

**CHAPTER 27
REGULATIONS GOVERNING ROOMING AND
BOARDING HOUSES**

Authority

N.J.S.A. 55:13B-4, 6 and 6.1.

Source and Effective Date

R.2010 d.204, effective September 2, 2010.
See: 42 N.J.R. 986(a), 42 N.J.R. 2321(c).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 27, Regulations Governing Rooming and Boarding Houses, expires on September 2, 2017. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 27, Regulations Governing Rooming and Boarding Houses, was adopted as R.1980 d.376, effective August 28, 1980. See: 12 N.J.R. 452(a), 12 N.J.R. 569(b).

Subchapter 12, Life Safety Loans, was adopted as new rules by R.1982 d.387, effective November 1, 1982. See: 14 N.J.R. 496(a), 14 N.J.R. 1210(b).

Chapter 27, Regulations Governing Rooming and Boarding Houses, was readopted as R.1985 d.350, effective June 14, 1985. See: 17 N.J.R. 341(b), 17 N.J.R. 1759(a).

Subchapter 5, Fire Safety, was repealed by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989). See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Chapter 27, Regulations Governing Rooming and Boarding Houses, was readopted as R.1990 d.275, effective May 2, 1990. See: 21 N.J.R. 3871(a), 22 N.J.R. 1720(a).

Pursuant to Executive Order No. 66(1978), Chapter 27, Regulations Governing Rooming and Boarding Houses, expired on May 2, 1995 and was subsequently readopted as new rules by R.1995 d. 280, effective May 12, 1995. See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

Subchapter 13, Additional Rules Regarding Persons with Alzheimer's Disease or Related Disorders or Other Forms of Dementia, was adopted as new rules by R.1998 d.298, effective July 6, 1998. See: 30 N.J.R. 509(a), 30 N.J.R. 2433(a).

Subchapter 14, Carbon Monoxide Alarms, was adopted as new rules by R.1999 d.259, effective August 16, 1999. See: 31 N.J.R. 825(a), 31 N.J.R. 2330(a).

Pursuant to Executive Order No. 66(1978), Chapter 27, Regulations Governing Rooming and Boarding Houses, was readopted as R.2000 d.231, effective May 9, 2000. See: 31 N.J.R. 3248(a), 32 N.J.R. 2049(a).

Chapter 27, Regulations Governing Rooming and Boarding Houses, was readopted as R.2005 d.404, effective October 24, 2005. See: 37 N.J.R. 566(a), 37 N.J.R. 4400(a).

Chapter 27, Regulations Governing Rooming and Boarding Houses, was readopted as R.2010 d.204, effective September 2, 2010. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

- 5:27-1.1 Title
- 5:27-1.2 Purpose
- 5:27-1.3 Administration and enforcement

- 5:27-1.4 Continuation of lawful existing use
- 5:27-1.5 Construction and alteration; change of use
- 5:27-1.6 Licenses
- 5:27-1.7 License applications
- 5:27-1.8 Administrative hearings
- 5:27-1.9 Exceptions and exemptions
- 5:27-1.10 Search warrants
- 5:27-1.11 Tense, gender and number
- 5:27-1.12 Separability clause

SUBCHAPTER 2. DEFINITIONS

- 5:27-2.1 Definitions

SUBCHAPTER 3. RIGHTS OF RESIDENTS

- 5:27-3.1 Enumeration of rights
- 5:27-3.2 House rules
- 5:27-3.3 Harassment; fraud; eviction without due cause
- 5:27-3.4 Access to agency representatives
- 5:27-3.5 Appropriate placement
- 5:27-3.6 Independence and community interaction
- 5:27-3.7 Violation by licensee
- 5:27-3.8 Employees
- 5:27-3.9 Disclosure of licensee identity
- 5:27-3.10 Disclosure of rates and services
- 5:27-3.11 Security deposits
- 5:27-3.12 Limited tenure hotel guests

SUBCHAPTER 4. GENERAL BUILDING REQUIREMENTS

- 5:27-4.1 Water supply
- 5:27-4.2 Facilities
- 5:27-4.3 Garbage and rubbish storage
- 5:27-4.4 Lighting and electrical service
- 5:27-4.5 Ventilation
- 5:27-4.6 Heating
- 5:27-4.7 Maintenance
- 5:27-4.8 Use and occupancy of space
- 5:27-4.9 Matters not covered
- 5:27-4.10 Lead-safe maintenance requirements

APPENDIX 4-A

APPENDIX 4-B

SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. SECURITY

- 5:27-6.1 Control of access
- 5:27-6.2 Protection of valuables
- 5:27-6.3 Criminal acts

SUBCHAPTER 7. RESIDENTS' COMFORT

- 5:27-7.1 Housekeeping
- 5:27-7.2 Bedrooms
- 5:27-7.3 Living and dining rooms
- 5:27-7.4 Outdoor facilities and recreation

