

2. Upon approval of measures to safeguard adjoining properties, the owner intending to undertake the construction, rehabilitation, or demolition work shall provide a copy of the measures to the owners of adjoining properties and shall request and obtain written permission from the owners of the adjoining properties to implement the measures prior to the commencement of work.

[(c)] (b) The measures to be taken to safeguard adjoining properties or public rights of way shall be submitted with the permit application for review and approval by the construction official. For projects undertaken using partial filing or partial releases, such measures shall be submitted for review and shall have been approved prior to the issuance of a construction permit for the portion of the work requiring the safeguarding of adjoining properties or public rights of way. Effective (90 days from the effective date of this amendment):

1. Sections 3302, 3303, 3304, 3306, 3307, and 3308 of the building subcode shall be used as the minimum safeguards for all buildings and structures regulated by the one- and two-family dwelling subcode.

2. Where necessary to protect the public right of way, sidewalk, or street bridging, designed in accordance with the applicable requirements of the building subcode, shall be installed over public rights of way to protect persons and vehicles. Construction documents prepared by a design professional shall be submitted and released prior to the installation of sidewalk or street bridging. The sidewalk or street bridging shall be inspected and certified by the licensed design professional prior to the start of construction work that may threaten the public right of way. The released drawings shall be available, upon request, at the site while the sidewalk or street bridging is in place.

(c) Effective (90 days from the effective date of this amendment), for cranes of more than 160 feet in height, including jibs and any other extensions to the boom, located on a construction site or for cranes of more than 50 feet in height with a maximum rated capacity of greater than 20 tons located in a public right of way, measures shall be taken to protect adjoining property and public rights of way from any hazard to life or property that may be caused by the siting or use of the crane. Such measures may be omitted where the crane placement is such that failure would impact only the construction site itself and would not imperil any adjoining property, public rights of way, or any building(s) or area(s) on the same property as the construction site occupied by other than construction workers.

1. An owner intending to use a crane that is sited on or lifts over a public way shall obtain approval from the local police or traffic safety department or the appropriate county or State authority. Approval to close the street and sidewalk while the crane is in operation shall be accepted as adequately protecting the public right of way.

2. Documentation for operation of a crane shall include a site plan indicating crane placement, support, or foundation, as appropriate, reach and lift limits, crane operating procedures to be followed under various wind or other environmental conditions, and any plans in place to control operation of the crane to minimize risk to adjoining property or public rights of way.

3. For erection of a tower crane, the required documentation shall include a signed and sealed plan for the footing layout and design, including a soils report, and a certification by the design professional of record that installation was performed in accordance with this plan and the manufacturer's specifications for the crane.

i. The tower and base shall have elevations shot to confirm that no movement has occurred after jumps. Additionally, the entity owning or operating the crane(s) shall maintain weekly reports of maintenance and connections to superstructure, as inspected and certified by the design professional.

[(d)] Upon approval of the measures to safeguard the adjoining properties, the owner intending to undertake the construction, rehabilitation, or demolition work shall provide a copy of the measures to the owners of adjoining properties and shall request written

permission to implement the measures prior to the commencement of work.

i. Written consent from the owners of the adjoining properties to implement the measures to safeguard the properties must be obtained.]

(a)

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Rooming and Boarding Houses

Proposed Amendments: N.J.A.C. 5:23-3.11, 3.14, 6.31; and 5:27-1.4, 1.5, 1.6, 1.9, 2.1, 3.2 through 3.6, 3.8, 3.9, 3.12, 4.1 through 4.9, 6.1, 6.2, 6.3, 7.1 through 7.4, 8.1 through 8.4, 9.1, 10.1, 11.1, 12.1, 13.1, and 14.1

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-124 and 55:13B-6.

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

Proposal Number: PRN 2017-081.

Submit written comments by August 4, 2017, to:

Geraldine Callahan
Division of Codes and Standards
PO Box 800
Trenton, New Jersey 08625
Fax number: (609) 633-6729
E-mail: geraldine.callahan@dca.nj.gov

The agency proposal follows:

Summary

The Department of Community Affairs (Department) proposes amendments to its existing rules in order to establish a category of facilities to be designated as "cooperative sober living residences" (CSLRs). Specifically, the Department proposes to amend its rooming and boarding house rules, N.J.A.C. 5:27, to establish a new "Class F license" to encompass CSLRs. In addition, the Department also proposes to amend the Uniform Construction Code (UCC) rules, N.J.A.C. 5:23, as to both the building subcode and the rehabilitation subcode, in order to reflect the addition of CSLRs.

N.J.A.C. 5:23-3.11 is proposed for amendment to provide that the Department shall be the sole enforcing agency under the UCC for CSLRs, as they are defined in the rooming and boarding house rules.

