

**PROMULGATION OF RULE 51-01 RELATING TO
CLASSIFICATION OF STUDENT DORMITORY.**

Pursuant to Section 1043 of the New York City Charter, this rule was previously published in the City Record on March 3, 2005, and a public hearing was held on April 4, 2005. The Department of Buildings hereby adopts the following rule relating to classification of student dormitory

Dated: May 16, 2005
New York, New York



Patricia J. Lancaster, F.A.I.A.
Commissioner

Section 1. Title 1 of the Rules of the City of New York is amended by adding a new chapter 51 to read as follows:

New material is indicated by underlining.

Chapter 51

Dormitories

§51-01 Classification of Student Dormitory

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(a) Applicability. Student dormitory is classified under the Zoning Resolution of the City of New York as a Use Group 3, community facility use. The Zoning Resolution allows residences of all kinds, including residences for students, under a Use Group 2 classification. This rule sets forth the criteria the Department shall use to designate a Class A building or part of a building as a Use Group 3 student dormitory. An owner that seeks to classify a rooming unit as a dormitory shall be subject to the provisions set forth in 1 RCNY 15-04(e).

(b) Definition. A student dormitory is a building or part of a building that is (1) operated by, or on behalf of, institution(s) that provide full-time day instruction and a course of study that may be pursued in fulfillment of the requirements of Sections 3204, 3205 and 3210 of the New York State Education Law, or post-secondary institution(s) authorized to grant a degree by the Regents of the University of the State of New York; (2) to house students enrolled at such institution(s). A student dormitory shall not be a single dwelling unit.

(c) Required documentation. No permit shall be issued to create a student dormitory unless the following documentation has been submitted to the Department:

(1) Proof of ownership or control.

a. Copies of documents demonstrating that the owner of the building or part of the building for which such permit is sought is an educational institution that provides a course of study that meets the requirements of subdivision (b) of this section, or

b. Copies of a lease of the building or part of the building for a minimum ten year term by an educational institution that meets the requirements of subdivision (b) of this section, or

c. Copies of documents evidencing (i) the establishment of a non-profit entity, all of whose members, directors, trustees, or other individuals upon whom is conferred the management of the entity, are representatives of participating educational institutions that meet the requirements of subdivision (b) of this section to provide dormitory housing for students of such participating educational institutions; and

(ii) ownership or control of the building or part of the building by such non-profit entity for such purpose in the form of a deed or lease for a minimum ten-year term.

(2) Restrictive Declaration. Proof of recording of a restrictive declaration executed by Owner of the real property and any other party who holds an enforceable recorded interest that could result in such holder obtaining possession of the building or part of the building designated as a student dormitory. The agreement shall be binding upon all such parties' heirs, legal representatives, successors and assigns. The Declaration shall be in a form acceptable to the Commissioner and shall include the following terms:

- a. The facility shall only be used as a student dormitory, as defined in this chapter, or other Use Group 3 use.
- b. Under no circumstances shall the units in a student dormitory be offered for sale pursuant to a cooperative or condominium plan.
- c. Owner agrees to forego defenses to the enforcement of the provisions of this section.
- d. Owner agrees to prominently display the name(s) of the school(s) operating the student dormitory on the exterior of building.

(d) Term of Certificate of Occupancy. Where the student dormitory is not owned by an educational institution, but rather is leased, no certificate of occupancy shall be issued to the building for a term that exceeds the duration of the lease.

(e) Effect on other codes. The designation of a building or a part of a building as a student dormitory shall not by itself be determinative as to the occupancy, construction, or multiple dwelling classifications as determined pursuant to the Building Code, Housing Maintenance Code or Multiple Dwelling Law.

(f) If any clause, sentence, paragraph, subdivision, section, or part of this rule shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

STATEMENT OF BASIS AND PURPOSE

The Department is promulgating a new rule, 1 Rules of the City of New York Section 51-01, to establish criteria for classifying a Class A facility as a "student dormitory" under the Zoning Resolution of the City of New York. The rule recognizes that a "student dormitory" is a Use Group 3, community facility use, that obtains bulk benefits not available for other residential uses that may appear identical, but are classified as Use Group 2. The rule is thus intended to give meaning to the phrase "student dormitory" separate and distinct from other residential uses and is intended to codify the Department's current practice of requiring a "dormitory" to have an

institutional nexus to a school(s). The rule also addresses the difficulty the Department has experienced in enforcing compliance with certificates of occupancy issued for Use Group 3 dormitories by identifying documentation that must be presented to the Department to distinguish a “student dormitory” use and to help prevent its illegal conversion to a Use Group 2 housing type.