

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Rooming and Boarding Houses

Proposed Amendments: N.J.A.C. 5:27-1.5, 1.6, 1.9, 2.1, 4.6, 4.7, and 6.1

Proposed New Rules: N.J.A.C. 5:27-13.1, 13.2, and 13.3

Authorized By: Jacquelyn A. Suárez, Acting Commissioner, Department of Community Affairs.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2023-117.

Submit written comments by February 2, 2024, to:

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The agency proposal follows:

Summary

The Department of Community Affairs (“Department” or “DCA”) proposes to amend and introduce new rules to the Regulations Governing Rooming and Boarding Houses, N.J.A.C. 5:27. Proposed amendments at N.J.A.C. 5:27-1 and 2 seek to clarify operator and staff requirements relating to occupancy of Class F cooperative sober living residences (CSLR) and reference the proposed new rules. N.J.A.C. 5:27-4 is proposed for amendment to provide new maintenance

requirements to ensure the safety and security of the residents and operators of all classes of rooming or boarding houses. Lastly, proposed new rules are proposed at Subchapter 13 to provide for additional requirements of CSLRs regarding scope, house rules, and safety requirements.

A section-by-section summary of the proposed amendments and new rules follows.

Proposed Changes Applicable to all Rooming and Boarding Houses

1. N.J.A.C. 5:23-4.6 is proposed for amendment to incorporate the requirements of P.L. 2021, c. 260, which established a maximum temperature of 81 degrees Fahrenheit for rooming and boarding houses, dementia care homes, nursing homes, and residential health care facilities.

2. N.J.A.C. 5:27-4.7(o), (p), (q), (r), and (s) are proposed for amendment with the addition of new rooming and boarding house maintenance requirements for the purposes of safety and security of occupants, operators, and first responders. Proposed new subsections (o) and (p) will aid first responders in identifying the residence and occupant sleeping rooms. Proposed new subsection (q) restricts possible sources of fire, and subsection (r) will allow operators and first responders unrestricted access to all areas of the residence. Lastly, subsection (s) is added to ensure the required licensing and certificates are appropriately displayed in the residence.

Proposed Changes Applicable only to Class F Rooming Houses (CSLRs)

3. N.J.A.C. 5:27-1.5(c)1ii is proposed for amendment to clarify that staff “and operators” of CSLRs are not to be included in the maximum occupant total. This change does not adjust the total number of occupants, but seeks to clarify previous requirements that were not included in this section.

4. N.J.A.C. 5:27-1.6(b)6 is proposed for amendment to remove language referencing readers to requirements related to CSLRs that have been placed at Subchapter 13. In addition, language is added to refer readers to new proposed Subchapter 13.

5. N.J.A.C. 5:27-1.9(f) is proposed for amendment to clarify which sections of Chapter 27 are not applicable to owners and operators who have been issued Class F licenses and to align with

proposed new N.J.A.C. 5:27-13.1(a).

6. At N.J.A.C. 5:27-2.1, the definition for “cooperative sober living residences,” criteria 1 is proposed for amendment to reference the new two operator requirement and the associated requirement for one operator to be on-site between the hours of 7:00 P.M. to 7:00 A.M. when residents are present; this means that, should there be a situation where all residents are not in the CSLR overnight, the operator does not have to be present. The purpose of this proposed amendment is to ensure the security and safety of residents and others by having CSLR personnel more readily available during the day and on-site overnight. In addition, criteria 2 is proposed for amendment to correct the singular tense of “operator” in reference to the new “two operators” requirement. Finally, criteria 7 is proposed for deletion and moved to the section regarding house rules for CSLRs.

7. N.J.A.C. 5:27-6.1(c) is proposed for amendment to exempt Class F CSLRs from the requirement that every rooming unit in every rooming house be equipped with a dead latch or dead bolt, as reflected at proposed new N.J.A.C. 5:27-13.3(c).

8. New N.J.A.C. 5:27-13, Additional Rules Regarding Class F CSLRs, is proposed.

9. At proposed new N.J.A.C. 5:27-13.1(a), the Department proposes to add the language detailing the scope of the subchapter to owners and operators who have been issued a license for a Class F CSLR. In addition to the scope, a list of exemptions to requirements of the chapter for Class F CSLR are included for clarification of applicable regulations.

10. At proposed new N.J.A.C. 5:27-13.2, the Department proposes the requirements for residence house rules. Proposed new N.J.A.C. 5:27-13.2(a) sets forth an option for operators to establish weekly drug and alcohol screening as a part of house rules.

11. New N.J.A.C. 5:27-13.2(b) is proposed to establish a curfew for residents of CSLR. This proposed subsection is intended for the safety of the residents and to make sure the function of the CSLR is not compromised. Within this section, paragraphs (b)1 and 2 exempt residents from the

curfew for employment- or recovery-related activities and requires the curfew to be within reasonable hours to accommodate activities, such as visitation and errands.