N.J.A.C. 5:23-3.14, Building subcode, is proposed for amendment to add a definition of CSLRs, including specifically requiring that they contain not more than 10 occupants, exclusive of any staff, and that all occupants and staff be capable of prompt self-evacuation.

N.J.A.C. 5:23-6.31, Change of use, is proposed for amendment to address the issue of a change of use involving a CSLR. It provides that a change in the character of use of a single-family dwelling of Group R-3 and R-5 to a CSLR shall comply with all of the requirements of subsection (q). These include: limits on number of occupants and requirements that they be capable of prompt self-evacuation; compliance with the requirement for smoke detectors as per the Uniform Fire Code; compliance with requirements for carbon monoxide detectors as per the Uniform Fire Code; and standards for adequate means of egress.

N.J.A.C. 5:27-1.4, Continuation of lawful existing use, is proposed for amendment to provide that any facility that is operating as a CSLR, as that term is defined in Chapter 27, shall be required to obtain an appropriate Class F license. This includes facilities that are currently operating as a CSLR pursuant to a different class of license.

N.J.A.C. 5:27-1.5 is proposed for amendment to provide that a certificate of occupancy shall not be required for the change in character of use to a Class F CSLR facility, pursuant to the UCC rehabilitation subcode. A single-family dwelling of Group R-3 and R-5 that is converted to a CSLR shall comply with the requirements of this section.

These mirror the requirements of the rules proposed for amendment at N.J.A.C. 5:23-6.31.

N.J.A.C. 5:27-1.6 is proposed for amendment to add a new sixth class of license, a Class F license, consisting solely of CSLRs, as defined in the rooming and boarding house rules, as proposed for amendment. The amendment states that a CSLR shall only be subject to the rooming and boarding house rules to the extent that is specifically noted in the rules. The rule is further proposed for amendment to establish the appropriate annual license fee for Class F facilities, which is identical to Class A licenses. In addition, the rule is amended to provide that an owner or operator of a Class F facility does not need to complete a Department-approved training course. Finally, N.J.A.C. 5:27-1.6 is proposed for amendment to delete subsection (m), containing the current requirement that no license to operate a rooming or boarding house, and no approval to increase the number of residents living in a rooming or boarding house, shall be issued by the Department until the applicant has provided proof of local zoning approval.

N.J.A.C. 5:27-1.9(f) is proposed for amendment to provide a list of the sections of the rooming and boarding house rules from which the CSLRs are exempt.

N.J.A.C. 5:27-2.1 is proposed for amendment to provide a definition of CSLR as a housing unit in which residents who are in recovery from drug or alcohol addiction may live in a supportive environment; occupancy may not exceed 10 residents with a resident operator; there will be no on-site supportive services, such as counseling, but the rules that govern residency in the home may require or encourage participation in off-site self-help recovery programs. The residents of a CSLR are required to maintain an alcohol- and drug-free environment; the licensee, at its discretion, may require drug or alcohol testing of the residents.

N.J.A.C. 5:27-3.2 is proposed for amendment to state that this section, which provides that unreasonable rules, as determined by the Bureau of Rooming and Boarding House Standards, shall not be enforced, is not applicable to CSLRs.

N.J.A.C. 5:27-3.3(a) and (b) are proposed for amendment to state that these subsections, which provide that residents shall not engage in unreasonable behavior or a lack of probity, are not applicable to CSLRs.

N.J.A.C. 5:27-3.3(c) is proposed for amendment to provide that this subsection, which allows a licensee to seek a directive from the Bureau in order to protect the rights of all residents, is not applicable to CSLRs. In addition, this section is proposed for amendment to specify that a resident of a CSLR may be evicted from the residence by determination of the operator or vote of the residents, depending on the procedures set forth in the rules governing the residence, for violation of those rules, including, but not limited to, the prohibition against alcohol or drug use.

N.J.A.C. 5:27-3.4(c) is proposed for amendment to provide that this subsection, which requires notification of the county welfare board prior to eviction, is not applicable to CSLRs.

N.J.A.C. 5:27-3.5 is proposed for amendment to provide that this section, which requires that a county health care professional must certify that the resident is free of communicable diseases, is not in need of nursing care, and does not require services that are not available in the boarding house, is not applicable to CSLRs. Similarly, the requirement of this section that a resident who becomes incapable of self-evacuation shall notify the county welfare board for a more appropriate placement shall not apply to CSLRs.

N.J.A.C. 5:27-3.6 is proposed for amendment to provide that this section, which provides that the licensee shall assist each resident in independent and autonomous living, is not applicable to CSLRs.

N.J.A.C. 5:27-3.8 is proposed for amendment to provide that this section, which provides the residence must be adequately staffed, is not applicable to CSLRs.