SUBCHAPTER 8. MAINTENANCE OF RECORDS

- 5:27-8.1 Resident records
- 5:27-8.2 Financial records
- 5:27-8.3 Additional requirements
- 5:27-8.4 Record retention

SUBCHAPTER 9. FOOD AND LAUNDRY SERVICES

- 5:27-9.1 Applicability
- 5:27-9.2 Diet and menu
- 5:27-9.3 Food service
- 5:27-9.4 Food sanitation
- 5:27-9.5 Laundry services

SUBCHAPTER 10. OTHER PERSONAL SERVICES

- 5:27-10.1 Applicability
- 5:27-10.2 Assistance in dressing
- 5:27-10.3 Assistance in bathing and personal hygiene
- 5:27-10.4 Transportation to health services
- 5:27-10.5 Monitoring of medication
- 5:27-10.6 Supervision of self-administration of medicine

SUBCHAPTER 11. FINANCIAL SERVICES

- 5:27-11.1 Applicability
- 5:27-11.2 Check cashing
- 5:27-11.3 Holding of personal funds
- 5:27-11.4 Assistance in purchasing
- 5:27-11.5 Ledgers
- 5:27-11.6 Personal needs allowances
- 5:27-11.7 Home energy assistance payments

SUBCHAPTER 12. FIRE SAFETY LOANS

- 5:27-12.1 Purpose; delegation to Bureau
- 5:27-12.2 Rental assistance agreements
- 5:27-12.3 Casino Revenue Fund rental assistance eligibility

SUBCHAPTER 13. ADDITIONAL RULES REGARDING PERSONS WITH ALZHEIMER'S DISEASE OR RELATED DISORDERS OR OTHER FORMS OF DEMENTIA

- 5:27-13.1 Appropriate placement and care
- 5:27-13.2 Referrals
- 5:27-13.3 Training and staffing requirements
- 5:27-13.4 Building safety requirements
- 5:27-13.5 Administration of medications
- 5:27-13.6 Storage of medications

SUBCHAPTER 14. CARBON MONOXIDE ALARMS

- 5:27-14.1 Carbon monoxide alarms

SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

5:27-1.1 Title

This chapter, promulgated pursuant to N.J.S.A. 55:13B-1 et seq., shall be known and may be cited as the "Regulations Governing Rooming and Boarding Houses".

Case Notes

Boarding house operator was ineligible for license due to history of failing to comply with licensing laws. *Johnson v. Bureau of Rooming and Boarding House Standards*, 96 N.J.A.R.2d (CAF) 66.

5:27-1.2 Purpose

(a) This chapter is promulgated for the purpose of establishing standards to ensure that every rooming and boarding house in the State of New Jersey is constructed, maintained and operated in such a manner as will protect the health, safety and welfare of its residents and at the same time preserve and promote a home-like atmosphere appropriate to such facilities.

(b) The Bureau shall have discretion not to enforce any standard hereby established if it determines that strict compliance with such standard is not necessary in a particular case in order to accomplish the purpose set forth in (a) above.

(c) In the event that the Bureau determines that any rooming or boarding house, or any part thereof, because of its partial use for other than single room occupancy should more appropriately be evaluated under applicable standards contained in the regulations for the Maintenance of Hotels and Multiple Dwellings (N.J.A.C. 5:10), the Bureau shall have discretion to enforce the standards contained in N.J.A.C. 5:10 in lieu of the standards contained in N.J.A.C. 5:27-4, 5, and 6.

Amended by R.1981 d.359, effective October 8, 1981.

See: 13 N.J.R. 393(a), 13 N.J.R. 704(c).

(c) added.

5:27-1.3 Administration and enforcement

(a) The Bureau shall administer and enforce this chapter.

(b) The Bureau may authorize any municipality or county, through its appropriate housing, health or social services agencies, to perform inspections for the Bureau. Any authorization to perform inspections given to any municipality or county shall contain such terms and conditions as the Bureau may deem necessary and proper.

(c) The local enforcing agency, as the term is defined in N.J.A.C. 5:18, authorized to enforce the Uniform Fire Code in each municipality is hereby designated as the agent of the Bureau for the purpose of inspecting existing buildings in order to enforce all provisions of the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq., and the Uniform Fire Code, N.J.A.C. 5:18, applicable to rooming and boarding houses.

1. If, in the course of inspecting any rooming or boarding house, any inspector performing inspections for the Bureau finds any condition which is, or appears to be, in violation of the Uniform Fire Code, the inspector shall promptly give notice of such condition to the Bureau, which shall notify the Division of Fire Safety.

2. The maintenance requirements set forth in the Uniform Fire Code, N.J.A.C. 5:18, shall supersede the standards for fire safety set forth in N.J.A.C. 5:27-5, with regard to all boarding houses as of December 19, 1988 and shall be the sole fire safety maintenance requirements applicable to all rooming and boarding houses on and after June 16, 1989.

