

SUBCHAPTER 26 – VACANT BUILDINGS

5:10-26.1 Prevention of Access

(a) In buildings where all dwelling units have been unoccupied for a period of 60 days or more, it shall be the duty of the owner to close all windows, doors and other openings with plywood or by other suitable means so that access into the buildings is prevented.

(b) The provisions of (a) above shall not apply to:

1. Any building which is unoccupied because of a current alteration being performed under application and plan approved by the construction official having jurisdiction;
2. Any building which is unoccupied because of being used exclusively as a seasonal resort building;
3. Dormitories which are not normally in use during a portion of the calendar year.

5:10-26.2 Buildings Ordered Vacated

In any building which has become unoccupied by reason of having been ordered vacated by the Bureau pursuant to N.J.S.A. 55:13A-17, it shall be unlawful for the owner thereof to cause or permit such building to be used in whole or in part for living purposes, other than by a janitor, superintendent or resident caretaker, until the violation(s) upon which the order to vacate was based shall have been abated.

SUBCHAPTER 27 – CHILD-PROTECTION WINDOW GUARDS

5:10-27.1 Child-Protection Window Guards; When Required

(a) Except as provided in (b) below, the owner or other person responsible for the management or control of a multiple dwelling shall, upon the written request of a tenant of a unit in which a child or children 10 years of age or under reside or are regularly present for a substantial period of time, provide, install and maintain approved child-protection window guards on the windows of the dwelling unit and on any windows in the public halls of the multiple dwelling.

(b) The requirements of this subchapter shall not apply to any window which either gives access to a fire escape or is not designed to open or, except as otherwise provided in (b)1 below which is on the first floor, or to any unit that is owner-occupied. The requirements of this subchapter shall be inapplicable to seasonal rental units.

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.

(c) All leases offered to tenants in multiple dwellings shall contain a clear, legible and conspicuous notice, in prominent boldface type, advising tenants and prospective tenants that the owner is required by law to provide, install and maintain window guards in the unit of any tenant who has a child or children 10 years of age or younger living in the unit or regularly present there for a substantial period of time and makes a written request to the owner or the owner's representative that the window guards be installed, and that the owner is also required, upon the written request of any such tenant, to provide, install and maintain window guards in the building hallways to which persons in the tenant's unit have access without having to go out of the building, other than hallways on the first floor in which there is no window having a sill more than six feet above grade at the location of the window or having any other condition at that location necessitating installation of a window guard. A lease offered to a tenant of a first floor unit shall state

that window guards are not required to be installed in the unit or in hallways on the first floor unless the sill of any window in the unit is more than six feet above grade at the location of the window or there is any other hazardous condition at that location necessitating installation of a window guard. A model lease and notice provision containing the required information is set forth at Appendix 27A of this subchapter, incorporated herein by reference. Owners, or organizations representing owners, seeking approval of alternative language as meeting the requirements of the act and of this subchapter may submit such alternative language to the Bureau for its review and approval.

1. At the time of lease signing, the owner, or the agent of the owner, shall verbally inform the tenant of the tenant's right to request installation of window guards under this subchapter. Verification that this verbal notice was provided and understood shall be set forth in a written document separate from the lease that shall be signed by the tenant and by the owner or agent and shall be made available by the owner upon request of any representative of the bureau.

(d) At least twice in each calendar year, the owner or other person who manages or controls a multiple dwelling shall deliver to each tenant a clear and legible notice containing the information required by (c) above. This notice shall be hand-delivered to the tenant or sent to the tenant, at the unit, by ordinary or certified mail. However, only one additional notice shall be required in any year in which a tenant receives a copy of a lease or a lease renewal that is in conformity with (c) above. A notice given to a tenant of a first floor unit shall state that window guards are not required to be installed in the unit or in hallways on the first floor unless the sill of any window in the unit or hallway is more than six feet above grade at the window or there is any other hazardous condition at that location necessitating installation of window guards. The model lease and notice provision set forth in Appendix 27A of this subchapter may be used to satisfy the biannual notice requirements. The owner shall maintain records of compliance with this subsection that shall be made available by the owner upon request to any representative of the Bureau.

(e) Semi-annually, between March 1 and May 1 and between September 1 and December 1, the owner, or other person responsible for the management or control, of a multiple dwelling or apartment, as the case may be, in which child-protection window guards have been installed by the owner, shall inspect each such window guard to ensure that it remains sound and in conformance with the provisions of this subchapter, and shall enter a record of such inspection in a log, which shall be maintained as a permanent record as long as the window guard remains installed, and for five years thereafter, and which shall be available upon request to the Bureau or its duly-authorized representative. The log shall indicate the date of inspection, the unit(s) inspected, the results of the inspection, and the name and title of the person performing the inspection, who shall sign the log.

(f) The owner shall cause to be conspicuously posted and prominently displayed in the common areas a notice advising tenants of the obligation of the owner to install window guards and advising tenants to check their window guards on a regular basis and report any problems to the owner or agent of the owner.

