

FEBRUARY 5, 2007  
**RULE ADOPTIONS**  
**COMMUNITY AFFAIRS**  
**DIVISION OF CODES AND STANDARDS**  
**DIVISION OF FIRE SAFETY**

**Adopted Amendments: N.J.A.C. 5:23-3.14, 6.11, 6.13, 6.13A and 6.31; and 5:70-1.5, 4.1, 4.3, 4.7, 4.9 and 4.11**

**Uniform Construction Code; Uniform Fire Code Requirements for Nightclubs**

Proposed: January 17, 2006 at 38 N.J.R. 375(a).

Adopted: December 19, 2006 by Susan Bass Levin, Commissioner, Department of Community Affairs.

Filed: January 10, 2007 as R.2007 d.51, **with substantive and technical changes** not requiring additional public notice or comment (see N.J.A.C. 1:30-6.30).

Authority: N.J.S.A. 52:27D-124 and 198.

Effective Date: February 5, 2007.

Expiration Dates: January 15, 2008, N.J.A.C. 5:23;  
June 14, 2010, N.J.A.C. 5:70.

**Summary of Public Comments and Agency Responses:**

Comments were received from Lewis Rothbart, Executive Director, New Jersey Licensed Beverage Association; Deborah Dowdell, President, New Jersey Restaurant Association; Gary Weiss, Fire Inspector; Kenneth W. Krug, Fire Protection and Electrical Subcode Official, City of New Brunswick; Stanley J. Sickels, Fire Marshal and Construction Official, Borough of Red Bank; Robert J. Davidson, Secretary, New Jersey Fire Prevention & Protection Association; Kevin Mullen, President, Brian Richardson, Vice President, Howard Wilkins, Treasurer and Cynthia Maths Knobbs, Secretary, Burlington County Fire Marshals Association; Chris Pujat, President, Monmouth County Fire Prevention & Protection Association.

1. COMMENT: The proposed amendments address deficiencies such as inadequate exit capacity, inadequate remoteness of exits and lack of adequate fire protection systems. Many existing nightclubs are in old buildings that could burn rapidly and endanger the occupants. Changes are made by managers and performers that violate the fire code and could cause a disaster similar to the Station Nightclub fire in Rhode Island. The amendments should be adopted.

2. COMMENT: The Burlington County Fire Marshals Association totally supports the proposal as written and urges its adoption.

3. COMMENT: The Monmouth County Fire Prevention and Protection Association supports the proposal and believes it would have a positive social impact and prevent the kind of tragic loss of life that occurred in Rhode Island.

RESPONSE TO COMMENTS 1, 2 AND 3: The Department appreciates these expressions of support for the proposal.

4. COMMENT: The proposal is a comprehensive first step in addressing conditions that exist in many existing nightclubs that are similar to those that contributed to the deaths and injuries in the Station Nightclub fire. The threshold of over 300 persons for the installation of automatic fire suppression systems should, however, be reduced to a threshold of over 100 persons, as recommended by the National Fire Protection Association and as adopted by the International Codes Council for inclusion in the 2006 editions of the International Building Code and International Fire Code. This reservation notwithstanding, the proposal should be adopted as proposed in order to quickly address fire safety issues in nightclubs and prevent a tragedy similar to that which occurred in Rhode Island.

5. COMMENT: The New Jersey Fire Prevention and Protection Association supports adoption of this proposal without change. While it is the official position of the Association that the threshold triggering the installation of sprinkler systems should be 100, rather than 300, as determined by both the National Fire Protection Association and the International Codes Council, the Association recognizes the need for a balanced review of the impact of retroactive requirements and for compromise between the code enforcement community and affected building owners.

RESPONSE TO COMMENTS 4 AND 5: The Department appreciates these expressions of support for the proposal, as well as for the balanced approach that the Department has taken.