3. Any retrofit work required to be done in any rooming or boarding house shall be done in accordance with the Uniform Fire Code, N.J.A.C. 5:18. All buildings in compliance with the Uniform Fire Code shall be deemed to be in compliance with the fire safety standards set forth in this chapter.

4. Every licensee shall keep valid proof of compliance with the Uniform Fire Code on the premises and shall make it available to representatives of the Bureau upon request.

Amended by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989).

See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Deleted "fire prevention" in (a); added (c).
Amended by R.1991 d.288, effective June 17, 1991.

See: 23 N.J.R. 932(a), 23 N.J.R. 1925(a).

Requirement to keep proof of compliance on premises added at (c)4.
Administrative Correction.

See: 25 N.J.R. 5928(b).

Case Notes

Communal living arrangement of four elderly women qualified as boarding house subject to licensing regulations. In the Matter of Frank Gialanella, 96 N.J.A.R.2d (CAF) 40.

Allowing residents, including a high percentage of mental patients, to remain in hazardous living quarters warranted imposition of civil penalty against rooming house. *Community Affairs v. Sea Phoenix*, 95 N.J.A.R.2d (CAF) 21.

Unlicensed premises operated as a boarding house; closure and a fine. *Levin v. Bureau of Rooming and Boarding House Standards*, 92 N.J.A.R.2d (CAF) 12.

Multiple violations of fire safety regulations as basis for order to vacate. *Dept. of Community Affairs v. St. Jude's Boarding Home*, 2 N.J.A.R. 432 (1981).

5:27-1.4 Continuation of lawful existing use

The lawful occupancy and use of any rooming or boarding house existing on the effective date of the act may be continued unless a change is required by the provisions of this chapter and unless it is owned or operated by a person who has not obtained a license from the Bureau on or before December 31, 1980.

Administrative Correction.
See: 25 N.J.R. 5928(b).

5:27-1.5 Construction and alteration; change of use

(a) Except as otherwise provided in these rules with regard to required alterations, no rooming or boarding house may be constructed or altered except in accordance with the Uniform Construction Code. Requirements of any adopted subcode of the Uniform Construction Code that exceed requirements of this chapter shall be inapplicable to required alterations unless the Bureau shall otherwise direct.

(b) No building which is not lawfully occupied and used as a rooming or boarding house on August 27, 1980 shall be used as a rooming or boarding house unless the owner and any operator thereof has been licensed by the Bureau and unless a certificate of occupancy allowing use as a rooming or boarding house, as the case may be, for the number of residents accommodated or intended to be accommodated has been obtained from the construction official having jurisdiction, if a certificate of occupancy is required as a result of change of use group or as a result of construction or alteration.

(c) A certificate of occupancy shall be required in the event of any change in use other than a conversion from a one or two-unit dwelling to a rooming or boarding house occupied or intended to be occupied by five or fewer residents.

(d) A certificate of occupancy shall be required in the event of any change in occupancy or intended occupancy that will increase the number of residents from five or fewer to six or more or from 20 or fewer to 21 or more.

(e) The construction official having jurisdiction in each municipality is hereby designated as an agent of the Bureau for the purpose of inspecting newly constructed, converted or altered rooming and boarding houses in order to enforce the provisions of this chapter dealing with the construction of the building. Copies of all permits and certificates of occupancy issued by the construction official for rooming and boarding houses shall be provided by him or her to the Bureau.

(f) Nothing in this chapter shall be construed to impair the power of the construction official to enforce all provisions of the Uniform Construction Code pertaining to rooming and boarding houses, including, without limitation, provisions concerning hazardous conditions in existing buildings.

Amended by R.1983 d.342, effective September 6, 1983.
See: 15 N.J.R. 821(a), 15 N.J.R. 1468(b).

In (c), deleted exemption of certificate of occupancy for conversion from multiple dwelling to rooming or boarding house occupied by six and not more than 20 residents and conversion from hotel to rooming house occupied by more than 20 residents.

Amended by R.1985 d.16, effective February 4, 1985.

See: 16 N.J.R. 3073(b), 17 N.J.R. 275(a).

(a) added text: "except that alterations ... shall otherwise direct".

Amended by R.1995 d.280, effective May 12, 1995.

See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 183) reduced penalties for operating an unlicensed rooming house from \$20,000 to \$1,250, where hotel had been exempted from rooming house regulations pursuant to an internal, unwritten departmental policy, and the Department of Community Affairs revoked the exemption without notice and without promulgating objective standards as to what constituted a "poor condition." Commissioner modified the ALJ's decision to provide that the penalty reduction was contingent on the operators timely filing an application for a rooming house license and abating all violations. *Kennedy v. Bureau of Rooming & Boarding House Standards*, OAL Dkt. No. CAF 40-07, 2008 N.J. AGEN LEXIS 277, Final Decision (April 14, 2008).

5:27-1.6 Licenses

(a) No person shall own or operate a rooming or boarding house without a license from the Bureau allowing such person to own or operate a rooming or boarding house providing the services therein provided and housing the number of residents therein housed.

