

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).

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.

“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 or 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

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;