N.J.A.C. 5:27-3.9 is proposed for amendment to provide that this section, which provides a list of information that must be posted, is not wholly applicable to CSLRs. CSLRs are also exempt from the requirements that this information must be given to each resident.

N.J.A.C. 5:27-3.12 is proposed for amendment to provide that this section, which provides that residents that are of limited tenure shall have the rights of a hotel guest rather than of a resident, is not applicable to CSLRs.

N.J.A.C. 5:27-4.1, Water supply, is proposed for amendment to provide that this section, which provides that residents shall be provided with a clean water supply, is not applicable to CSLRs. This is not to say that CSLRs are not required to provide clean water, but that the requirement exists in other statutes and need not be repeated here.

N.J.A.C. 5:27-4.2, Facilities, is proposed for amendment to provide that each CSLR shall have a full kitchen.

N.J.A.C. 5:27-4.3, Garbage and rubbish storage, is proposed for amendment to provide that this section, which sets standards for managing garbage and rubbish, is not applicable to CSLRs.

N.J.A.C. 5:27-4.4, Lighting and electrical service, is proposed for amendment to provide that this section, which sets requirements for natural and electrical lighting in a rooming or boarding house, is not applicable to CSLRs.

N.J.A.C. 5:27-4.5, Ventilation, is proposed for amendment to provide that this section, which requires ventilation in every habitable room, is not applicable to CSLRs.

N.J.A.C. 5:27-4.6, Heating, is proposed for amendment to provide that this section, which establishes requirements for heating, is not applicable to CSLRs.

N.J.A.C. 5:27-4.7, Maintenance, is proposed for amendment to provide that this section, which establishes maintenance standards, is not applicable to CSLRs.

N.J.A.C. 5:27-4.8, Use and occupancy of space, is proposed for amendment to provide that this section, which establishes occupancy requirements, is not applicable to CSLRs.

N.J.A.C. 5:27-4.9, Matters not covered, is proposed for amendment to provide that this section, which provides the Bureau of Rooming and Boarding House Standards to determine or require a determination of the structural stability of the house, is not applicable to CSLRs.

N.J.A.C. 5:27-6.1, Control of access, is proposed for amendment to provide that this section, which provides requirements for access and for locking mechanisms, is not applicable to CSLRs.

N.J.A.C. 5:27-6.2, Protection of valuables, is proposed for amendment to provide that this section, which requires that a safe be provided in the rooming or boarding house to protect residents' valuables, is not applicable to CSLRs.

N.J.A.C. 5:27-6.3, Criminal acts, is proposed for amendment to provide that this section, which requires that knowledge of a criminal act be reported to the law enforcement authority, is not applicable to CSLRs.

N.J.A.C. 5:27-7.1, Housekeeping, is proposed for amendment to provide that this section, which requires weekly housekeeping, including a change of bed linens, is not applicable to CSLRs.

N.J.A.C. 5:27-7.2, Bedrooms, is proposed for amendment to provide that this section, which sets basic requirements for occupancy of a bedroom, is not applicable to CSLRs.

N.J.A.C. 5:27-7.3, Living and dining rooms, is proposed for amendment to provide that this section, which requires that living and dining rooms be communally shared spaces available to all residents, is not applicable to CSLRs.

N.J.A.C. 5:27-7.4, Outdoor facilities and recreation, is proposed for amendment to provide that this section, which requires that outdoor porches, decks, or patios be available to all residents and that residents be encouraged to use local recreational facilities, is not applicable to CSLRs.

N.J.A.C. 5:27-8.1, Resident records, is proposed for amendment to provide that this section, which requires that specific records be created and maintained, is not applicable to CSLRs.

N.J.A.C. 5:27-8.2, Financial records, is proposed for amendment to provide that this section, which requires that specific financial records be created and maintained of all funds received and expended, is not applicable to CSLRs.

N.J.A.C. 5:27-8.3, Additional requirements, is proposed for amendment to provide that this section, which provides enforcement authority to the Bureau should the financial records be found to be in disarray, is not applicable to CSLRs.

N.J.A.C. 5:27-8.4, Record retention, is proposed for amendment to provide that this section, which requires that required records be kept for five years, is not applicable to CSLRs.

N.J.A.C. 5:27-9.1, Applicability, is proposed for amendment to provide that this subchapter, which is applicable to Class B or Class C facilities, is not applicable to CSLRs.

N.J.A.C. 5:27-10.1, Applicability, is proposed for amendment to provide that this subchapter, which is applicable to Class B or Class C facilities, is not applicable to CSLRs.

N.J.A.C. 5:27-11.1, Applicability, is proposed for amendment to provide that this subchapter, which is applicable to Class B or Class C facilities, is not applicable to CSLRs.

N.J.A.C. 5:27-12.1, Purpose; delegation to Bureau, is proposed for amendment to provide that this subchapter, which assigns enforcement authority for the Boarding House Life Safety Improvement Act of 1981, is not applicable to CSLRs.