(b) There shall be five classes of licenses, which shall be as follows:

1. Class A license: Valid for rooming houses only;
2. Class B license: Valid only for rooming houses and for boarding houses offering no financial services and no personal services other than meals and other food services and laundry;
3. Class C license: Valid for all rooming and boarding houses;

4. Class D license: Valid only for facilities operated under contract with an agency of the State of New Jersey; and

5. Class E license: Valid only for alcohol and drug rehabilitation facilities owned and operated by non-profit religious organizations.

(c) The annual fees for licenses shall be as follows:

1. Class A license: \$320.00 plus the amount determined in accordance with (c)6 below;

2. Class B license: \$360.00 plus the amount determined in accordance with (c)6 below;

3. Class C or Class D license: \$400.00 plus the amount determined in accordance with (c)6 below;

4. Class E license: \$300.00;

5. Any license, other than Class E, issued to a corporation, partnership or association: \$600.00;

6. Except as otherwise provided in (c)7 below, the fee for any license, other than a Class E license, shall also include the following additional fee if the facility (or facilities) is (or are) occupied by, or intended to be occupied by, six or more residents:

i. Six - 10 residents—\$50.00;

ii. Eleven - 15 residents \$100.00;

iii. Sixteen - 30 residents \$140.00;

iv. Thirty-one or more residents: \$200.00.

7. The total fee for any license shall in no case exceed \$600.00.

(d) The licensee shall specify whether the licensee is licensed as an operator or as an owner and shall identify the property or properties, including occupied accessory buildings, operated or owned by the licensee. A separate endorsement shall be required for each building occupied by residents which is not an accessory building.

(e) Except as otherwise provided in the Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.), no license shall be issued to any person who has at any time been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, crimes against the person or other like offense or offenses, or to any partnership of which such person is a member, or to any association or corporation of which said person is an officer, director or employee or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly.

(f) No license shall be issued to any person if the Bureau determines that the issuance of a license to such person would be contrary to the best interests of the residents of any rooming or boarding house or of the public generally.

(g) No owner shall employ any person not licensed as an operator to operate any rooming or boarding house. A separate operator shall be required for every building occupied by residents other than an accessory building.

(h) No license shall be issued to any person who has previously been denied a license by either the Department of Health or the Department of Human Services for reason of personal unfitness or who has had a license revoked by either the Department of Health or the Department of Human Services.

(i) No license shall be issued to, or shall continue to be held by, any person, who, in a final adjudication by a court of record or by the Division on Civil Rights, has been found to have discriminated against any resident or prospective resident on the basis of race, color, creed, national origin or ancestry.

(j) A Class D license shall specify the type of facility for which it is issued. Except as otherwise provided in this chapter, any service which may be provided under a Class C license may be provided under a Class D license and any facility operated under a Class D license shall conform to all standards that would be applicable to the facility were it operated under a Class C license.

(k) On or after July 1, 1987, no license to own or operate a boarding house shall be issued to, or shall be continued to be held by, any person who has not completed a training course approved by the Department of Community Affairs. This subsection shall not apply to persons holding or applying for only Class A (rooming house) licenses and shall only be effective so long as there exists a training program funded by the Department of Human Services.

(l) No license to operate a rooming or boarding house shall be issued by the Bureau prior to receipt from the local enforcing agency responsible for enforcement of the Uniform Fire Code in the municipality in which the rooming or boarding house to be operated by the applicant is located of certification that the building does not have any outstanding violations of the Uniform Fire Code N.J.A.C. 5:70.

(m) No license to operate a rooming or boarding house shall be issued until the applicant has provided proof of local zoning approval. No increase in the number of residents living in a rooming or boarding house shall be permitted without the applicant first providing proof of local zoning approval.

(n) No person shall own or operate a rooming or boarding house that offers or advertises or holds itself out as offering personal care services to residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, hold out a building as available for rooming or boarding house occupancy for such residents, or apply for any necessary construction or planning approvals related to the establishment of a rooming or boarding house for such residents without first

having a Class C or Class D license with an endorsement from the Bureau allowing such services to be offered and provided at the facility.

As amended, R.1981 d.359, effective October 8, 1981.
See: 13 N.J.R. 382(a), 13 N.J.R. 393(a), 13 N.J.R. 704(c).
(e) Substantially amended.
As amended, R.1981 d.435, effective November 16, 1981.
See: 13 N.J.R. 562(b), 13 N.J.R. 842(c).
(h) and (i) added.

As amended, R.1982 d.422, effective December 6, 1982.

See: 14 N.J.R. 1075(a), 14 N.J.R. 1365(a).

Added occupied accessory buildings and last sentence to (d). Added last sentence to (g).

As amended, R.1983 d.60, effective March 7, 1983.

See: 15 N.J.R. 7(a), 15 N.J.R. 330(c).

