



NJAA Guidance on Child Protective Window Guards

DCA FINALIZES LATEST WINDOW GUARD REGULATIONS

On February 5, 2007, the DCA adopted regulations implementing PL 2006, c. 55 – this summer’s revised window guard law. In addition to requiring the installation of window guards at tenants’ written request, the statute and regulations impose notification and inspection requirements outlined below.

Installation Requirement: Owner must install and maintain window guards in apartments and adjoining public halls when requested in writing by a resident where a child 10 years of age or younger resides, or will reside, or regularly spends, or will spend, a substantial period of time.

First Floor Windows: Window guards do not need to be installed on first floor windows unless: a) the window sill is more than six feet above grade, or b) a hazardous condition exists necessitating the installation of window guards.

Written Notification: New regulations require that owners notify residents of their right to request window guards twice each year. Notification in a lease or renewal lease satisfies one of the two required notices.

Verbal Notification: At the time of lease signing, lessee must be verbally informed of the right to request window guards if eligible for them. Leasing agent must read the notification statement, and lessee must sign an acknowledgement that it has been read and was understood; this acknowledgement must be maintained separately from the lease itself.

Lease Notification: Leases must contain notice of residents’ right to request window guard installation. Notice must be in boldface type.

Orientation Sessions: By the end of February each year, a building-wide orientation session must be held in buildings of four or more stories if the building has: a) window guards installed, or b) was built with public funds or has tenants who are receiving rental assistance. During the orientation the FAQ (printed in the regulations) must be read to the tenants. A log of participants must be maintained. Notice of the orientation must be posted in common areas at least two weeks prior to the session.

Inspections: Installed window guards must be inspected between March 1st and May 1st and between September 1st and December 1st. A log recording the results of the inspections must be maintained.

Costs: Residents may be charged up to \$20.00 for each window guard requested.

To successfully navigate the requirements of the new window guard regulations, please review the following:

-  Notification and Inspection Checklist Page II
-  DCA Tenants’ Guide to Window Guard Safety Page III
-  Notice of Right to Request Window Guards Page IV
-  Window Guard Statutory History Page V
-  The Complete Regulations for Child-Protection Window Guards (NJAC 5:10-27.1 et seq)..... Page VIII

WINDOW GUARD NOTIFICATION AND INSPECTION REQUIREMENTS

At lease Signing:

- All residential leases must, **in boldface font**, inform residents of their rights pertaining to window guards.
- Verbally inform** residents of their right to request window guards.
- Have resident sign an acknowledgement that this verbal notification was provided and understood.

Notice on page 4 can be used as model language for lease and verbal notice.

Resident Notification:

- Notify all tenants in writing **twice each year** of their right to request that window guards be installed.
Notice in a lease satisfies one of the two required notices.
- Ensure that a record of compliance is maintained available for inspection.

Orientation Sessions:

- Ascertain whether an orientation is required to be held. *It is required if one of the following is true:*
 - Window guards have been installed in the common areas of the building; or*
 - Building has 4+ stories **AND** was built or financed with public funds or assistance; or*
 - Building has 4+ stories **AND** has a tenant or tenants receiving state or federal rental assistance – including Housing Choice Vouchers (section 8).*
- An orientation session must be held in **January** or **February** of each year.
- Notice of the orientation session must be placed in common areas at least two weeks prior to the session.
- Presenter must read aloud the DCA “Tenants Guide to Window Guard Safety” (enclosed) and provide each participant a copy.
- A log recording the date, time and location of the session shall be maintained along with a copy of all documents delivered and the names of the presenters **and** participants involved.

Inspections:

Each installed window guard must be inspected to ensure that it continues to function as intended.

- A spring inspection of each installed window guard must be performed between **March 1st** and **May 1st**
- A fall inspection of each installed window guard must be performed between **September 1st** and **December 1st**
- A log of each inspection must be maintained available for inspection indicating the date, unit inspected, the results of the inspection, and the name and title of the person performing the inspection.
- The log must be signed by the person performing the inspection.

