

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.2005 d.404, effective October 24, 2005.
See: 37 N.J.R. 566(a), 37 N.J.R. 4400(a).

Chapter Expiration Date

Chapter 27, Regulations Governing Rooming and Boarding Houses, expires on October 24, 2010.

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Subchapter 5, Fire Safety, was repealed by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989).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

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.

“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.

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:

“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 percent 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 (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. *Fabrics 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. *Fabrics 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;