made, in accordance with this chapter, that the inspection was

conducted by the municipality, in accordance with the maintenance standards established in this chapter and that a municipal certificate of occupancy has been issued, the Bureau shall accept that inspection in lieu of a current inspection and shall not conduct another cyclical inspection of the building [until five years shall have elapsed since the date of that municipal inspection] **pursuant to (b) above.**

1.–3. (No change.)

(j)–(k) (No change.)

5:10-1.11 Certificate of registration

(a) The owner of each hotel, retreat lodging facility, or multiple dwelling shall file with the Bureau of Housing Inspection, [upon forms provided by the Bureau, a] **an application for a** certificate of registration.

(b) Each such [certificate] **application** shall be accompanied by a **registration** fee of [\$10.00] **\$100.00 for each building in a project. Amendments made during the year to maintain the accuracy of the certificate shall not require additional fees.**

(c) [Each] **An application for the** certificate of registration **for each project** shall [state] **include:**

1.–2. (No change.)

3. The name, address, and telephone number of the agent appointed by said owner pursuant to [(f)] **(h)** below for the purpose of receiving service of process and other orders or notices;

4.–8. (No change.)

[9. The construction class;]

Recodify existing 10.–14. as **9.–13.** (No change in text.)

[15.] **14.** If the [record] owner **of record** is [a corporation] **an entity required to file a certificate of business formation with the State of New Jersey**, the name and address of the registered agent, [and of] each [corporate] officer, **and the certificate of formation or authorization;**

Recodify existing 16.–21. as **15.–20.** (No change in text.)

(d) Upon the receipt of said [certificate] **application** and fee, the Bureau shall [forthwith] **review the application. Upon approval, the Bureau shall** issue to the owner of such hotel, retreat lodging facility, or multiple dwelling, a [validated copy of the] certificate of registration, which [validated copy of the certificate of registration] shall be kept posted **in a conspicuous location** by the owner of such hotel, retreat lodging facility, or multiple dwelling [in a conspicuous location therein]. **The certificate of registration shall be valid for one year.**

(e) The **application and** certificate of registration shall be in such form [as may be] **as** prescribed by the [Bureau of Housing Inspection] **Commissioner.**

(f) **Each owner shall annually recertify that the information on the certificate of registration is current and accurate. Where amendments to the information on the certificate of registration are necessary, the owner shall amend the information and confirm its accuracy.**

1. The annual certification shall be required on or before the expiration date of the current certificate.

2. The annual certification shall be valid for one year from the anniversary date of the issuance of the certificate of registration.

3. Each annual certification shall be accompanied by a recertification fee, as follows:

- i. The recertification fee shall be \$25.00 per building for up to four buildings.**
- ii. The total cost of recertification shall not exceed \$100.00, regardless of the number of buildings.**

(g) An owner shall file an amendment to the certificate of registration within 20 days after any change in the information required to be included thereon. Amendments made during the year to maintain the accuracy of the certificate shall not require additional fees.

[(f)] **(h)** The owner of each hotel, retreat lodging facility, or multiple dwelling shall appoint an agent for the purpose of receiving service of process and such orders or notices as may be issued by the Bureau of Housing Inspection pursuant to the Act. [Each such agent so appointed shall be a resident of the county in which the hotel or multiple dwelling is located or shall have an office in the county.] If the agent is a corporation, it shall be licensed to do business in this State.

[(g)] **(i)** In the case of any transfer of the ownership of any hotel, retreat lodging facility, or multiple dwelling, whether by sale, assignment, gift, intestate succession, testate devolution, reorganization, receivership, foreclosure, or execution process, it shall be the duty of the new owner [thereof] to file with the Bureau of Housing Inspection, within 20 days of said transfer, an application for a certificate of registration pursuant to (a) above and to appoint an agent for the service of process pursuant to [(f)] **(h)** above. The transferrer shall, within 30 days of such transfer, return to the Bureau of Housing Inspection [his], a validated copy of the certificate of registration, indicating [thereon] the name and address of the new owner.

[(h)] In the event that the number of dwelling units in a registered hotel, retreat lodging facility, or multiple dwelling, or any other information required to be set forth in a certificate of registration, is changed, the owner of the said hotel, retreat lodging facility or multiple dwelling shall file an

amended certificate of registration within 30 days of such change. No fee shall be charged for the filing of such amended certificate.]