6. COMMENT: The Department is to be commended for its effort in addressing this extremely important life safety issue. Restaurants that become nightclubs after a certain hour create a compliance nightmare, so the definition of "nightclub" is appropriate. There are certain technical and terminological issues that should be addressed in the proposal, however, which are as follows:

(a) COMMENT: Criteria for maximum permitted occupant load should be included in the definition of "nightclub."

RESPONSE: The Department disagrees with the commenter. The criteria for maximum permitted occupant load are established in the adopted building subcode of the Uniform Construction Code for new construction and in the rehabilitation subcode for existing building undergoing rehabilitation.

(b) COMMENT: In several places, the proposal should be amended to refer to "fire alarm systems," rather than "fire detection systems," to refer to "established maximum" occupant loads, and to replace the word "buildings" with "Group A-2 nightclubs."

RESPONSE: The Department disagrees with the commenter. "Alarms" are different from "detection." The occupant load is the "established maximum occupant load." And where the term "building" is used, it is clear from the superior text that the reference is to "Group A-2 nightclubs."

(c) COMMENT: In N.J.A.C. 5:23-6.13A(a)2, the words "net occupiable" should be deleted before the words "floor area."

RESPONSE: The Department disagrees with the commenter. It is important to consider only the net occupiable floor area in making this calculation. Deleting these words would change the meaning and the threshold for the requirement.

(d) COMMENT: In N.J.A.C. 5:23-6.13A(b), the word "Fire" should be inserted between the words "Automatic" and "Alarm."

RESPONSE: This heading is standard throughout the supplemental requirements of the rehabilitation subcode (N.J.A.C. 5:23-6). Therefore, the Department declines to make this change in one heading.

(e) COMMENT: In N.J.A.C. 5:23-6.31(g), the words "fire suppression" should be replaced by the words "automatic fire sprinkler system."

RESPONSE: The headings in this section have already been amended to use the term "automatic sprinkler system," not "suppression system."

(f) COMMENT: Reference to automatic fire detection systems should be deleted in N.J.A.C. 5:23-6.31(h). Automatic systems should be required only when established maximum occupancy exceeds 100.

RESPONSE: The terms "detection" and "alarm" are used intentionally in this section. And the system is required only when the established maximum occupancy exceeds 100. The requirements of the referenced sections of the building subcode are not repeated in N.J.A.C. 5:23-6.31.

(g) COMMENT: The word "suppression" in the heading and text of N.J.A.C. 5:70-4.7 should be replaced with "sprinkler." The word "(nightclub)" should be inserted after "A-2" in N.J.A.C. 5:70-4.7(a)1.

RESPONSE: The term "suppression" is used intentionally here. The Department is inserting the word "(nightclub)" upon adoption, as suggested by the commenter.

(h) COMMENT: In N.J.A.C. 5:70-4.9(a)9 and 4.11, the words "or portions" should be added after "buildings," the words "established maximum" added before "occupant load" and "suppression" should be replaced by "sprinkler." Also, in N.J.A.C. 5:70-4.9(a)9, the words "are not otherwise required to" should be replaced by "do not."

RESPONSE: The Department agrees that adding the words "or portions" clarifies the applicability of these requirements. These words have been added upon adoption. The Department has agreed to make this change because the requirements for the installation of suppression systems contained at N.J.A.C. 5:70-4.7 use the phrase "buildings or portions thereof." The requirement for alarm systems at N.J.A.C. 5:70-4.9 is a parallel requirement to be applied where suppression is not required. Therefore, this is an appropriate change to clarify the requirement. The suggested changes to add the words "established maximum" before "occupant load" and to replace "suppression" with "sprinkler" have not been made for the reasons given in Responses above. The Department also declines to replace "are not otherwise required to" with "do not." This would change the requirement in a way that limits its applicability. The Department has declined to make the change because "do not" would exempt any nightclub without a fire suppression system regardless of whether such a system is required or not. This might include buildings that should have had a suppression system, but escaped the notice of the local fire official. "Not otherwise required to" employs the defined threshold of the fire suppression requirement which is the Department's intent.

