

COMMUNITY AFFAIRS

Division of Codes and Standards Emergency Shelters for the Homeless Proposed Readoption: N.J.A.C. 5:15

Authorized By: Joseph V. Doria, Jr., Commissioner, Department of Community Affairs.
Authority: N.J.S.A. 55:13C-5.
Proposal Number: PRN 2009-221
Calendar: Reference: See Summary below for explanation of exception to calendar requirement.

Submit written comments by September 18, 2009 to:

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JOSEPH V. DORIA, JR., Commissioner

The agency proposal follows.

Summary

Pursuant to N.J.S.A. 52:14B-5.1, the rules governing emergency shelters for the homeless, N.J.A.C. 5:15, are scheduled to expire on July 11, 2010. The Department has reviewed these rules and finds that they continue to be necessary for the purpose for which they were adopted and is therefore proposing that they be readopted without change.

Subchapter 1 sets forth that the public officer appointed by a municipality is responsible for the administration and enforcement of these rules and that, if no public officer has been appointed, the Bureau of Rooming and Boarding House Standards has that responsibility in the municipality. The public officer is responsible for the licensure, regulation and inspection of emergency shelters for the homeless.

Subchapter 2 provides definitions.

Subchapter 3 sets forth the requirements for services to be provided to residents, as well as admission and discharge criteria. It requires facilities with children to provide sleeping areas, access to three meals a day and referral services for medical and mental

health care, as well as employment counseling. The subchapter also includes recordkeeping and staffing requirements.

Subchapter 4 sets forth the requirements for building maintenance, furnishing, equipment and fire safety. It provides that existing shelters shall conform to the requirements of the Uniform Fire Code for buildings in group R-1 and that newly-constructed or converted shelters shall conform to group R-1 requirements of the State Uniform Construction Code. Also included are requirements for housekeeping and maintenance of the facilities and for the providing of clean bedding and linens. The rules also provide for minimum square footage requirements for dining, leisure and sleeping areas, as well as minimum bathroom facilities, and for “hospitality rooms” in which families may socialize and meet visitors.

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

There are currently 133 emergency shelters licensed under this chapter. They have a combined licensed capacity of 5,811 residents. Readoption of this chapter would allow continuation of a program designed to maintain that such shelters are maintained and operated in a way that protects the health, safety and welfare of those for whom they provide the only housing available.

The rules would continue to have a positive impact upon the lives of persons residing in emergency shelters. Since the effect of these rules is to facilitate the continued existence of properly-operated shelters, they have a beneficial effect on those who have no other emergency housing alternatives and would therefore otherwise be forced to stay either in the streets or in facilities unsuitable for such use, such as transportation terminals.

This chapter does not apply to facilities that are subject to inspection or licensing by the Department of Human Services or the Department of Corrections, to facilities operated by the Division of Youth and Family Services or licensed rooming or boarding houses or residential health care facilities.

Economic Impact

The Bureau of Rooming and Boarding House Standards administers the emergency shelter inspection and licensing program as an adjunct to its much larger rooming and boarding house program. There is no separate funding for emergency shelter licensing and inspection.

The rules are, in most cases, enforced by designated municipal officials. The Bureau of Rooming and Boarding House Standards serves as the enforcing agency in those cases in which either the municipality fails to designate a responsible official or the shelter is itself operated by the municipality. Since the number of shelters is relatively small, and most are licensed and inspected locally, the cost of the program to the State is minimal. Readoption of the rules would therefore not be expected to have any significant economic impact.

The cost of bringing a shelter into compliance with the rules varies depending on the size and nature of the shelter and the degree to which it is already in compliance with these very basic requirements. The annual fee for a license would continue to be \$10.00.

Federal Standards Statement

No Federal standards analysis is required because this rule is not being proposed for readoption under the authority of, or in order to implement, comply with or participate in any program established under, Federal law or a State law that incorporates or refers to Federal law, standards or requirements.

Jobs Impact

The Department does not anticipate any creation or loss of jobs as a result of the proposed readoption of this chapter..

Agricultural Industry Impact

The Department does not anticipate any impact upon the agricultural industry as a result of the proposed readoption of this chapter.

Regulatory Flexibility Statement

There are no for-profit businesses engaged in sponsoring homeless shelters in New Jersey. Most, if not all, of the nonprofit entities that sponsor such shelters would qualify as “small businesses” under the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 *et seq.* The rules allow all shelter sponsors, be they “small businesses” or not, to avail themselves of the waiver provision at N.J.A.C. 5:15-1.9 that would allow a sponsor to obtain a waiver or modification upon a showing that strict compliance would cause undue hardship to facility residents and that their safety would not be unduly jeopardized if the request were granted. Furthermore, N.J.A.C. 5:15-1.9(b)4 provides that no plan for an alternative may be rejected unless the local public officer or the Bureau, as the case may be, determines that funding is available to bring the facility into compliance with the rule, but the sponsor cannot, or will not, apply for it.

Compliance with the rules should not require any such “small business” to hire professional services that they would not otherwise find it necessary to retain, except that the services of a qualified design professional would be needed for the preparation of plans and specifications for any required building modifications, in accordance with the State Uniform Construction Code. The rules include reporting, recordkeeping and compliance requirements that are necessary for the protection of the health, safety and welfare of the residents of the facilities. Except as otherwise provided in N.J.A.C. 5:15-1.9, these requirements must be enforced regardless of the size or form of organization of the sponsor.

Smart Growth Impact

The Department does not anticipate any impact upon the achievement of smart growth or the implementation of the State Development and Redevelopment Plan as a result of the readoption of these rules.

Smart Growth Development Impact

This proposal is intended to readopt rules concerning the maintenance and inspection of emergency shelters for the homeless. It would be most unlikely to have any impact upon housing production within planning areas one and two or within designated centers under the State Development and Redevelopment Plan.

Housing Affordability Impact

This proposal is intended to readopt rules concerning the maintenance and inspection of emergency shelters for the homeless. It would be most unlikely to have any impact upon housing production costs or to affect affordability.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:15.