[(i)] **(j)** [Within 30 days of] **Pursuant to N.J.A.C. 5:23-2.24(e), the certificate of registration shall be issued prior to** the issuance of a certificate of occupancy for any newly constructed hotel, retreat lodging facility, or multiple dwelling subject to the Act[, the owner thereof shall file with the commissioner, upon forms provided by the commissioner a certificate of registration pursuant to N.J.S.A. 55:13A-12].

[(j) A separate application for a certificate of registration shall be filed for each building in a project.)]

(k) Every application for a certificate of registration shall be [signed] **certified** by at least one individual owner or, in the case of a partnership, corporation, or other entity, by a duly authorized representative of the owner, in which case the [signer's] **certifier's** relationship to the owner shall be stated. [The name of the person signing shall be printed or typed beneath the signature in a legible manner.]

(l) Failure to register or recertify shall mean the certificate of registration has expired and shall be subject to penalty, as follows:

1. The Commissioner shall notify the owner of the violation of this section and order that registration be completed within 30 days. When an owner fails to comply with the order of the Commissioner within 30 days, he or she shall be liable for a penalty of \$200.00 for each registration ordered by the Commissioner.

i. The Commissioner may issue a certificate to the clerk of the superior court that an owner is indebted for the payment of such penalty. The clerk shall enter upon the record of docketed judgements the name of the owner, and of

the State, a designation of the statute under which the penalty is imposed, the amount of the penalty, and the date the certification was made. The making of the entry shall have the same force and effect as the entry of the docketed judgement in the office of such clerk, and the Commissioner shall have all of the remedies and maintain all of the proceedings for the collection thereof, which may be had or taken upon the recovery of a judgement in a civil action, but not without prejudice to the owner's right of appeal.

5:10-1.12 Certificate of inspection

(a) Within [90] **30** days of the most recent inspection of any hotel or multiple dwelling, the owner thereof shall file with the Bureau of Housing Inspection or a local enforcing agency exercising jurisdiction [under] **pursuant to** N.J.S.A. 55:13A-13a, upon forms, which shall have been provided, an application for a certificate of inspection.

1.-2. (No change.)

(b) Said application shall state:

1.-2. (No change.)

3. For hotels and motels, the application shall include a certification on a form supplied by the Bureau that all employees required to be trained to recognize and to report suspected human trafficking, pursuant to N.J.A.C. 5:10-29, have viewed the informational video required pursuant to that subchapter.

(c) (No change.)

[(d) Every application for a certificate of inspection shall be signed by at least one individual owner or, in the case of a partnership, corporation or other entity, by a duly authorized

representative of the owner, in which case the signer's relationship to the owner shall be stated. The name of the person signing shall be printed or typed beneath the signature in a legible manner.

1. For hotels and motels, the application shall include a certification on a form supplied by the Bureau that all employees required to be trained to recognize and to report suspected human trafficking, pursuant to N.J.A.C. 5:10-29.1, have viewed the informational video.]

Recodify existing (e)-(f) as **(d)-(e)** (No change in text.)

[(g)] **(f)** An owner shall have the option, in accordance with the provisions of this subsection, of paying an annual fee in lieu of the inspection fee otherwise payable as a condition of the issuance of a certificate of inspection for the hotel or multiple dwelling.

1.-3. (No change.)

4. This subsection shall not apply to multiple dwellings inspected on a two-year cyclical basis.

[(h)] **(g)** (No change in text.)

5:10-1.15 Applications for exceptions

(a) (No change.)

(b) An application for an exception shall be filed [in triplicate upon forms provided], **as prescribed by the Commissioner.**

(c) (No change.)

SUBCHAPTER 1A. LOCAL ENFORCING AGENCIES

5:10-1A.4 Local enforcing agencies; administration

(a) (No change.)

(b) The local enforcing agency shall ensure that a comprehensive inspection is made of each multiple dwelling within its jurisdiction [at least once in every five years], **in accordance with N.J.A.C. 5:10-1.10(b)** and that a comprehensive inspection is made of each hotel within its jurisdiction at least once in every five years.

(c)–(d) (No change.)

SUBCHAPTER 1B. INSPECTOR LICENSING

5:10-1B.1 Authority; hearings

(a) A candidate for a license issued pursuant to this subchapter shall submit an application to the Licensing Unit, [Bureau of Code Services] **Office of the Director of the Division of Codes and Standards**, which shall review and process the application, in accordance with applicable provisions [of] **at N.J.A.C. 5:23-5.5(b)**.