TENANTS GUIDE TO WINDOW GUARD SAFETY (DCA)

This guide is provided by the Department of Community Affairs: Owners and managers of buildings of at least four (4) stories must hold an orientation session each January or February if a) the building has window guards installed, or b) was built with public funds or has at least one resident receiving rental assistance. A log indicating the time, place, date, names of all presenters and attendees must be maintained. Orientation programs must include the distribution and reading aloud of this guide.

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).

NOTICE OF RIGHT TO REQUEST WINDOW GUARDS

If a child 10 years of age or younger resides or will reside in your apartment or regularly spends a substantial period of time there, you can have window guards installed in your apartment and the public halls by making a written request if:

- The windows are above the first floor; or
- The windows are more than six feet above grade as measured from the bottom of the interior window sill; or
- There is any other hazardous condition necessitating installation of window guards to protect the safety of children.

Guards will be installed at your expense at a cost of \$20.00 per window for every window guard installed.

Residents with window guards are advised to check window guards on a regular basis, and advise building management in writing as soon as you suspect that there may be a problem.

Pursuant to N.J.A.C. 5:10-27.1(f) notice must be provided to residents of an apartment or condominium community of their right to request window guards. Notice must be displayed in a conspicuous location in the common areas of each building.

LAW PRIOR TO 2005 REFORMS (NJSA 55:13A-3, NJAC 5:10-27.1)	EMERGENCY DCA RULES (Sept 2005, Nov 2005, March 2006)	NEW STATUTE August, 2006 P.L. 2006, c. 55	NEW REGULATIONS February, 2007 N.J.A.C. 5:10-27.1 et seq.
Applies to buildings of 1 or more stories	NO CHANGE	NO CHANGE	NO CHANGE
Applies to buildings with 3 or more units	NO CHANGE	NO CHANGE	NO CHANGE
Applies to unit with child 10 or under "residing" therein.	Applies to unit with child 10 or under "regularly present for a substantial period of time."	Statutory adoption of "regularly present" requirement.	NO CHANGE
[Not addressed.]	[Not addressed.]	NEW CLARIFICATION: Does not apply to seasonal rentals.	NO CHANGE
Resident must make written request.	NO CHANGE	NO CHANGE	NO CHANGE
Upon request owner must install and maintain guards on "dwelling unit windows" if requested by unit resident.	NO CHANGE	NO CHANGE	NO CHANGE
And "public hall windows" if requested by any building resident.	NO CHANGE	NO CHANGE	NO CHANGE
N/A to fire escape windows.	NO CHANGE	NO CHANGE (Additionally, does not apply to windows not designed to open.)	NO CHANGE
N/A to 1st floor window less than 6 ft. above grade.	NO CHANGE	DCA Commissioner can adopt rules for 1st floor units.	Window Guards required on windows having a sill more than 6' above grade or when another hazardous condition exists.
Notice requirement in lease, "Clear Conspicuous Notice" of rights and obligations.	NO CHANGE	Notice must be in "prominent bold face type." Owner must also verbally inform tenant at time of lease signing. Must secure a written acknowledgment of this verbal notice signed by tenant and manager.	NO CHANGE
Re-deliver notice once each year. (Can be in renewal lease.)	NO CHANGE	New requirement for notice delivery twice annually and for annual posting. Renewal lease may satisfy one of the two delivered notice requirements.	NO CHANGE