N.J.A.C. 5:27-13.1, Appropriate placement and care, is proposed for amendment to provide that this subchapter, which establishes standards for care of the residents, is applicable to Class B or Class C facilities, is not applicable to CSLRs.

N.J.A.C. 5:27-14.1, Carbon monoxide alarms, is proposed for amendment to provide that this section, which states that carbon monoxide alarms must be operable, is revised to provide for the installation in compliance with the Uniform Construction Code without specifically mandating in the paragraph "the approval of the Bureau."

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

The Department's rulemaking will have a positive social impact. A CSLR operates as a residential setting that serves 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. A residence will be limited to a maximum of 10 individuals, exclusive of an operator. A CSLR differs from a traditional Oxford House by providing a higher level of day-to-day oversight by the owner/operator. Such facilities, thus, fill an important niche and serve a laudable public purpose, and the establishment of CSLRs should, thus, be encouraged. At the same time, it is necessary to ensure that such facilities are operated in a manner that adequately protects the safety of residents.

The proposed amendments to the rooming and boarding house rules and the UCC rules are intended to accomplish these goals. All facilities operating as a CSLR, as defined in the rooming and boarding house rules, shall be required to register accordingly with the Department. At present, it is unclear how many such facilities are operating in New Jersey; these amendments will rectify that situation. Those facilities currently operating as CSLRs pursuant to an existing license shall be required to register as a Class F facility.

The requirement of registration will help ensure that CSLRs are properly identified and subject to Department inspection. And, the rules will mandate that such facilities meet basic safety requirements related to fire safety, including the installation of smoke alarms that comply with the Uniform Fire Code. The facilities shall also be required to provide sufficient means of egress and appropriate carbon monoxide alarms. However, CSLRs shall not be subject to other requirements of the rooming and boarding house rules that are not appropriate or necessary to these types of facilities.

Economic Impact

These proposed amendments are not expected to have an economic impact on the owners of CLSRs that require modest improvements to ensure fire safety. The fire safety elements that must be provided are in keeping with the Uniform Construction Code and Uniform Fire Code requirements for these uses. Providing smoke and carbon monoxide detectors and alarms add cost, but the cost is minimal and is justified by the resulting safety.

Federal Standards Statement

No Federal standards analysis is required because the amendments are not being proposed in order to implement, comply with, or participate in any program established under Federal law or under a

State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Department does not anticipate that the proposed amendments would result in the creation or loss of any jobs.

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

Some rooming houses exclusively serving persons recovering from drug or alcohol addiction may be small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These proposed amendments will impose reporting and recordkeeping requirements through the licensing process. The Department does not anticipate that these requirements will be burdensome, however. The licensing requirements are straightforward and are not extensive. Many of the facilities that will obtain licensure as cooperative sober living residences already exist without any licensure. These facilities already maintain business and occupancy records; some of those records that would be provided to the Department as documentation of the type and size of the facility being licensed. The recordkeeping that would be required is necessary for the uniform application of the rules as amended. There is no rationale for establishing disparate rules based on the size of the facility. The safety of the homes and the residents is required for all facilities equally.

Housing Affordability Impact Analysis

Inasmuch as the proposed amendments concern only standards for the care of residents of facilities exclusively serving persons recovering from drug or alcohol addiction, there is an extreme unlikelihood that they would have any effect upon housing production costs nor will they affect the affordability of housing in New Jersey.

Smart Growth Development Impact Analysis

The proposed amendments establish requirements for the licensure of rooming houses that provide for the care of residents of facilities exclusively serving persons recovering from drug or alcohol addiction. Therefore, it is not expected that the proposed amendments will have any impact upon housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

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

CHAPTER 23 UNIFORM CONSTRUCTION CODE

SUBCHAPTER 3. SUBCODES

5:23-3.11 Enforcement activities reserved to the Department

(a)-(j) (No change.)

(k) The Department shall be the sole enforcing agency for Cooperative Sober Living Residences licensed as Class F rooming houses pursuant to N.J.A.C. 5:27.

5:23-3.14 Building subcode

(a) (No change.)

(b) The following chapters of the building subcode [are] **shall be** modified as follows:

1.-2. (No change.)

3. Chapter 3, Use and Occupancy Classification, shall be amended as follows:

i.- xvi. (No change.)

xvii. New Section 310.7, Residential Group R-5, shall be inserted as follows: "Residential Group R-5 occupancies shall include all detached one-and two-family dwellings not more than three stories in height with a separate means of egress and multiple single-family townhouses not more than three stories in height with a separate means of egress designed and constructed in accordance with the International Residential Code. This Group shall also include:

Care facilities that provide accommodations for five or fewer persons receiving care;

Single residential occupancies, accessory to a dwelling unit, having no more than five roomers or lodgers. (Single occupancies, accessory to a dwelling unit, having more than five roomers or lodgers shall be classified as Group R-2 or I-2, as appropriate.);

Group Homes with [5] five or fewer occupants in accordance with Section 308.3.4;

Rooming houses with five or fewer residents[“”];

Cooperative sober living residences with not more than 10 occupants, excluding staff; each occupant, including staff, shall be capable of prompt self-evacuation.