(g) In January or February of each year, the owner of each multiple dwelling that is over three stories in height and built with public funds or assistance, or financed in whole, or in part by a loan guaranteed or insured by the Federal government or any agency thereof, or allocated any low income tax credits or have any residents who are recipients of State or Federal rental assistance, shall offer a window guard orientation program to educate tenants about the safe use and manipulation of window guards and their rights with regard to the installation of window guards. All such orientation programs shall include distribution and reading aloud of the brochure promulgated as Appendix 27B of this subchapter, incorporated herein by reference. 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. 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) The owner of the building or of the apartment, as the case may be, shall provide a window guard orientation, as required by (g) above, to educate each tenant at the time that window guards are installed in such tenant's unit.

5:10-27.2 General Installation Requirements

(a) Window guards shall be installed in accordance with all applicable requirements of the State Uniform Construction Code, N.J.A.C. 5:23, and with manufacturer's instructions.

(b) Any window guard installed on an emergency egress window shall be releasable or removable from the inside without use of a key, tool or excessive force. For purposes of this subchapter, an "emergency egress window" is any window in a sleeping room located on the second or third floor, other than a window providing access to a fire escape.

(c) Any window guard installed on a window that is not an emergency egress window, including any window in a unit located above the third floor and any window in a room on the second or third floor that is not a sleeping room, shall be designed, constructed and installed so that it cannot be removed, opened or dislodged without the use of a key or tool; provided, however, that no window guard shall be installed on any window giving access to a fire escape.

5:10-27.3 Common Interest Communities

(a) For purposes of this subchapter:

1. "Common interest community" means a horizontal property regime, condominium, cooperative or mutual housing corporation, in which some of the property, known as "common elements," is owned by all of the unit owners as tenants-in-common; and

2. "Unit owners' association" means the association organized for the purpose of management of the common elements and facilities of a common interest community.

(b) In a common interest community, the owner or proprietary leaseholder of each unit in which one or more children 10 years or under reside or will reside or are regularly present for a substantial period of time shall have the duties of an owner under this subchapter with regard to the unit. The unit owners' association shall have the duties of an owner under this subchapter with regard to the common elements and facilities.

(c) The owner or proprietary lessee of a unit in a common interest community shall provide written notice to the unit owners' association of any request by the tenant of a unit in which one or more children 10 years of age or under reside or will reside or are regularly present for a substantial period of time for installation of window guards on windows in the common elements.

(d) A unit owners' association shall not adopt or seek to enforce any restrictions or architectural controls that would prohibit or impede the installation of window guards required to be installed by this subchapter.

5:10-27.4 Specifications for Window Guards

(a) Window guards shall be so constructed as to reject the passage of a solid four-inch sphere at every space and interval.

(b) Window guards shall bear a 150 pound load at center span when extended to maximum width or shall meet the performance tests of ASTM F2006-00 or ASTM F2090-01a, incorporated herein by reference.

(c) Window guards shall be constructed of metal or of other material of comparable strength and durability and shall allow for the passage of natural light and ventilation, as required by 5:10-16.

(d) Window guards shall be designed, constructed and installed so as to serve their intended protective purpose without any risk of collapse, breakage, spreading of the bars or other malfunction.

(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) Window guards shall be securely fastened in order to bear the required load.

(g) All window guards shall be so designed and installed as to ensure that any space between the lowest section of the top horizontal bar of the window guard and the bottom of the upper sash is less than four inches.

(h) Screws used to mount window guards shall be:

1. Minimum size No. 10 and long enough to penetrate one inch into a wooden window frame; or
2. Of an adequate type, size and length to be securely fastened to a metal window frame.

(i) The coating of window guards shall be unleaded.

(j) Window guards shall be installed only in sound (non-rotting) mountings or tracks.

(k) Window guards installed prior to November 20, 1995 shall be accepted as being in conformity with this subchapter if they were designed and installed in accordance with the rules and specifications established by the New York City Department of Health and if such installation is not in violation of (e) or (g) above or of 5:10-27.2. Window guards installed on or after November 20, 1995 that are so constructed as to reject the passage of a solid four-inch sphere at every space and interval and are otherwise designed and installed in accordance with the rules and specifications established by the New York City Department of Health, ASTM F2006-00 or ASTM F2090-01a, and not in violation of (e) or (g) above or of 5:10-27.2, shall be accepted as being in conformity with this subchapter.

5:10-27.5 Additional Specifications for Window Guards for Other than Double-Hung Windows

(a) Window guards intended for casements, sliders and other types or combinations of windows in which the height of the openings is not subject to limitation, shall be of such size as to fill the entire aperture, and shall reject passage of a solid four-inch sphere at every space or interval.

(b) Except as otherwise provided in (c) below, sliding windows and vertical pivoting windows may be equipped with stopping devices in place of window guards as follows:

1. For sliding windows, solid metal blocks, measuring at least one-half the depth of the window track and one-half the width, shall be securely fastened into the bottom and upper window tracks to prevent the window from opening four inches or more.

2. For vertical pivoting windows, metal stopping devices shall be securely fastened to the upper and lower window frames so as to prevent the window from pivoting open four inches or more. The height of

the stopping devices shall extend no less than one inch nor more than two inches beyond the window frame as needed to stop the window. The protruding edge of the stopping device shall be smooth and rounded.