LAW PRIOR TO 2005 REFORMS (NJSA 55:13A-3, NJAC 5:10-27.1)	EMERGENCY DCA RULES (Sept 2005, Nov 2005, March 2006)	NEW STATUTE August, 2006 P.L. 2006 c. 55	NEW REGULATIONS February 5, 2007 N.J.A.C. 5:10-27.1 <i>et seq.</i>
<p>Inspected as part of 5-yr cyclical DCA.</p>	<p>Creates new inspection requirement for all existing window guards: within 2 weeks of notice from DCA and annually thereafter between 3/15 and 5/1 beginning in 2006. Must ensure they remain in sound condition and in conformance with specification regulations. Requires maintenance of a log to record inspection results for each. Must keep it for 5 years after guard is removed.</p>	<p>In addition to DCA five-year inspection, property owner/manager must inspect installed guards twice annually and record inspection results in log.</p>	<p>Property owner/manager must perform one twice annual inspection between March 1st and May 1st and the second between September 1st and December 1st.</p>
<p>[Not addressed.]</p>	<p>[Not addressed.]</p>	<p>DCA Commissioner will promulgate model lease language for notification of tenants' rights.</p>	<p>Model lease language may be used; owners wishing to use alternative language can seek advanced approval from the Bureau of Housing Inspection.</p>
<p>[Not addressed.]</p>	<p>[Not addressed.]</p>	<p>Must provide residents who have guards (or all residents if guards are on common area windows) with annual "orientation" for safe use in accordance with new regulations.</p>	<p>Orientation session consists of an FAQ that must be read to participants. FAQ included in Appendix 27B of the regulations.</p>
<p>Guard definition: Must conform to specs developed by Commissioner of DCA.</p>	<p>NO CHANGE</p>	<p>NO CHANGE</p>	<p>NO CHANGE</p>
<p>If on an emergency egress window, must be releasable from inside. Others may not be removable without key or tool.</p>	<p>NO CHANGE</p>	<p>NO CHANGE</p>	<p>NO CHANGE</p>
<p>Must be installed pursuant to regulations and the manufacturer's instructions.</p>	<p>NO CHANGE</p>	<p>NO CHANGE</p>	<p>NO CHANGE</p>
<p>Must allow for light and air but must be able to stop a 4" solid sphere. Bear 150 lb. load at center span. Metal or comparable material. 1/2 inch diameter max for rod width. Must cover total open-able window space. Fastened securely.</p>	<p>Must also limit space b/t top horizontal bar of guard and bottom of upper sash to 4".</p>	<p>NO CHANGE</p>	<p>NO CHANGE</p>

LAW PRIOR TO 2005 REFORMS (NJSA 55:13A-3, NJAC 5:10-27.1)	EMERGENCY DCA RULES (Sept 2005, Nov 2005, March 2006)	NEW STATUTE August 2006 P.L. 2006, c. 55	NEW REGULATIONS February 5, 2006 N.J.A.C. 5:10-27.1 <i>et seq.</i>
Window stops should be used in upper tracks for bottom windows "where necessary".	NO CHANGE	Window stops in upper sash of double hung windows, not acceptable if 4" maximum space rule is not satisfied. [Window stops can continue to be used in addition to window guards, but not in place of.]	The use of stops in the tracks of the upper window, in order to bar access to the unprotected upper half of the window area, are permitted.
Must use No. 10 screws 1 inch into frame. Unleaded coating. Mount in sound tracks. If meets NYC health codes specs existing guards can be grandfathered.	NO CHANGE	Grandfathered, if it will bear 150 lb load at center span or meets ASTM F2006-00 or ASTM F2090-01a.	NO CHANGE
For sliding windows, can use window stops (installed in tracks) in lieu of guards. To allow minimum opening of 4" if "40% test" is met.	NO CHANGE	NO CHANGE	NO CHANGE
Expenses are capital improvement costs to be passed onto all residents – overrides town ordinance.	NO CHANGE	Expenditures not exceeding \$20 per window guard may be passed on to requesting tenant.	NO CHANGE
[Not addressed.]	Must remove existing window guard upon written request of tenant.	Can remove guards from empty unit, unit with no qualifying child, or upon request of tenant.	NO CHANGE
[Not addressed.]	[Not addressed.]	Municipality may adopt more stringent standards provided they meet DCA's specifications and municipality cannot eliminate capital improvement classification.	NO CHANGE
[Not addressed.]	[Not addressed.]	Owners or tenants can file complaints with the DCA for non-compliance and fines of up to \$5,000 for continuing violations and repeat convictions.	NO CHANGE
Civil penalty for non compliance ranges from \$50 to \$500, or for continuing violations, \$500 to \$5,000.	NO CHANGE	New fine minimum of \$100 per violation, up to \$5,000 for repeat convictions. Continuing violations indictable as a 4th degree offense.	NO CHANGE

§ 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, 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.

§ 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 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) and 27B (Tenants' Guide to Window Guard Safety), referenced herein, are not reprinted. See page 4 for NJAA suggested model lease and notice provision, and page 3 for a reprint of the content of 27B.