4.-26. (No change.)

SUBCHAPTER 6. REHABILITATION SUBCODE

5:23-6.31 Change of use

(a)-(p) (No change)

(q) A change in the character of use of a single-family home to a cooperative sober living residence shall comply with this subchapter except as modified below. (Plan review—Building, Fire, Inspection—Building, Fire.)

1. Single-family dwellings of Group R-3 or R-5 that are being converted to a cooperative sober living residence shall meet the requirements of this section.

i. There shall be not more than 10 occupants, excluding staff; each occupant, including staff, shall be capable of prompt self-evacuation;

ii. Each home shall have smoke alarms that comply with the Uniform Fire Code (N.J.A.C. 5:70-4.19). Fire alarm systems installed in accordance with the One- and Two-Family Dwelling Subcode shall also be deemed to comply. Smoke alarms shall be located in each sleeping room, in the area outside separate sleeping rooms, and on each additional story of the dwelling, including basements and habitable attics;

iii. In the vicinity of each sleeping area, each home with a fuel burning appliance or with an attached garage shall have carbon-monoxide alarms that comply with the Uniform Fire Code (N.J.A.C. 5:70-4.19) or with N.J.A.C. 5:27-14.1; and

iv. Each bedroom shall have an operable window with a maximum sill height of 44 inches, a width of at least 20 inches, a height of at least 24 inches, and a minimum total area of 5.7 square feet measured from head to sill and from side to side.

CHAPTER 27

REGULATIONS GOVERNING ROOMING AND BOARDING HOUSES

SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

5:27-1.4 Continuation of lawful existing use

(a) 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.

(b) Any facility that is operating as a cooperative sober living residence, as that term is defined in these regulations, shall be required to obtain a Class F license in order to continue operating. This includes facilities that are currently operating pursuant to a different class of license previously issued pursuant to these regulations.

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 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. Single-family dwellings of Group R-3 or R-5 that are being converted to a cooperative sober living residence shall meet the requirements of this section;

ii. There shall be not more than 10 occupants, excluding staff; each occupant, including staff, shall be capable of prompt self-evacuation;

iii. Each home shall have smoke alarms that comply with the Uniform Fire Code (N.J.A.C. 5:70-4.19). Fire alarm systems installed in accordance with the One- and Two-Family Dwelling Subcode shall also be deemed to comply. Smoke alarms shall be located in each sleeping room, in the area outside separate sleeping rooms, and on each additional story of the dwelling, including basements and habitable attics;

iv. In the vicinity of each sleeping area, each home with a fuel burning appliance or with an attached garage shall have carbon-monoxide alarms that comply with the Uniform Fire Code (N.J.A.C. 5:70-4.19) or with the Regulations Governing Rooming and Boarding Houses, N.J.A.C. 5:27-14.1; and

v. Each bedroom shall have an operable window with a maximum sill height of 44 inches, a width of at least 20 inches, a height of at least 24 inches, and a minimum total area of 5.7 square feet measured from head to sill and from side to side.

(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.

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. However, a cooperative sober living residence shall comply with the standards established in (c)1 above.

(e)-(f) (No change.)

5:27-1.6 Licenses

(a) (No change.)

(b) There shall be [five] 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 these regulations. Cooperative sober living residences shall be subject to these regulations only as specifically noted below. Cooperative sober living residences shall be required to comply with all applicable statutory requirements.

(c) The annual fees for licenses shall be as follows:

1. Class A and Class F licenses: \$356.00 plus the amount determined in accordance with (c)6 below;

2.-7. (No change.)

(d)-(j) (No change.)

(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 or Class F (cooperative sober living residence) licenses and shall only be effective so long as there exists a training program funded by the Department of Human Services.

(l) (No change.)

(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)] (m) (No change in text.)

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. 5:27-3.2(d);
2. N.J.A.C. 5:27-3.3(a) through (c);
3. N.J.A.C. 5:27-3.4(c);
4. N.J.A.C. 5:27-3.5(a), with respect to certification by a medical professional, and 3.5(b) with regard to the responsibility for obtaining medical treatment;
5. N.J.A.C. 5:27-3.6;
6. N.J.A.C. 5:27-3.8(b);
7. N.J.A.C. 5:27-3.9(a)6 and 7, and (b), (c), and (d);
8. N.J.A.C. 5:27-4.1;
9. N.J.A.C. 5:27-4.3 through 4.9; and
10. N.J.A.C. 5:27-5.1 through 13.7.