Class A license increased from \$75.00 to \$80.00 and added plus amounts of (c)5; Class B license added plus amounts of (c)5; Class license reduced from \$120.00 to \$100.00 and added plus amounts of (c)5; added new (c)5 and 6.

As amended, R.1984 d.154, effective May 7, 1984.

See: 16 N.J.R. 181(a), 16 N.J.R. 1071(a).

(b)4, "Class D license" added.

(j) added.

Amended by R.1985 d.300, effective June 17, 1985.

See: 17 N.J.R. 777(a), 17 N.J.R. 1543(b).

(k) added.

Amended by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989).

See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Added (l).

Amended by R.1990 d.274, effective June 4, 1990.

See: 22 N.J.R. 912(a), 22 N.J.R. 1720(b).

Class E license and fee provisions added; local zoning approval requirement added at (m).

Administrative Correction.

See: 25 N.J.R. 5928(b).

Amended by R.1995 d.280, effective May 12, 1995.

See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

Amended by R.1998 d.298, effective July 6, 1998.

See: 30 N.J.R. 509(a), 30 N.J.R. 2433(a).

Added a new (n).

Amended by R.2000 d.362, effective September 5, 2000.

See: 32 N.J.R. 2179(a), 32 N.J.R. 3291(a).

In (c), increased fees throughout.

Administrative Correction.

See: 38 N.J.R. 4693(a).

Amended by R.2008 d.174, effective June 16, 2008 (operative July 1, 2008).

See: 40 N.J.R. 1427(a), 40 N.J.R. 3630(a).

In (c)1 through (c)4, (c)6i through (c)6iii and (c)7, increased the fees; in (c)5, substituted "other than Class E" for "regardless of class" and increased the fee; in the introductory paragraph of (c)6, inserted "Class E" and "also" and deleted "issued to a corporation, partnership or association" preceding "; shall"; and added (c)6iv.

Case Notes

Only proper basis for reduction of a valid penalty is an agreement on the part of the person against whom the penalty is imposed to promptly comply with the law, and any such reduction must be further conditioned upon his or her doing so. Bureau of Rooming & Boarding House Standards, Dep't of Community Affairs v. Morrison, OAL Dkt. No. CAF 244-06 and CAF 245-06, 2006 N.J. AGEN LEXIS 853, Final Decision (September 14, 2006).

Appointment of receiver to conserve boarding facility modified to denial of boarding house license. Milligan v. Bureau of Rooming and Boarding House Standards, 97 N.J.A.R.2d (CAF) 81.

Building lessees violated state law by operating rooming and boarding house without license. Division of Housing and Development v. Cummins and Malhtra, 97 N.J.A.R.2d (CAF) 7.

Rooming house with numerous fire and safety code violations was subject to being vacated as a hazard to health, safety and welfare of occupants. Department of Community Affairs v. M.C. Investment, 95 N.J.A.R.2d (CAF) 91.

Rooming house license denied; fire code. Department of Community Affairs v. Stoner, 94 N.J.A.R.2d (CAF) 105.

Penalty; operation of rooming house without license. Department of Community Affairs v. Roshop, 94 N.J.A.R.2d (CAF) 100.

License held by rooming house tenant did not meet owner's licensing requirements. 1020 River Road Realty Co. v. Bureau of Rooming and Boarding House Standards, 92 N.J.A.R.2d (CAF) 22.

Rooming house operator required to renew owner's license. 1020 River Road Realty Co. v. Bureau of Rooming and Boarding House Standards, 92 N.J.A.R.2d (CAF) 22.

Operation of unlicensed boarding house warranted fine and closure. Levin v. Bureau of Rooming and Boarding House Standards, 92 N.J.A.R.2d (CAF) 12.

5:27-1.7 License applications

(a) Applicant information to be provided by an individual shall include the following:

1. Name, plus any other names ever used;
2. Present address, last previous address and any other addresses within the last two years, including dates of residency;
3. Telephone number, if any;
4. Social security number;
5. Date of birth;
6. Bank or other credit reference;
7. Any criminal convictions;
8. Education and work experience;
9. Class of license for which application is made.

(b) Applicant information to be provided by a corporation, association or partnership shall include the following:

1. Names and addresses of all officers, directors, stockholders, members and partners and any registered agent;
2. Designation of primary owner and all information required pursuant to (a) above with respect to such primary owner.

(c) Building information shall be provided for each building owned, operated, or intended to be owned or operated by an applicant and used or intended to be used as a rooming or boarding house and shall include the following:

1. Street address and lot and block designation of the building;
2. Whether or not a license was ever previously issued by the Bureau for the use of the building as a rooming or boarding house;
3. The number of stories;
4. The number of sleeping rooms to be used to accommodate residents;
5. The maximum number of residents intended to be accommodated;
6. The year, or approximate year, of construction;

7. The construction class;

8. Whether or not the building was previously registered with the Bureau of Housing Inspection as a hotel or multiple dwelling and, if so, the registration number;

9. Whether or not the property was ever licensed by the New Jersey Department of Health, and if so, the license number;

10. Date of transfer of the property to the present owner;

11. The name and address of any mortgage or other lien holder.

(d) In the event that any person who is licensed as an owner subsequently acquires another building which he intends to use as a rooming or boarding house, he shall submit to the Bureau a supplemental application containing the building information required pursuant to (c) above.