(b) Licensing responsibility within the Division of Codes and Standards shall be, as follows:

1. The [Bureau of Code Services] **Office of the Director of the Division of Codes and Standards** shall issue such licenses as may be called for herein, when warranted, shall affix the seal of the Commissioner thereon, shall keep accurate records of all applications for a license and official action thereon, and shall make such records available for inspection by the public at all reasonable times.

2. (No change.)

(c) The following concern hearings:

1. Any person aggrieved by any notice, action, ruling, or order of the [Bureau of Code Services] **Director's Office** or the Bureau of Housing Inspection, with respect to this

subchapter, shall have a right to a hearing before the Office of Administrative Law, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The final decision in any such case shall be issued by the Commissioner.

2. (No change.)

SUBCHAPTER 2. DEFINITIONS

5:10-2.1 Tense, gender, and number

Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; words used in the singular include the plural and the plural **includes** the singular.

5:10-2.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

["BOCA" means the Building Officials and Code Administrators International.]

...

["Construction class (group)" means the category in which a building or space is classified based on the fire-resistance ratings of its construction elements as set forth in the current edition of the BOCA National Building Code.]

...

"Director" means the Director of the Division of [Housing and Development] **Codes and Standards.**

...

SUBCHAPTER 4. DUTIES OF OWNERS AND OCCUPANTS

5:10-4.2 Discontinuation of services

(a) No person shall intentionally cause any service, facility, equipment or utility which is required to be supplied [under] **pursuant to** this chapter to be removed, shut off or discontinued, or knowingly allow such condition to continue, when the condition affects any occupied unit [of dwelling space], **building, exterior space, or common area.**

1. (No change.)

(b) (No change.)

SUBCHAPTER 5. DUTIES OF OCCUPANTS

5:10-5.2 Reporting of violations

Upon discovery by an occupant of any conditions on the premises, failure of service, or defect in any equipment, which constitutes a violation hereof, the occupant shall report same promptly to the owner, [or to the] superintendent, **or the individual representative of the owner or managing agent who may be contacted at any time and who has the authority to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith** having charge of the premises.

SUBCHAPTER 7. STRUCTURAL MAINTENANCE

5:10-7.7 Railings

(a) (No change.)

(b) Guard rails shall be provided on exterior corridors, balconies, landings, or porches having more than a three-foot drop to the adjoining level and on the exposed side of any interior or exterior stairway. The height of the guard rail shall not be less than 30 inches.

1. [Exception:] In an instance of a rail protecting a level 35 feet or less above exterior grade **and** where a special case can be made that the existing rail is sufficient to protect the safety of persons, the [department may permit] **Department may grant an exception pursuant to N.J.A.C. 5:10-1.15 to allow** a rail less than 30 inches in height.

2. (No change.)

SUBCHAPTER 14. HEATING

5:10-14.1 Standard of performance

Every unit of dwelling space shall contain facilities to provide heat sufficient to maintain a minimum inside temperature **of at least** 68 degrees Fahrenheit in all habitable rooms, measured at least one foot away from any surface at the coldest portion of the space subject to regular use by occupants of any such room when the outside temperature is at design winter conditions. This provision shall not apply to units of dwelling space which are neither occupied nor intended to be occupied between October 1 and the next succeeding [May] **June** 1.

5:10-14.4 Minimum temperature

(a) From October 1 of each year to the next succeeding [May] **June** 1, every unit of dwelling space and every habitable room therein shall be maintained at a temperature of at least 68

degrees Fahrenheit between the hours of 6:00 A.M. and 11:00 P.M. and at least 65 degrees Fahrenheit between the hours of 11:00 P.M. and 6:00 A.M. The heating system shall be capable of maintaining the minimum required temperature in all habitable rooms without the necessity of heating adjoining rooms more than five degrees higher than said minimum required temperature. The design of the heating system shall conform to the ASHRAE Guide and Data Book. The heating standard herein set forth may be modified by the Commissioner by emergency rule.

(b)–(c) (No change.)

5:10-14.7 Annual inspection

(a) The heating system as herein defined shall be inspected annually. Such inspection shall be for the following purposes:

1. To [insure] **ensure** that the system is being maintained, in accordance with the standards applicable to the system as of the time of installation;

2.–3. (No change.)

SUBCHAPTER 19. BUILDING SECURITY

5:10-19.1 Hotels

(a) The following provisions apply to hotels:

1. Entrance doors to dwelling units shall be equipped with a medium duty dead latching lockset (series 160, FF-H-106c, minimum, with a minimum 11/16 inch by 1/2 inch with 1/2 inch minimum throw latch bolt with automatic deadlocking plunger, **or ANSI/BHMA 156.2 Grade 2**) or with a dead bolt separate from the latch set.