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 residence” 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 these regulations, a cooperative sober living residence shall satisfy the following criteria:

1. Management by an entity or organization that provides an operator 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;
3. The requirement of the maintenance of an alcohol and drug free environment;
4. No provision of on-site counseling, therapy, clinical treatment, or alcohol and/or drug treatment by the licensee;
5. No provision of food, laundry, financial, or other personal services by the licensee;
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 3. RIGHTS OF RESIDENTS

5:27-3.2 House rules

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

(d) [Any] **In other than Class F facilities, cooperative sober living residences, any rule determined by the Bureau to be unreasonable shall not be enforced and shall be deleted from the house rules.**

5:27-3.3 Harassment; fraud; eviction without due cause

(a) [No] **In other than Class F facilities, cooperative sober living residences, no licensee or employee or agent of a licensee shall engage in any conduct or permit residents or others to engage in any conduct, which] that is unreasonable under the circumstances and [which] that tends to cause annoyance to any resident.**

(b) [No] **In other than Class F facilities, cooperative sober living residences, no licensee or employee or agent of a licensee shall, in the course of his or her dealings with residents or with their property, engage in any conduct evidencing a lack of probity, integrity, or trustworthiness.**

(c) Unless otherwise directed or authorized by the Bureau, no licensee shall cause any resident to be evicted from any rooming or boarding house except for good cause, as defined in N.J.S.A. 2A:18-61.1 et seq.,

and except in accordance with the procedural requirements of N.J.S.A. 2A:18-61.1 et seq.

1. A licensee may bring to the attention of the Bureau any situation in which the licensee believes that a directive from the Bureau, pursuant to this subsection, is necessary in order to facilitate appropriate placement of a resident, in accordance with N.J.A.C. 5:27-3.5(b), and to protect the right of all residents to a safe, healthful, and decent living environment, in accordance with N.J.A.C. 5:27-3.1(a)12. **This shall not apply to Class F licensed facilities, cooperative sober living residences.**

2. **The references to N.J.S.A. 2A:18-61.1 et seq., in (c) above notwithstanding, a resident of a cooperative sober living residence may be evicted from the residence by determination of the operator or vote of the residents depending on the procedure set forth in the house rules of the cooperative sober living residence regarding a violation of those rules, including, but not limited to, prohibitions against the possession or use of alcohol or drugs.**

5:27-3.4 Access to agency representatives

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

(c) A licensee shall give notice to the [the] county welfare board at least three working days prior to instituting any action to evict any resident or to any transfer of a resident initiated by a licensee, unless the county welfare board allows shorter notice.

1. **The provision in (c) above shall not apply to a cooperative sober living residence licensed as a Class F facility regarding a violation of house rules that require residents to be in recovery from, and not in possession or under the influence of, drugs or alcohol.**

(d) (No change.)

5:27-3.5 Appropriate placement

(a) No licensee shall accept as a resident in a boarding house a person who is not capable of self-evacuation with or without assistive devices, who is not certified by a licensed physician, or by a licensed nurse practitioner or licensed clinical nurse specialist legally authorized to issue such certification, to be free of communicable diseases and not in need of nursing care or who requires services not available in such boarding house.

1. **The requirement for certification from a licensed medical professional shall not apply to residents of a cooperative sober living residence licensed as a Class F facility.**

(b) In the event that a resident ceases to be capable of self-evacuation, acquires a communicable disease, or requires nursing care, supervision of self-administration of medication, or services not available in the rooming or boarding house, it shall be the responsibility of the licensee to so notify the county welfare board forthwith so that the resident may be transferred to a facility suitable to his or her needs.

1. **The requirement that the licensee notify the county welfare board shall not apply to cooperative sober living residences. The residents of cooperative sober living residences shall be responsible for contacting their primary care physician or health care professional.**

5:27-3.6 Independence and community interaction

[A] **In other than Class F facilities, cooperative sober living residences, a licensee shall take such affirmative action as may be necessary to assist each resident in living with as much independence and autonomy and with as high a degree of interaction with the community as may be reasonably possible.**

5:27-3.8 Employees

(a) (No change.)

(b) [Every] **In other than Class F facilities, cooperative sober living residences, every licensee shall have on duty at all times as many employees as may be needed to properly safeguard the health, safety, and welfare of the residents, as required by these regulations. Such employees shall be adequately trained and supervised.**

5:27-3.9 Disclosure of licensee identity

(a) A statement containing the following information shall be posted in a prominent place in every rooming and boarding house, **except that**

only (a)1 through 5 below shall be required in Class F facilities, cooperative sober living residences:

1.-7. (No change.)