(c) Use of such stopping devices in lieu of window guards shall be allowed within dwelling units only where they do not preclude meeting the requirement, as per N.J.A.C. 5:10-16.2, that the total openable window and/or openable skylight area in each room be equal to at least four percent of the floor area of the room.

5:10-27.6 Prohibited Acts

No person shall obstruct or interfere with the installation of child-protection window guards required under P.L. 1995, c. 120 and under this subchapter, nor shall any person remove or otherwise render ineffective such window guards; provided, however, that the owner or the representative of the owner may remove window guards from an unoccupied unit or, with the consent of the tenant, from a unit in which no child 10 years of age or under resides; and provided, further, that the owner or the representative of the owner shall remove window guards when requested to do so by the tenant in writing.

APPENDIX 27A MODEL LEASE AND NOTICE PROVISION

The owner (landlord) is required by law to provide, install and maintain window guards in the apartment if a child or children 10 years of age or younger is, or will be, living in the apartment or is, or will be, regularly present there for a substantial period of time if the tenant gives the owner (landlord) a written request that the window guards be installed. The owner (landlord) is also required, upon the written request of the tenant, to provide, install and maintain window guards in the hallways to which persons in the tenant's unit have access without having to go out of the building. If the building is a condominium, cooperative or mutual housing building, the owner (landlord) of the apartment is responsible for installing and maintaining window guards in the apartment and the association is responsible for installing and maintaining window guards in hallway windows. Window guards are only required to be provided in first floor windows where the window sill is more than six feet above grade or there are other hazardous conditions that make installation of window guards necessary to protect the safety of children.

APPENDIX 27B TENANT'S GUIDE TO WINDOW GUARD SAFETY

What are window guards and why are they used?

Window guards are metal grilles that are installed in windows in order to keep young children from climbing out and being killed or injured. Young children may not understand the danger of an open window and may fall to their death at a moment when no older person is watching them.

When does a landlord have to install window guards?

A landlord must install window guards when asked to do so, in writing, by a tenant who has a child 10 years of age or younger either living in the apartment or regularly spending a lot of time there. Window guards only have to be installed in a first floor window when the bottom of the window is more than six feet above the grade outside the window or there is some other dangerous condition. Window guards are not required on windows that serve as fire exits or that are not designed to be opened. In a condominium, cooperative or mutual housing building, the association must install window guards in hallway windows when asked to do so in writing by a tenant who has a child 10 years of age or younger either living in the tenant's apartment or regularly spending a lot of time there and who has access to the hallway from the apartment without going outside.

What if the window already has window stops?

Window stops cannot be used as window guards. Window guards must be installed that protect the entire openable area of the lower window. Window stops can prevent windows from being opened enough to allow circulation of fresh air. Window stops must be removed if they obstruct full opening of the lower window. There have been tragic cases where tenants have removed window stops in order to have enough fresh air, windows have been left unprotected and children have fallen from them.

What should a tenant do if there is a problem with a window guard or if the owner will not provide and install a window guard?

If there is a problem with a window guard, the tenant should notify in writing the owner of the building or of the apartment or the person who is in charge of maintenance. If the apartment is in a condominium, cooperative or mutual housing corporation building, the tenant should notify in writing the owner of the apartment or the person in charge of maintenance of the apartment or, if the problem is with a window in a common area, the tenant should notify in writing the condominium association or cooperative or mutual housing corporation or the person who is in charge of the association's maintenance.

A tenant should never remove or tamper with a window guard. A tenant should regularly check window guards to make sure that they have not become loose or damaged in any way. If there is a problem that the owner or maintenance person fails or refuses to fix within a reasonable time after being told about it, the tenant can contact the municipal housing or building department or the Bureau of Housing Inspection of the New Jersey Department of Community Affairs (609-633-6210). The tenant should contact the Bureau of Housing Inspection if the owner fails or refuses to provide and install a window guard after receiving a written request from the tenant.

How much can a tenant be required to pay for installation of a window guard?

By law, the owner of an apartment can charge a tenant no more than twenty dollars (\$20.00) for each window guard that the tenant asks in writing to have installed in the tenant's apartment.

How can a tenant get window guards removed?

The owner of an apartment must remove a window guard when requested to do so by the tenant in writing. The tenant should be sure that window guards are no longer needed before asking that they be removed. Window guards should not be removed by tenants.

Who is responsible for providing and maintaining window guards in a building that is a condominium, a cooperative or mutual housing?

In a condominium, cooperative or mutual housing multiple dwelling, the owner of the apartment is responsible for providing and maintaining window guards in the apartment. The association is responsible for providing and maintaining window guards on windows in the hallways. A tenant who wants to have window guards installed both in the apartment and in the hallways must make written requests both to the apartment owner and to the association.

Who can answer additional questions about the window guard law and rules?

Any tenant or owner who has questions about the law and rules concerning window guards can call the Bureau of Housing Inspection of the New Jersey Department of Community Affairs (609-633-6210).