7. COMMENT: The New Jersey Licensed Beverage Association, Inc. has constantly reminded its members of their responsibility to provide a safe environment for their patrons. They are not aware of any loss of life caused by fire in a licensed premises in New Jersey. Inspections of New Jersey licensed premises after the Rhode Island fire found a high level of compliance with fire codes and only minor, if any, violations. Since we already have the strictest fire safety code in the country and almost 100 percent compliance, the proposed amendments are unnecessary, burdensome and significantly too expensive. On-premise alcoholic beverage retailers are already suffering great financial hardship as a result of harsher DWI laws, the lowering of the blood-alcohol ratio to .08, roadblocks and the smoking ban. It is unfair to impose greater burdens as a cost of staying in business. The Department has recognized that the costs of compliance may be significant. In fact, they would be significant enough to put many establishments out of business and keep others from entering the business. They would also result in the loss of jobs. It is unfair to require a building to be artificially altered to reduce occupancy, since the cost of new walls is "non-productive." The cost of supplying water for sprinklers in areas without public water would be prohibitive. Proposed rules dealing with house lights and sound systems are over-reaching and unnecessarily financially burdensome. The current threshold for requiring fire alarm systems is adequate and should not be reduced to 100. Current egress requirements are adequate and changing or modifying doors in structural walls will require substantial expense. It is unfair to both require artificial lowering of occupancy and then calculate egress based on space available. The Association opposes the changes in definitions, since nightclubs, restaurants and taverns present different degrees of hazard and should be treated differently. Not doing so imposes excessive costs on restaurants and taverns, which are less hazardous than nightclubs. The "grandfather" provision applicable to buildings constructed under the Uniform Construction Code after January 1, 1977 should remain in effect as a matter of fairness and to keep many owners from having to go out of business. The Association agrees that changing the use of a new building to a nightclub should require compliance with current rules. A partial use definition should be created to address use of an existing restaurant for late night entertainment. In the event that the Department adopts the rules, the one-year compliance date is inadequate; five years should be allowed instead.

8. COMMENT: The New Jersey Restaurant Association (NJRA) is firmly committed to protecting the safety of the public and of its employees and understands why the Station Nightclub fire would have triggered a reassessment of New Jersey's fire safety standards. Its members support fire safety inspections and appreciate it when problems are brought to their attention so that they can be corrected. However, it objects to the proposed amendments as excessively far-reaching and onerous. The NJRA supports the heightened enforcement of existing requirements that occurred following the Rhode Island fire. NJRA objects to the use of a definition of "nightclub" that is so broad that it potentially affects all eating and drinking establishments in New Jersey. The proposed amendments pose a particular problem for restaurants in historic buildings in rural areas without public water supply, since it would be impossible for owners of such buildings to comply. Moreover, the extent of changes that would be required for many facilities would be so great as to make the one-year compliance requirement impracticable and onerous. If it is not the Department's intention to cover all eating and drinking establishments, then this must be made clear. The NJRA would seek exemption for restaurants that change to bars with music at late hours, and is concerned about the cost that would be incurred by those restaurants that are full-time nightclubs as well. Restaurants should have a four- or five-year timeframe for compliance, just as universities had. NJRA also urges that the State provide zero-interest loans to help pay for the required retrofitting.

RESPONSE TO COMMENTS 7 AND 8: It is certainly not the intention of the Department to put licensed beverage establishments or restaurants out of business. It is, however, unequivocally the intention of the Department to make full use of the powers given to it by law to correct conditions that present a clear danger to human life and safety, and it is the discharge of that responsibility to the public that must have priority. Whenever a fire occurs that results in loss of life or property, it is incumbent upon code officials to determine the cause of the fire, what could have been done to prevent it and whether the events indicated any deficiency in applicable code requirements. The Department conducted just such an analysis, and concluded that New Jersey codes needed to be strengthened in order to prevent a similar tragedy from occurring here. While the Department certainly takes pride in the fact that its codes are known to be the most stringent in the country, the Department recognizes that that is so, and will continue to be so, only because the Department is constantly on the alert for any deficiencies and is intent on correcting them **before** tragedy can occur here. If certain activities cannot be conducted safely in a given building, then it is necessary, for the protection of public safety, that activities in that building be limited to those that **can** be conducted safely.