2.–4. (No change.)

5:10-19.2 Multiple dwellings

(a) The following provisions apply to multiple dwellings.

1. Every building entrance door or other exterior door permitting access to two or more units of dwelling space shall be equipped with heavy duty dead latching locksets (series 161, FF-H-106c, minimum, with a minimum 7/8 inch by 5/8 inch with 1/2 inch minimum throw latch bolt with automatic dead-locking plunger, **or ANSI/BHMA 156.2 Grade 1**). Outside cylinders of main entrance door locks shall be operated by the tenant's key, which shall not be keyed to also open the tenant's dwelling unit entrance door.

2.–3. (No change.)

4. All entrance doors to dwelling units shall be equipped with a medium duty dead latching lockset (series 160, FF-H-106c, minimum, with a minimum 11/16 inch by 1/2 inch with 1/2 inch minimum throw latch bolt with automatic dead-locking plunger, **or ANSI/BHMA 156.2 Grade 2**) or with a dead bolt lock separate from the latch set.

5.–11. (No change.)

SUBCHAPTER 27. CHILD-PROTECTION WINDOW GUARDS

5:10-27.1 Child-protection window guards; when required

(a) (No change.)

(b) The requirements of this subchapter shall not apply to [any]:

1. Any window, which [either] gives access to a fire escape [or];

2. Any window, which is not designed to open; [or, except as otherwise provided in (b)1 below which is on the first floor, or to and]

3. Any unit that is owner-occupied[. The requirements of this subchapter shall be inapplicable to];

4. Any seasonal rental units; or

[1. The requirements of this subchapter shall apply to any window in a room or hallway on the first floor if the sill of such window is more than six feet above grade as measured at the location of the window or if there is any other hazardous condition at that location that would necessitate installation of a window guard.]

5. Any window on the first floor if the sill of such window is six feet or less above grade as measured at the location of the window and there is no hazardous condition at that location that would necessitate the installation of a window guard.

(c)–(f) (No change.)

(g) The rules for window guard orientation programs shall be, as follows:

1. In January or February of each year, a window guard orientation program shall be offered by the owner of each multiple dwelling that is over three stories in height and meets any of the following criteria:

i. Any multiple dwelling built with public funds or assistance[, or];

ii. Any multiple dwelling financed in whole, or in part by a loan guaranteed or insured by the Federal government or any agency thereof[,]; or

iii. Any multiple dwelling allocated any low income tax credits or have any residents who are recipients of State or Federal rental assistance[, shall offer a].

2. The window guard orientation program [to] shall educate tenants about the safe use and manipulation of window guards and their rights with regard to the installation of window guards.

- i. All such orientation programs shall include distribution and reading aloud of the brochure promulgated as Appendix 27B of this subchapter, incorporated herein by reference.
- ii. A record indicating the date, time, and place at which, the orientation program was offered, copies of all written information presented, and the names of all presenters and attendees, shall be maintained by the owner and be available for inspection by any representative of the [bureau] **Bureau**.
- iii. Notice of the orientation program shall be posted in appropriate common areas of the building at least two weeks prior to the date of the program.

(h) (No change.)

5:10-27.4 Specifications for window guards

(a)–(d) (No change.)

(e) Window guards shall protect the full openable area of each lower window. [1. Any existing window guard that does not protect the full openable area or the lower window shall be replaced by a window guard that does protect such full openable area not later than March 15, 2006. 2.] Installation of rigid metal stops in the upper tracks of a lower window, or other attempts to limit the ability to raise the lower window, shall not be an acceptable method of satisfying the requirements of this section.

(f)–(k) (No change.)

SUBCHAPTER 28. CARBON MONOXIDE ALARMS

5:10-28.1 Carbon monoxide alarms

(a) Carbon monoxide alarms shall be installed and maintained in full operating condition in the following locations:

1. (No change.)

2. As an alternative to the requirements [in] **at** (a)1 above, carbon monoxide alarms may be installed, in [the locations specified in] **accordance with** the Uniform Construction Code, [(N.J.A.C. 5:23)]. A copy of the certificate of approval issued by the local construction code enforcing agency shall be provided to the Bureau at the time of installation, at or after the time of inspection, or at any other time, as proof of installation, in accordance with the Uniform Construction Code. **Devices may be installed in locations, as specified in the Uniform Construction Code, N.J.A.C. 5:23, or the Uniform Fire Code, N.J.A.C. 5:70.**

(b)–(c) (No change.)