(e) In the event of a change in any information provided to the Bureau pursuant to this section, the licensee shall notify the Bureau of such change within 14 days.

5:27-1.8 Administrative hearings

(a) Any person aggrieved by any ruling, action or order of the Bureau shall be entitled to an administrative hearing in accordance with the Administrative Procedure Act.

(b) The administrative hearing shall be conducted by a judge of the Office of Administrative Law and the final decision shall be issued by the Director.

(c) The application for such hearing must be filed with the Director within 15 days of the receipt of the applicant of notice of the ruling, action or decision complained of. The Director shall have authority to waive this requirement when the interests of justice so require.

5:27-1.9 Exceptions and exemptions

(a) Pursuant to N.J.S.A. 55:13B-5(b), an owner may request an exception waiving, modifying or postponing the application of any regulation to any owner's rooming or boarding house.

(b) Requests for exceptions shall be made to the Chief of the Bureau, who shall have authority to approve or deny such requests in accordance with the standards set forth in N.J.S.A. 55:13B-5(b). Requests shall be made in triplicate upon forms to be supplied by the Bureau.

(c) A request for an exception shall be submitted within 30 days of the receipt by the owner of notice of the ruling, action or decisions at issue and no request submitted thereafter shall be considered unless the owner advised the Bureau of his desire to file an exception request within 15 days of his receipt of notice of filing, action or decision at issue and was unable to submit the application within the 30 day period allowed because of the Bureau's failure to provide him with the required forms in a timely manner. The Chief of the

Bureau shall have authority to waive these time requirements when the interests of justice so require.

(d) Upon the request of a State agency which has a contractual relationship with the owner of a facility operated under a Class D license, the Bureau shall waive application of any regulation contained in subchapters six through eleven of this chapter, unless the Bureau finds that harm to residents or the public generally would thereby result.

(e) Owners and operators who have been issued Class E licenses are, with respect to drug or alcohol rehabilitation facilities owned or operated under such licenses, exempt from the following requirements of this chapter:

1. N.J.A.C. 5:27-1.6(i), with respect to creed only;
2. N.J.A.C. 5:27-1.7(a)5 through 8;
3. N.J.A.C. 5:27-3.1(a)1 through 4, 9, 13 and 14;
4. N.J.A.C. 5:27-3.2(d);
5. N.J.A.C. 5:27-3.3(c);
6. N.J.A.C. 5:27-3.4(b);
7. N.J.A.C. 5:27-3.10;
8. N.J.A.C. 5:27-8.1(b)2;
9. N.J.A.C. 5:27-8.2;
10. N.J.A.C. 5:27-8.3;
11. N.J.A.C. 5:27-8.4(a); and
12. N.J.A.C. 5:27-9.2(a).

As amended, R.1984 d.154, eff. May 7, 1984.
See: 16 N.J.R. 181(a), 16 N.J.R. 1071(a).

(d) added.

Amended by R.1990 d.274, effective June 4, 1990.
See: 22 N.J.R. 912(a), 22 N.J.R. 1720(b).

Class E exemption provisions added at (e).

5:27-1.10 Search warrants

(a) In the event that any authorized representative of the Bureau is denied access to any rooming or boarding house, a search warrant shall be obtained by the Bureau in any court having jurisdiction.

(b) The application for the search warrant shall state that access to the premises is required in order to enforce the Act and shall specify whether the desired inspection is a regular annual inspection or a special inspection in response to information received by the Bureau indicating the possible existence of a condition violative of the Act or of these regulations.

5:27-1.11 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 those used in the plural include the singular, all except where the context clearly indicates otherwise.

5:27-1.12 Separability clause

If any provisions of these regulations shall be held invalid or ineffective in whole or in part, or inapplicable to any person or situation, it is the purpose and intent of these regulations that all other provisions thereof shall nevertheless be separately and fully effective.

SUBCHAPTER 2. DEFINITIONS

5:27-2.1 Definitions

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

“Accessory building” means a building, whether or not occupied by residents, the use of which is incidental to that of the main building of a rooming or boarding house and which is located on the same lot, or on a contiguous lot, or on a lot that would be contiguous but for the presence of a public street or other public right-of-way.

“Act” means the Rooming and Boarding House Act of 1979 (P.L. 1979, c.496; N.J.S.A. 55:13B-1 et seq.).

“Alteration” means a change or rearrangement in the structural parts or in the egress facilities of any building or structure, or any enlargement thereof or the moving of such building or structure from one location to another.

“Ambulatory” means capable of walking up and down stairs without the assistance of another person.