The Department disagrees with the commenter's contention that the definition of nightclub contained in the rules is overly broad. On the contrary, the definition is based upon net area per occupant and thus limits the applicability of the requirement. Further, the Department thinks that it is clear that only nightclubs and not all eating and drinking establishments are covered. However, the requirements for nightclub fire safety must apply equally to all establishments that meet the definition of nightclub regardless of whether the space is used for a different purpose at different times of the day.

The commenter's statement regarding "artificially lowering of the occupancy and then calculating egress needed on space available" reflects a misunderstanding of the proposed requirements. The trigger for the requirement for fire suppression at N.J.A.C. 5:70-4.7(a)2 states that voluntarily limiting occupancy to fewer people than the space will accommodate will not be permitted for purposes of determining whether a suppression system is required. This is "artificially lowering of the occupancy" and it is not permitted. Similarly, the amended rule at N.J.A.C. 5:70-4.11(f) require that exits be provided for the calculated occupant load of the space.

Proposed N.J.A.C. 5:70-4.1(b)2 is being amended upon adoption to allow two years for establishments to be brought into compliance with the revised requirements. In discussions with representatives of the affected business owners, the Department agreed that an additional year to comply is warranted given the nature of the hazard, the potential scope of work to be performed, the

number of licensed contractors available to perform this work, etc. If an owner needs additional time to comply, the local enforcing agency may grant an extension on a case by case basis if merited.

The commenter also asks about the availability of zero interest loans to aid businesses in complying with the new requirements. Pledging the State's money is within the purview of the Legislature, not the Department.

### **Federal Standards Statement**

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

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

### **5:23-3.14 Building subcode**

(a) (No change.)

(b) The following chapters of the building subcode are modified as follows:

1. (No change.)

2. Chapter 2, Definitions, shall be amended as follows:

i.-vii. (No change.)

viii. A definition of "nightclub" shall be inserted as follows:

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

Recodify existing viii.-x. as ix.-xi. (No change in text.)

3. Chapter 3, Use and Occupancy Classification, shall be amended as follows:

i.-ii. (No change.)

iii. In Section 303.1, Delete "Dance halls" from Group A-3 and insert "Dance halls" into Group A-2.

Recodify existing iii.-viii. as iv.-ix. (No change in text.)

4.-8. (No change.)

9. Chapter 9, Fire Protection Systems, shall be amended as follows:

i. Section 903.2.1.2., Group A-2, shall be amended to add a new section 903.2.1.2.1 as follows:

"903.2.1.2.1 In Group A-2 Nightclubs, the automatic sprinkler system shall be tied to the performance sound system and to the house lights in such a way that activation of the automatic sprinkler system mutes the performance sound system and restores the intensity of illumination to that required by 1003.2.11.1."

Recodify existing i.-xi. as ii.-xii. (No change in text.)

xiii. Add new section 907.2.1.3 as follows:

"907.2.1.3 Group A-2 Nightclubs. An automatic fire detection system shall be installed throughout all Group A-2 nightclubs with an occupant load of 100 or more. If the alarm is activated by smoke detectors, it shall be activated by either two cross-zoned smoke detectors within a single protected area or a single smoke detector monitored by an alarm verification zone or an approved equivalent method and the smoke detectors shall be of a type designed to reduce the possibility of false notifications based on the conditions present in the area protected. The automatic fire detection system shall be tied to the performance sound system and to the house lights in such a way that acti-

vation of the fire detection system mutes the performance sound system and restores the intensity of illumination to that required by 1003.2.11.1.

