

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Subchapter 5, Fire Safety, was repealed by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989).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.

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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 (2010 N.J. AGEN LEXIS 12) adopted, which found that an owner was properly penalized for failing to update an R-2 Use Group certificate of occupancy to reflect that the number of residents had increased to six. *A.L.L.Y. Housing Coop. v. Bureau of Rooming & Boarding House Standards*, OAL Dkt. No. CAF 10883-09, 2010 N.J. AGEN LEXIS 823, Final Decision (February 25, 2010).

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.