“Approved” means approved by the Bureau.

“Assistive device” means any implement or mechanism which enables a person to be ambulatory who would not otherwise be ambulatory.

“Banking institutions” means and includes banks, trust companies, national banking associations, savings banks, savings and loan associations and Federal savings and loan associations.

“Boarding house”. See N.J.S.A. 55:13B-3(a).

“BOCA” means the Building Officials and Code Administrators International, Inc.

“Bureau” means the Bureau of Rooming and Boarding House Standards in the Division of Codes and Standards of the Department of Community Affairs.

“Certified medication aide” is a person who holds a valid current medication aide certification issued by the Department of Health and Senior Services pursuant to N.J.A.C. 8:36-1.8.

“Commercial center” means a place where commercial establishments and professional offices may be found.

“Commissioner”. See N.J.S.A. 5:13B-3(b).

“Construction” means any and all work necessary or incidental to the erection, demolition, assembling, installing or equipping of buildings or any alterations and operations incidental thereto.

“Construction class” 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 Basic Building Code.

“County welfare board” means the welfare board or board of social services of the county in which the rooming or boarding house is located.

“dba” means decibels, which is the numerical expression of the loudness of a sound.

“Director” means the Director of the Division of Codes and Standards of the Department of Community Affairs.

“Egress” means a path by which ambulatory persons can travel safely and without assistance from a unit of dwelling space along a continuous and unobstructed line to an exterior open area.

“Exit” means a means of egress from the interior of a building to an open exterior space.

“Financial services”. See N.J.S.A. 55:13B-3(c).

“Fire resistance ratings” means the time in hours or fractions thereof that materials or their assemblies will withstand fire exposure as determined by a fire test made in conformity with recognized standards.

“Fuel-burning appliance” means a device or apparatus which is designed to utilize natural gas, manufactured gas, mixed gas, liquefied petroleum products, solid fuel, oil or any gas as a fuel for heating, cooling, hot water, cooking, generating light or power or for aesthetics.

“Garbage” means organic waste resulting from the preparation and consumption of food.

“Habitable room” means a residential room or space in which the ordinary functions of domestic life are carried on, including bedrooms, livingrooms, studies, recreation rooms, kitchens, dining rooms, and other similar spaces, but excluding closets, halls, stairways, laundry rooms, toilet rooms and bathrooms.

“HMFA” means the New Jersey Housing and Mortgage Finance Agency.

“Licensee” means any person licensed by the Bureau as either an owner or an operator.

“Local health agency” means any county, regional, municipal or other governmental agency organized for the purpose of providing health services, administered by a full-time health officer and conducting a public health program pursuant to law.

“Means of egress”. See “egress”.

“Monitoring of medication” means maintaining regular records of the type and amount of medication taken by a resident and the time at which such medication is taken.

“NFPA” means the National Fire Protection Association.

“Non-profit religious organization” means an organization that has tax-exempt status as a nonprofit religious organization in accordance with section 501(c)(3) of the Internal Revenue Code and that owns and operates a boarding house that is exempt from local property taxation.

“Occupant” means any person lawfully occupying or sharing occupancy of a unit of dwelling space on a regular basis.

“Operator”. See N.J.S.A. 55:13B-3(e).

“Owner”. See N.J.S.A. 55:13B-3(f).

“Partition” means a vertical unit or assembly of materials that separates one space from another within any story of a building.

“Personal services”. See N.J.S.A. 55:13B-3(g).

“Primary owner” means the individual designated by an owner that is a corporation or association as personally responsible for compliance with the act and with these regulations.

“Resident” means a person residing in a rooming or boarding house, exclusive of the owner and his or her family and bona fide employees and the operator and his or her family.

“Rooming house”. See N.J.S.A. 55:13B-3(h).

“Rooming unit” means a unit of dwelling space forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

“Rubbish” means all waste material other than garbage.

“Shall” as used in these regulations, is always to be construed as mandatory.

“Story” means that portion of a building that is between a floor level and the next higher level or roof above.

“Story, cellar” means any story below the first story.

“Story, first” means the lowest story which contains habitable or occupiable rooms and which is more than 50 percent above grade. A story shall be considered more than 50 per-

cent above grade whenever the number of stair risers to grade at any required exit from the lowest story shall be equal to less than half the number of stair risers in any stair connecting the lowest story with the next above.

“Story, ground” means any first story which provides barrier free access to grade at each of its required means of egress.

“Supervision of self-administration of medication” means dispensing by a licensee to a resident of medication in the custody of the licensee, whether in a container or otherwise.

“Travel distance” means the maximum length of exitway access travel, measured from the most remote point to an approved exit along the natural and unobstructed line of travel.

“Uniform Construction Code” means N.J.S.A. 52:27D-119 et seq., N.J.A.C. 5:23-1.1 et seq., and the subcodes adopted pursuant thereto.

“Unit of dwelling space”. See N.J.S.A. 55:13B-3(j).