Exception: Automatic fire detection systems are not required in buildings provided with an automatic sprinkler system throughout."

Recodify existing xii.-xv. as xiv.-xvii. (No change in text.)

10. Chapter 10, Means of Egress, shall be amended as follows:

i.-xxi. (No change.)

xxii. At Section 1008.1, entitled "Assembly main exit", add the text "other than nightclubs," after "Group A occupancies" at the beginning of the first sentence.

(1) In the exception, "other than nightclubs" add after "In assembly occupancies" at the beginning of the exception.

xxiii. Add new section 1008.1.1 as follows:

"1008.1.1 Group A-2 Nightclubs. Buildings or portions thereof of Group A-2 nightclubs with an occupant load of 100 or more shall have a main entrance capable of serving as the main exit with an egress capacity for at least one-half the total occupant load is required. The remaining exits shall be capable of providing two-thirds of the total required exit capacity. Buildings or portions thereof of Group A-2 nightclubs with an occupant load of more than 300 shall have a main entrance capable of serving as the main exit with an egress capacity for at least two-thirds of the total occupant load. The remaining exits shall also be capable of providing two-thirds of the total required exit capacity."

\*[xiv.]\* \*xxiv.\* (No change in text.)

11.-26. (No change.)

#### **5:23-6.11 Basic requirements in all Groups**

(a) (No change.)

(b) Capacity of Means of Egress: The capacity of the means of egress in each work area shall be sufficient for the maximum permitted occupant load of the work area and any adjacent spaces served by that means of egress as calculated on a per floor basis. Means of egress shall be measured in units of exit width of 22 inches.

1. The maximum permitted occupant load of a space shall be determined by the capacity of the means of egress serving the space as calculated in accordance with Table 1. Building owners shall have the option of establishing a reasonable restriction on the occupant load of the space based on the existing capacity of the means of egress or of providing additional egress capacity.

i. Exception: For nightclubs, the occupant load of the space shall be determined in accordance with the building subcode. The occupant load for dance floors shall be calculated at seven square feet of floor area per occupant. (Plan review--Building, Fire. Inspection--Building)

Table 1

(No change.)

(c)-(d) (No change.)

#### **5:23-6.13 Basic requirements - Group A-2 Nightclubs**

Recodify existing (b)-(c) as (a)-(b) (No change in text.)

(c) Capacity of Means of Egress: The capacity of the means of egress in each work area shall be determined in accordance with N.J.A.C. 5:23-6.11(b). The main exit and at least one remaining exit shall be placed a distance apart equal to one-half the length of the maximum overall diagonal distance of the area served in buildings not equipped throughout with an automatic fire sprinkler system and one-third the maximum overall diagonal distance of the area served in buildings that are equipped throughout with an automatic fire sprinkler system. (Plan review--Building, Fire. Inspection--Building)

1. Buildings with an occupant load of 100 or more shall have a main entrance capable of serving as the main exit with an egress capacity for at least one-half the total occupant load is required. The remaining exits shall be capable of providing two-thirds of the total required exit capacity.

2. Buildings with an occupant load of more than 300 shall have a main entrance capable of serving as the main exit with an egress capacity for at least two-thirds of the total occupant load. The remaining exits shall also be capable of providing two-thirds of the total required exit capacity. Recodify existing (e)-(p) as (d)-(o) (No change in text.)

**5:23-6.13A Supplemental requirements - Group A-2 Nightclubs**

(a) Automatic Fire Sprinkler System: An automatic fire sprinkler system shall be installed throughout all floors containing the Group A-2 nightclub and all floors between the Group A-2 nightclub and the level of exit discharge when the conditions in (a)1 or 2 below exist. For purposes of applying this section, the level of exit discharge shall be defined as having all exits discharging not more than five feet above nor more than two feet below the adjacent grade.