(b) [Copies] **In other than Class F facilities, cooperative sober living residences, copies** of the statement required pursuant to (a) above shall be given to each resident at the commencement of residence and provided to the Bureau[,] and to the county welfare board, marked with proof of filing in the office of the clerk of the municipality in which the rooming or boarding house is located.

(c) [Revised] **In other than Class F facilities, cooperative sober living residences, revised** statements shall be furnished within seven days of any change in the information required to be set forth.

(d) [All] **In other than Class F facilities, cooperative sober living residences, all** statements and revised statements furnished pursuant hereto shall be signed by the owner or the duly authorized representative of the owner and shall stipulate the date of preparation.

5:27-3.12 Limited tenure hotel guests

[In] **In other than Class F facilities, cooperative sober living residences, in** the event that a hotel, motel, or established guest house is classified as a rooming or boarding house for purposes of the Act by reason of having fewer than 85 percent of the dwelling units offered for limited tenure only, [such] a resident occupying such a unit on a limited tenure basis shall have the legal rights of a hotel guest and the rights set forth in section 3 of [P.L.1979, c.500] **P.L. 1979, c. 500** (N.J.S.A. 55:13B-19) but shall not have any of the additional rights of residents established by this subchapter.

SUBCHAPTER 4. GENERAL BUILDING REQUIREMENTS

5:27-4.1 Water supply

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(c) as **(b)-(d)** (No change in text.)

5:27-4.2 Facilities

(a) (No change.)

(b) Every cooperative sober living residence shall contain a full kitchen.

Recodify existing (b)-(f) as **(c)-(g)** (No change in text.)

5:27-4.3 Garbage and rubbish storage

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(b) as **(b)-(c)** (No change in text.)

5:27-4.4 Lighting and electrical service

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(f) as **(b)-(g)** (No change in text.)

5:27-4.5 Ventilation

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(b) as **(b)-(c)** (No change in text.)

5:27-4.6 Heating

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(c) as **(b)-(d)** (No change in text.)

5:27-4.7 Maintenance

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(n) as **(b)-(o)** (No change in text.)

5:27-4.8 Use and occupancy of space

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(d) as **(b)-(e)** (No change in text.)

5:27-4.9 Matters not covered

[Any] **In other than Class F facilities, cooperative sober living residences, any** matter or requirement essential for the structural safety

of a rooming or boarding house or essential for the safety or health of the residents thereof or of the public, and which is not covered by the provisions of [these regulations] **this chapter**, shall be the subject of determination by the Bureau in specific cases.

SUBCHAPTER 6. SECURITY

5:27-6.1 Control of access

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(i) as **(b)-(j)** (No change in text.)

5:27-6.2 Protection of valuables

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(b) as **(b)-(c)** (No change in text.)

5:27-6.3 Criminal acts

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(c) as **(b)-(d)** (No change in text.)

SUBCHAPTER 7. RESIDENTS' COMFORT

5:27-7.1 Housekeeping

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(c) as **(b)-(d)** (No change in text.)

5:27-7.2 Bedrooms

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(d) as **(b)-(e)** (No change in text.)

5:27-7.3 Living and dining rooms

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(e) as **(b)-(f)** (No change in text.)

5:27-7.4 Outdoor facilities and recreation

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(c) as **(b)-(d)** (No change in text.)

SUBCHAPTER 8. MAINTENANCE OF RECORDS

5:27-8.1 Resident records

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(e) as **(b)-(f)** (No change in text.)

5:27-8.2 Financial records

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(b) as **(b)-(c)** (No change in text.)

5:27-8.3 Additional requirements

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(b) as **(b)-(c)** (No change in text.)

5:27-8.4 Record retention

(a) This section shall not apply to cooperative sober living residences.

Recodify existing (a)-(c) as **(b)-(d)** (No change in text.)

SUBCHAPTER 9. FOOD AND LAUNDRY SERVICES

5:27-9.1 Applicability

(a) This subchapter shall not apply to cooperative sober living residences.

Recodify existing (a)-(b) as **(b)-(c)** (No change in text.)

SUBCHAPTER 10. OTHER PERSONAL SERVICES

5:27-10.1 Applicability

(a) This subchapter shall not apply to cooperative sober living residences.

Recodify existing (a)-(b) as (b)-(c) (No change in text.)

SUBCHAPTER 11. FINANCIAL SERVICES

5:27-11.1 Applicability

(a) This subchapter shall not apply to cooperative sober living residences.

Recodify existing (a)-(b) as (b)-(c) (No change in text.)

SUBCHAPTER 12. FIRE SAFETY LOANS

5:27-12.1 Purpose; delegation to the Bureau

(a) This subchapter shall not apply to cooperative sober living residences.

Recodify existing (a)-(b) as (b)-(c) (No change in text.)