“Unit of egress” means the maximum number of people by whom an egress is designed to be used.

Amended by R.1981 d.359, effective October 8, 1981.

See: 13 N.J.R. 393(a), 13 N.J.R. 704(c).

Recodified “Ambulatory” and “resident”, defined “exit”, “means of egress”, “travel distance” and “unit of egress”.

Amended by R.1982 d.378, effective November 1, 1982.

See: 14 N.J.R. 496(b), 14 N.J.R. 1210(b).

Added definitions of “HFA”, “Story, cellar”, “Story, first” and “Story, ground”.

Amended by R.1982 d.422, effective December 6, 1982.

See: 14 N.J.R. 1075(a), 14 N.J.R. 1365(a).

Added definition of “Accessory building”.

Amended by R.1990 d.274, effective June 4, 1990.

See: 22 N.J.R. 912(a), 22 N.J.R. 1720(b).

Definition of non-profit religious organization added.

Administrative Correction.

See: 25 N.J.R. 5928(b).

Amended by R.1995 d.280, effective May 12, 1995.

See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

Amended by R.1999 d.259, effective August 16, 1999.

See: 31 N.J.R. 825(a), 31 N.J.R. 2330(a).

Inserted the definition of “Fuel-burning appliance”.

Amended by R.2000 d.202, effective May 15, 2000.

See: 32 N.J.R. 739(a), 32 N.J.R. 1763(b).

Inserted “Certified medication aide”.

Case Notes

Initial Decision (2009 N.J. AGEN LEXIS 596) adopted, which found that a boarding house was established where the lease contemplated six adults, but nine were present and, of the six adults identified on the application, only two were present at the Department of Community Affairs inspection; the remaining adults listed were not present, leading inspectors to believe that the move-in dates for the other seven adults were later in time and a strong indication that one tenant was renting rooms to a series of other, unrelated adults who came and went over time. Thus, while it may not have been the landlord’s intention, the home had become a rooming house at the time of the DCA inspection. *Thompson v. Bureau of Rooming and Boarding House Standards*, OAL Dkt. No. CAF 4225-09, 2009 N.J. AGEN LEXIS 609, Final Decision (September 2, 2009).

Initial Decision (2008 N.J. AGEN LEXIS 185) adopted, which concluded that each floor of owner's two-story residence (each floor containing three bedrooms, a kitchen, and a bath) qualified as an unlicensed rooming house, as each floor contained two or more units of dwelling space intended for single room occupancy, pursuant to the definition in N.J.S.A. 55:13B-3 and N.J.A.C. 5:27-2.1. Because the units of dwelling space required communal use of the bathrooms and kitchens, the rooms in question did not provide independent living and thus were intended for single room occupancy. The absence of dead-bolt locks for each bedroom was not determinative, and the common lease document also was not determinative, as the tenants had different lease terms. *Fabics v. Bureau of Rooming & Boarding House Standards*, OAL Dkt. No. CAF 6660-07, 2008 N.J. AGEN LEXIS 245, Final Decision (April 7, 2008), *aff'd per curiam*, A-4264-07T3, 2009 N.J. Super. Unpub. LEXIS 1149 (May 11, 2009).

Initial Decision (2008 N.J. AGEN LEXIS 185) adopted, which concluded that the Department of Community Affairs' enforcement action against petitioner for operating a rooming house without a license was not barred under the doctrines of *res judicata* and *collateral estoppel* by a previous action brought by the City against petitioner; under the statutory and regulatory scheme, the State retains licensing power even when a local authority licenses rooming and boarding houses within its jurisdiction. *Fabics v. Bureau of Rooming & Boarding House Standards*, OAL Dkt. No. CAF 6660-07, 2008 N.J. AGEN LEXIS 245, Final Decision (April 7, 2008), *aff'd per curiam*, A-4264-07T3, 2009 N.J. Super. Unpub. LEXIS 1149 (May 11, 2009).

Premises was used as rooming house where unrelated occupants who started their occupancies at different times shared Kitchen and bath Facilities and had individual telephone accounts. *Country Lane Builders, Inc. v. Department of Community Affairs*, 96 N.J.A.R.2d (CAF) 94.

SUBCHAPTER 3. RIGHTS OF RESIDENTS

5:27-3.1 Enumeration of rights

(a) Every resident shall have the following rights:

1. To manage his or her own financial affairs;
2. To wear his or her own clothing;
3. To determine his or her own dress, hairstyle, or other personal effects according to individual preference;
4. To retain and use his or her personal property in his or her immediate living quarters, so as to maintain individuality and personal dignity, except where the licensee can demonstrate that such would be unsafe, that it would be impractical or would infringe upon the rights of others and that mere convenience is not the licensee's motive in restricting this right;
5. To receive and send unopened correspondence;
6. To have unaccompanied access to a telephone at a reasonable hour (but not the right to make toll calls at any other person's expense) and to have a private telephone at his or her own expense;
7. To privacy;