1. The work area is located on a floor other than the level of exit discharge; or
2. The work area is at the level of exit discharge and has an occupant load of 300 or more or a net occupiable floor area of greater than 5,000 square feet.
3. The automatic fire sprinkler system shall be tied to the performance sound system and to the house lights in such a way that activation of the automatic sprinkler system mutes the performance sound system and restores the intensity of illumination to that required by the building subcode.

(Fire)

(b) Automatic Alarm System: When the occupant load of the work area exceeds 100, an automatic fire alarm system that complies with NFPA 72 shall be installed throughout.

1. If the alarm is activated by smoke detectors, it shall be activated by either two cross-zoned smoke detectors within a single protected area or a single smoke detector monitored by an alarm verification zone or an approved equivalent method and the smoke detectors shall be of a type designed to reduce the possibility of false notifications based on the conditions present in the area protected.
2. The automatic fire alarm system shall be tied to the performance sound system and to the house lights in such a way that activation of the fire detection system mutes the performance sound system and restores the intensity of illumination to that required by Section 1003.2.11.1 of the building subcode. (Fire)

(c) Manual alarm system: For buildings greater than three stories in height with occupant loads over 25, when the work area exceeds 25 percent of the gross enclosed floor area of the building, or for buildings where the occupant load of the work area exceeds 100, manual fire alarms shall be required throughout the building. (Fire)

(d)-(f) (No change.)

**5:23-6.31 Change of use**

(a)-(b) (No change.)

(c) Means of Egress: The following requirements apply to means of egress in a change of use:

**TABLE C**

Hazard Categories and Classifications

Means of Egress

Relative Hazard

Use Classification

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1 (highest)	H-1, H-2, H-3, A2 nightclubs
2	I-2, I-3, I-4
3	A (other than A-2 nightclubs), E, I-1, M, R-1, R-2, R-4
4	B, F-1, R-3, R-5, S-1, H-4, H-5
5 (lowest)	F-2, S-2, U

(d)-(f) (No change.)

(g) Automatic Sprinkler Systems: The following automatic sprinkler system requirements apply in change of use.

**TABLE G**

**Hazard Categories and Classifications**

**Automatic Sprinkler Systems**

Relative Hazard -----	Use Classification -----
1 (highest)	A-2 nightclubs, H, I
2	A-2 (other than nightclubs), R-1, R-2, R-4
3	A-1, A-3, A-4
4	F-1, M, S-1
5	A-3 Churches, E
6 (lowest)	A-5, B, F-2, R-3, R-5, S-2, U

1.-4. (No change.)

(h) Fire Alarm and Detection Systems: When a change of use is made to any of the following groups, a fire alarm system and/or an automatic fire detection system shall be installed in accordance with Section 907 of the building subcode. Where a portion of the building is changed to any of the following groups, a fire alarm system and/or an automatic fire detection system shall be installed throughout the building in accordance with Section 907 of the building subcode unless the proposed use is separated from the other use(s) in the building by assemblies with the appropriate fire resistance rating in accordance with Table 302.3.3 of the building subcode in which case only the portion changed shall comply. (For purposes of applying this section, horizontal separation shall not be considered.)

1. Group A: A manual or automatic fire alarm system shall be installed and maintained as required by Section 907.2.1 of the building subcode.

2.-9. (No change.)

(i)-(p) (No change.)

**5:70-1.5 Definitions**

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

...

"Use" or "Use Group" means the use to which a building, portion of a building, or premises, is put as follows. It shall also mean and include any place, whether constructed, manufactured or naturally occurring, whether fixed or mobile, that is used for human purpose or occupancy that would subject it to the provisions of this Code if it were a building or premises.

1.-2. (No change.)

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

4.-20. (No change.)