12. At N.J.A.C. 5:27-13.3, the Department proposes additional requirements for the safety of residents. New subsection (a) requires the licensee of the CSLR to contact the Department following any event in which first responders respond to a serious incident for the maintenance of records and determining the need for the Department to send evaluators. In addition, new subsections (b) and (c) require medicine lockboxes for residents and the restriction of keyed locks on bedroom doors to ensure the security of resident medical supplies and the safety of residents.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

It is expected the proposed amendments and new rules will have a positive social impact due to the effort to ensure safety and effectiveness of CSLRs. Changes to the maintenance standards applicable for all rooming and boarding houses will also better protect the residents by setting forth a maximum temperature and allowing for better identification of the number of habitable rooms.

Economic Impact

The Department does not anticipate the proposed amendments and new rules concerning CSLRs to have an adverse economic impact. There could be a cost for compliance or for hiring a second operator that could impact owners of CSLRs, but these costs would be modest and are necessary to effectuate the requirements set forth in this rulemaking. In rooming houses and residential health care facilities with no air conditioning, licensees will need to provide for air conditioning to ensure the maximum temperature of 81 degrees Fahrenheit is not exceeded, which will be an additional cost; however, this is necessary to be in compliance with P.L. 2021, c. 260.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments and new rules are not being proposed pursuant to the authority of, or in order to implement, comply with, or participate in, any program established pursuant to Federal law or any State statute that incorporates to any Federal law, standards, or requirements.

Jobs Impact

The Department anticipates the proposed amendments and new rules concerning CSLRs will have a negligible impact on the creation or loss of jobs. The proposed amendments will require having two operators when one was previously required, however, having more the one operator is currently common practice.

Agriculture Industry Impact

The Department does not anticipate that the proposed amendments and new rules would impact the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments and new rules do establish compliance requirements for all rooming and boarding houses related to occupant safety, including room identification, limits on potential fire sources, and display of proper licensure. These proposed amendments and new rules also establish a maximum temperature for all rooming and boarding houses. For CSLRs specifically, the requirement for two operators ensures a greater level of safety of residents. Further, the proposed amendments and new rules establish an option for operators of CSLRs to mandate drug testing as part of their house rules, but this is not an obligation. As such, no new reporting requirements are established in this rulemaking. Many operators may be “small businesses,” as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. However, these safety requirements are vital, because they ensure that rooming and boarding houses are appropriately protecting the health and safety of residents. These proposed amendments and new rules are not expected to cause small businesses to need any professional

services not already required in order to comply with the regulations. There is no basis for differential treatment of small businesses in the application of this rulemaking.

Housing Affordability Impact Analysis

It is not expected that the proposed amendments and new rules will have an impact on the affordability of housing, or the average costs associated with housing because the proposed amendments and new rules concern the operational rules for rooming and boarding houses.

Smart Growth Development Impact Analysis

It is not expected that the proposed new amendments and rules will have any impact upon housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan because the proposed amendments and new rules concern the operational rules for rooming and boarding houses.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

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

(a)-(b) (No change.)

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

1. A certificate of occupancy shall not be required for the change in the character of use of Class F, cooperative sober living residences pursuant to N.J.A.C. 5:23-6, provided that:

i. (No change.)

ii. There shall be not more than 10 occupants, excluding staff **and operator(s)**; each occupant, including staff **and operator(s)**, shall be capable of prompt self-evacuation;

iii.-v. (No change.)

(d)-(f) (No change.)

5:27-1.6 Licenses

(a) (No change.)

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

1.-5. (No change.)

6. Class F license: Valid only for cooperative sober living residences, as defined in this chapter. Cooperative sober living residences shall be subject to this chapter [only as specifically noted below] **as indicated at N.J.A.C. 5:27-13**. Cooperative sober living residences shall be required to comply with all applicable statutory requirements.

(c)-(m) (No change.)

5:27-1.9 Exceptions and exemptions

(a)-(e) (No change.)

(f) Owners and operators who have been issued Class F licenses for cooperative sober living residences are exempt from the following requirements of this chapter:

1. **N.J.A.C. 5:27-1.6(k)**;

[1.] 2. (No change in text.)

[2.] **3.** N.J.A.C. 5:27-3.3(a) [through (c)], **(b), and (c)1;**

Recodify existing 3.-6. As **4.-7.** (No change in text.)

[7.] **8.** N.J.A.C. 5:27-3.9(a)6 and 7; [and]

9. N.J.A.C. 5:27-3.9(b);

10. N.J.A.C. 5:27-3.12;

11. N.J.A.C. 5:27-4.9;

[8.] **12.** N.J.A.C. 5:27-[5.1]5 [through 13.7.];

13. N.J.A.C 5:27-6.1(e);

14. N.J.A.C. 5:27-6.3;

15. N.J.A.C. 5:27-7.3;

16. N.J.A.C. 5:27-7.4; and

17. N.J.A.C. 5:27-8.1 through 12.3.

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:

...

“Cooperative sober living residences” means a residential setting that serves solely as a home for individuals who are recovering from drug or alcohol addiction and is intended to provide an environment where the residents can support each other’s sobriety and recovery. In addition to the other requirements specified in this chapter, a cooperative sober living residences shall satisfy the following criteria:

1. Management by an entity or organization that provides [an] **two operators, one of whom must be present on-site from 7:00 P.M. to 7:00 A.M. when residents are present, and at least one of whom** [who] shall reside in the residence and exercise some level of control over the operation of the residence and establishes the residence's rules;

2. Occupancy shall not exceed 10 individuals, exclusive of the operator(s);

3.-4. (No change.)

