

CHAPTER 27

REGULATIONS GOVERNING ROOMING AND BOARDING HOUSES

Authority

N.J.S.A. 55:13B-4.

Source and Effective Date

R.1995 d.280, effective May 12, 1995. See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

Executive Order 66(1978) Expiration Date

Chapter 27, Regulations Governing Room and Boarding Houses, expires on May 12, 2000.

Chapter Historical Note

Chapter 27, Regulations Governing Room and Boarding Houses, became effective August 28, 1980, as R.1980 d.376. See: 12 N.J.R. 452(a), 12 N.J.R. 569(b). The provisions of the chapter were readopted, effective June 14, 1985, as R.1985 d.350. See: 17 N.J.R. 341(b), 17 N.J.R. 1759(a). Chapter 27 was readopted by R.1990 d.275, eff. May 2, 1990. See: 21 N.J.R. 3871(a), 22 N.J.R. 1720(a). Chapter 27 expired May 2, 1995 and was subsequently readopted as new rules by R.1995 d. 280. See: Source and Effective Date.

See subchapter and section annotations for specific rulemaking activity.

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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).

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).

Case Notes

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

Subchapter Historical Note

All provisions of this subchapter were filed and became effective August 28, 1980 as R.1980 d.376. See: 12 N.J.R. 452(a), 12 N.J.R. 569(b). This subchapter was readopted pursuant to Executive Order 66(1978) effective June 14, 1985 as R.1985 d.350. See: 17 N.J.R. 341(b), 17 N.J.R. 1759(a). See chapter and section levels for further amendments.

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.

"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.

"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, 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.

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

“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).

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;

8. To retain the services of his or her own personal physician at his or her own expense or under a health care plan and to confidentiality and privacy concerning his or her medical condition and treatment;

9. To unrestricted communication, including personal visitation, with any person of his or her choice, at any reasonable hour;

10. To make contacts with the community and to achieve the highest level of independence, autonomy and interaction with the community of which he or she is capable;

11. To present grievances on behalf of himself or herself or others to the licensee, governmental agencies or other persons without reprisal or threat of reprisal in any form or manner whatsoever;

12. To a safe, healthful and decent living environment and considerate and respectful care that recognizes the dignity and individuality of the resident;

13. To refuse to perform services for the licensee except pursuant to a bona fide contract between resident and licensee, such contract, in the case of a resident who is at least 62 years of age or has any physical or mental disability, to be in writing and witnessed by a representative of the county welfare board or of any other social service agency having responsibility for such resident;

14. To practice the religion of his or her choice, including the right to have adequate substitutes provided for foods or combinations of foods which the resident's religious beliefs forbid him or her to eat, or to abstain from religious practice;

15. To not be deprived of any constitutional, civil or legal right solely by reason of residence in a rooming or boarding house.

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

Free exercise right did not support challenge to state statute that was not expressly directed to religion. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A. 3 (N.J.) 1990, 919 F.2d 183.

Religious group could claim violation of its right to associate for free speech purposes if it could demonstrate that statutory reporting requirements hindered its activity. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

Group did not have viable establishment clause claim. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

5:27-3.2 House rules

(a) In order to better protect the health, safety, welfare and rights of all residents, the licensee shall establish reasonable rules governing the conduct of persons within the rooming or boarding house.

(b) Such rules shall include provisions to ensure that residents exercise their rights in such a way as not to infringe upon the rights of or endanger other residents.

(c) Copies of all rules shall be prominently posted in the building, shall be given to all residents at the commencement of residence and shall be provided to the Bureau upon request.

(d) Any rule determined by the Bureau to be unreasonable shall not be enforced and shall be deleted from the house rules.

Case Notes

Free exercise right did not support challenge to state statute that was not expressly directed to religion. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

Religious group could make out prima facie claim of violation of its right to associate for free speech purposes if it could demonstrate that complying with statutory reporting requirements hindered program. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.