## **SUBCHAPTER 4. FIRE SAFETY CODE**

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

- (a) (No change.)
- (b) All buildings for which requirements are established in this subchapter shall be in compliance with such applicable requirements of this subchapter, unless a date for compliance is set forth in this subchapter.
  - 1. (No change.)
  - 2. Use Group A-2 (nightclubs) shall be in compliance with the applicable requirements of N.J.A.C. 5:70-4.7, 4.9 and 4.11 effective on \*[(effective date of this amendment) by (date one year from the effective date of this amendment)]\* **February 5, 2007 by February 5, 2009**.\*

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

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

- 1. Exception to (a) above: A building or portion thereof of Use Group A-2 nightclub shall be required to conform to the more restrictive requirements established by this subchapter unless the building is in full compliance with the Building Officials and Code Administrators National Building Code, 1990 edition or a later edition of the building subcode of the Uniform Construction Code, and possesses a valid certificate of occupancy.
- 2. A variation issued in writing pursuant to the Uniform Construction in connection with the construction of a building shall remain in force and effect provided that all of the conditions of the variation continue to be met and shall not be reversed or modified for purposes of establishing compliance with this subchapter.

Recodify existing 1.-4. as 3.-6. (No change in text.)

- (b) (No change.)

### **5:70-4.7 Fire suppression systems**

(a) All buildings of Use Group A-2 (nightclubs) or portions thereof when separated in accordance with (1) below shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code where any of the conditions in (a)1, 2 or 3 below exist:

- 1. The A-2 **\*(nightclub)\*** Use or portion thereof is located on a floor other than the level of exit discharge. For purposes of applying this paragraph, the level of exit discharge shall be defined as having all exits discharging not more than five feet above, nor more than two feet below, the adjacent grade;
- 2. The building or portion thereof has an occupant load of 300 or more;
  - i. Voluntarily limiting occupant load in a space that will accommodate a greater number shall not be permitted for purposes of determining whether suppression is required. The nightclub space itself may be reduced to a size such that the occupant load calculated in accordance with Table 5:70-4.11(f)3 at N.J.A.C. 5:70-4.11(f)3 is fewer than 300. If this option is chosen, then the following conditions shall apply:
    - (1) The nightclub space shall be separated from other portions of the building through the use of one hour fire resistance rated assemblies constructed in accordance with the building subcode of the Uniform Construction Code ( N.J.A.C. 5:23-3.14);
    - (2) Opening protectives constructed in accordance with the building subcode shall be required for all openings between accessory use areas and the nightclub space. For purposes of applying these requirements, accessory use areas shall include, but not be limited to, all back of house spaces, storage rooms, offices, kitchens and coatrooms. Accessory use areas shall not include any assembly spaces;
    - (3) No openings shall be permitted between any non-accessory use areas and the nightclub;

(4) The separated, non-accessory portions of the building shall not contain any assembly uses; and

(5) The means of egress serving any separated, non-accessory portions of the building and the means of egress serving the nightclub shall be totally independent of one another.

(A) Exception: Means of egress shared between a nightclub and a separated, non-accessory space shall be permitted for nightclubs located in buildings of Use Group R-1; or

3. The building or portion thereof exceeds 5,000 square feet.

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

(b)-(l) (No change.)

#### **5:70-4.9 Automatic fire alarms**

(a) An automatic fire alarm system shall be installed as required below in accordance with the New Jersey Uniform Construction Code.

1.-8. (No change.)

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

i. If the alarm is activated by smoke detectors, it shall be activated by either two cross-zoned smoke detectors within a single protected area or a single smoke detector monitored by an alarm verification zone or an approved equivalent method and the smoke detectors shall be of a type designed to reduce the possibility of false notifications based on the conditions present in the area protected.

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

(b)-(c) (No change.)

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

(a)-(e) (No change.)

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

1.-2. (No change.)

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

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

Table 5:70-4.11(f)3

(No change.)

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

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

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

(h) (No change.)

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

1.-2. (No change.)

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

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

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

(j)-(o) (No change.)