5. No provision of food, laundry, financial, or other personal services by the licensee; **and**

6. Ability of licensee, at its discretion, to provide non-clinical recovery and support services.

The licensee may also elect to mandate or encourage residents to attend self-help recovery programs, participate in activities related to maintaining sobriety and continuing recovery, or receive off-site services deemed desirable or necessary to maintain sobriety[; and].

[7. Ability of licensee, at its discretion, to require drug or alcohol testing of residents.]

...

SUBCHAPTER 4. GENERAL BUILDING REQUIREMENTS

5:27-4.6 Heating

(a)-(c) (No change.)

(d) The licensee shall ensure the maximum temperature in all habitable rooms, bathrooms, and water closet compartments does not exceed 81 degrees Fahrenheit, except in rooms:

1. Designated for activities requiring physical exertion; or

2. Where residents can individually control the temperature in their own living units, independent from other areas.

5:27-4.7 Maintenance

(a)–(n) (No change.)

(o) It shall be the responsibility of the licensee to prominently display a house number on the exterior of the property.

(p) It shall be the responsibility of the licensee to provide a room classification or identification on each entry door to each sleeping room.

(q) No licensee shall allow heat generating devices, such as irons, candles, incense, or hot plates, in the individual rooms of the rooming or boarding house.

I The licensee shall provide a bathroom lockset that can be locked from the inside.

(s) The owner or operator shall prominently post the License to Own and Operate, as well as the Fire Certificate, in the facility.

SUBCHAPTER 6. SECURITY

5:27-6.1 Control of access

(a)–(d) (No change.)

(e) [Every] **In all facilities other than Class F facilities, which are cooperative sober living residences, every** entrance door to a rooming unit in every rooming house, and in every boarding house operated [under] **pursuant to** a Class B license, shall be equipped with a medium duty dead latching lockset (series 160, FF-H-106a, minimum with a minimum 11/16 inch ½1/2 inch wi½1/2 inch minimum throw latch bolt with automatic deadlocking plunger) or with a dead bolt lock separate from the latch set. Each such door shall also be equipped with a viewing device. In all rooming and boarding houses **that** have locks on entrance doors to rooming units, a master key capable of opening all such locks shall be retained by the licensee and shall be readily available in event of any emergency.

(f)–(i) (No change.)

SUBCHAPTER 13. [(RESERVED)] ADDITIONAL RULES REGARDING CLASS F

COOPERATIVE SOBER LIVING RESIDENCES

5:27-13.1 Scope

(a) Owners and operators who have been issued a license for a Class F cooperative sober living residence must comply with this chapter, except that the following requirements are not applicable to Class F cooperative sober living residences:

- 1. N.J.A.C. 5:27-1.6(k);**
- 2. N.J.A.C. 5:27-3.2(d);**
- 3. N.J.A.C. 5:27-3.3(a), (b), and (c)1;**
- 4. N.J.A.C. 5:27-3.4(c);**
- 5. N.J.A.C. 5:27-3.5(a), with respect to certification by a medical professional, and N.J.A.C. 5:27-3.5(b), with regard to the responsibility for obtaining medical treatment;**
- 6. N.J.A.C. 5:27-3.6;**
- 7. N.J.A.C. 5:27-3.8(b);**
- 8. N.J.A.C. 5:27-3.9(a)6 and 7;**
- 9. N.J.A.C. 5:27-3.9(b);**
- 10. N.J.A.C. 5:27-3.12;**
- 11. N.J.A.C. 5:27-4.9;**
- 12. N.J.A.C. 5:27-5;**
- 13. N.J.A.C. 5:27-6.1(e);**
- 14. N.J.A.C. 5:27-6.3;**
- 15. N.J.A.C. 5:27-7.3;**
- 16. N.J.A.C. 5:27-7.4; and**

17. N.J.A.C. 5:27-8.1 through 12.3.

5:27-13.2 House rules

(a) As a part of the house rules established in accordance with N.J.A.C. 5:27-3.2, owners and operators of Class F cooperative sober living residences may mandate weekly drug and alcohol screening of all residents in order to ensure a sober living environment.

(b) The house rules may impose a reasonable curfew for residents.

1. The established curfew shall not be applicable when residents are at a recovery- or employment-related activity.

2. The established curfew shall not prevent residents from reasonable activities, including visitations or errands.

5:27-13.3 Additional requirements for safety of residents

(a) The licensee of a Class F cooperative sober living residence shall notify the Department immediately by telephone at (609) 984-1704, followed within 72 hours by written confirmation, of any event where first responders respond to a serious incident, including, but not limited to, death, overdose, or assault. Such notification shall be limited to the date, time, and nature of the incident.

(b) The licensee of a Class F cooperative sober living residence shall provide lockboxes for residents to keep prescription medications secure.

(c) Bedroom doors in Class F cooperative sober living residences shall not be equipped with keyed entry locks or deadbolts.