SUBCHAPTER 13. ADDITIONAL RULES REGARDING PERSONS WITH ALZHEIMER'S DISEASE OR REALTED DISORDERS OR OTHER FORMS OF DEMENTIA

5:27-13.1 Appropriate placement and care

(a) This subchapter shall not apply to cooperative sober living residences.

Recodify existing (a)-(i) as (b)-(j) (No change in text.)

SUBCHAPTER 14. CARBON MONOXIDE ALARMS

5:27-14.1 Carbon monoxide alarms

(a) Carbon monoxide alarms shall be installed and maintained in full operating condition in the following locations:

1. (No change.)

2. As an alternative to the requirements above, carbon monoxide alarms may be installed in the locations specified in the Uniform Construction Code (N.J.A.C. 5:23)[-3.20) with the approval of the Bureau].

(b)-(c) (No change.)

(a)

DIVISION OF FIRE SAFETY

Uniform Fire Code

Proposed Amendment: N.J.A.C. 5:70-2.9

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-198, 52:27D-198.2, and 52:27D-201.

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

Proposal Number: PRN 2017-082.

Submit written comments by August 4, 2017, to:

Geraldine Callahan
Department of Community Affairs
PO Box 800
Trenton, New Jersey 08625
E-mail: Geraldine.Callahan@dca.nj.gov
Fax Number: (609) 984-6696

The agency proposal follows:

Summary

The Division of Fire Safety proposes the following amendments to the Uniform Fire Code (UFC):

To fund its fire safety programs, the Department of Community Affairs (Department) proposes to increase most fees charged by the Division of Fire Safety by 29 percent. Life hazards uses (LHUs) are

defined at N.J.A.C. 5:70-2.4 through 2.4D and are subject to annual, semiannual, or quarterly Uniform Fire Code inspections, as well as to annual LHU registration fees. The Division of Fire Safety has not increased its fees since 2003. The increased fees are necessary to cover increased costs as evidenced partially by the rate of inflation since the last fee increase in 2003. Currently, the Department rebates a percentage of collected LHU fees to local agencies that perform inspections on behalf of the Commissioner, with the local agencies receiving 65 percent and the Department retaining 35 percent.

In addition to the proposed increase in LHU fees at N.J.A.C. 5:70-2.9(a) and (b), the Department proposes to increase permit fees (see N.J.A.C. 5:70-2.9(c)), the application fees for certificates of smoke detector and carbon monoxide alarm compliance (CSDCMAC) in one- and two-family dwellings upon sale or change of occupancy (see N.J.A.C. 5:70-2.9(d)), and application fees for carnival registration certificates (see N.J.A.C. 5:70-2.9(e)). These proposed increases would also be at the rate of 29 percent over the current fees. Notwithstanding these proposed increases, subsection (f) authorizes a municipality having a local enforcing agency to establish by ordinance a different permit and certificate of smoke detector compliance fee schedule based on the actual cost anticipated or incurred for the enforcement of these Code provisions; provided, however, that the permit fee for the temporary use of a commercial farm building as a place of public assembly shall not exceed \$97.00.

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

The proposed fee increases are necessary to allow Uniform Fire Safety Act programs to continue to be self-supporting as intended by the Legislature. All of these programs are necessary for the prevention of fire and the protection of public health and safety, and must be properly funded if they are to operate effectively.

Economic Impact

The proposed fee increases would generate an increase in Division of Fire Safety and local enforcing agency revenues. In the short run, the Department expects approximately an annual 29 percent increase in total fees collected. Sixty-five percent of those funds would be rebated to county, municipal, and fire district Uniform Fire Code local enforcing agencies in accordance with statute and rule. The remaining 35 percent would be used to fund the State's administration and enforcement of the Uniform Fire Safety Act.

Businesses and individuals would have to pay these increased fees. The range of fees would increase from \$84.00 through \$3,706 to \$108.00 through \$4,781 for LHU owners, from \$42.00 through \$497.00 to \$54.00 through \$641.00 for permit applicants, from \$35.00 through \$125.00 to \$45.00 through \$161.00 for certificates of smoke detector and carbon monoxide compliance, and from \$60.00 through \$120.00 to \$77.00 through \$155.00 for carnival registrations. Subsection (f) authorizes a municipality having a local enforcing agency to establish by ordinance a different permit and certificate of smoke detector compliance fee schedule based on the actual cost anticipated or incurred for the enforcement of these Code provisions; provided, however, that the permit fee for the temporary use of a commercial farm building as a place of public assembly shall not exceed \$97.00. It is unknown to the Department how many municipalities have passed or will pass ordinances in this regard, and whether the Statewide schedule of fee increases would govern most municipalities.

Federal Standards Statement

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

Jobs Impact

The Department does not anticipate that any jobs would be created or lost as a result of the proposed amendments.