

BOARDING HOUSES FACT SHEET

This fact sheet provides a useful summary of the key controls for residents, owners, managers and lodgers and outlines their rights and responsibilities to comply with laws that aim to protect public health, safety, and community concerns when operating a Boarding House, or living in a Share House Accommodation. City of Ryde Council has recognised a need to provide supporting documentation to clarify controls which relate to defining and regulating Boarding Houses to ensure appropriate standards are met. Council has adopted a policy which applies to all boarding houses in the City of Ryde Local Government Area.

The Boarding Houses Policy commenced 20 October 2013 and is made up of two main parts:

- *City of Ryde Enforcement Policy – Boarding Houses*
- *City of Ryde Development Control Plan (DCP) – Boarding Houses (Part 3.8 of DCP 2010)*

Please note that the following information is a summary only and should be read in conjunction with the relevant planning controls, policies and legislation. More help with all the requirements can be provided through Council's Customer Service Centre.

What is the difference between a Boarding House and a Share House?

Council is supportive of appropriate shared housing up to 4 bedrooms in size but does not support unauthorised building works or unauthorised boarding houses. Under Council's *Enforcement Policy – Boarding Houses*, a distinction is made between shared accommodation and boarding houses for the purposes of enforcement to make sure appropriate safety, health, amenity and other environmental and living standards are met.

Boarding Houses

A Boarding House is defined in general terms, as a house where 5 individual rooms are let to 5 or more lodgers (excluding managers/owners or their relatives living on site). It does not include backpackers' accommodation, a group home, hotel or motel, seniors housing or serviced apartments.

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Managers/Owners and people living in Boarding Houses must adhere to the *Boarding Houses Act 2012*. Anyone boarding in registered Boarding Houses must have an "Occupancy Agreement" with the Manager/Owner. A Residential Tenancy Agreement (Lease) under the *Residential Tenancies Act* does not apply to boarders in Boarding Houses.

Share Houses

A Share House is described as a group of unrelated people who share a dwelling up to a maximum of 4 bedrooms (with no multiple beds in each room). Granny flats (secondary dwellings) can be occupied by tenants or boarders and are included in the calculation of number of bedrooms. For example, if the house has 3 approved bedrooms and there is also granny flat which has 1 approved bedroom, the total number of bedrooms equals 4.

In Share Houses a Residential Tenancy Agreement (made under the *Residential Tenancies Act 2010*) or 'Lease' is usually in place, but not all tenants are necessarily on the lease.

What are the requirements for a Boarding House?

To operate a legal Boarding House as defined above within the City of Ryde, the following criteria must be met:

1) Development Consent

The development application must be submitted for consideration by Council. The development must be designed to meet requirements including Council's Boarding House Development Control Plan, and the State Environmental Planning Policy (Affordable Rental Housing) 2009.

2) Plan of Management

An approved Plan of Management must be provided to the managers and on display and available at all times to lodgers. The plan outlines ongoing management that ensures safety and wellbeing of the lodgers, how operations minimise impacts on surrounding neighbours, and assists Council in monitoring the Boarding House.

3) Registered Boarding House

Owners must register Boarding Houses (where 5 or more residents are paying for lodgings) for a one-off fee of \$100 with the NSW Department of Fair Trading within 28 Days of commencing operations. The Boarding House address and owner are listed on a publically available Fair Trading register.

Inspections by Council

Managers/Owners must arrange inspections twice a year by Council for a fee as outlined in Council's Annual Fees and Charges Schedules. These inspections are for Council to review and audit the approved Boarding House to ensure it is managed according to the Development Consent and the Plan of Management.

Where are Boarding Houses permitted?

Boarding Houses are permitted only with development consent in the City of Ryde in the following zones (refer Ryde *Local Environmental Plan*):

- R1 – General Residential
- R2 – Low Density Residential
- R3 – Medium Density Residential
- R4 – High Density Residential
- B1 – Neighbourhood Centre
- B4 – Mixed Use
- B6 – Enterprise Corridor.

How to seek Development Consent to operate a Boarding House?

Property owners interested in converting an existing dwelling into, or seeking approval for, a Boarding House are encouraged to seek advice from Council's pre-lodgement service. Council's Building and Development Advisory Service in the Ryde Planning and Business Centre can assist with any queries and provide written feedback on the merit of a development application. Go to: www.ryde.nsw.gov.au/rpbc to make a booking or call **9952 8222**.

If your building or property is operating without consent as a Boarding House, it is a requirement of City of Ryde Council that it must be converted back to its original state before a development application will be considered.

Relevant information to consult when making your application includes:

- *State Environment Planning Policy (Affordable Rental Housing) 2009*
- *City of Ryde Development Control Plan 2010 – Part 3.8 Boarding Houses*
- *Ryde Local Environmental Plan 2010*
- City of Ryde Website - Fees and Charges Schedules
- NSW Department of Fair Trading Website - Boarding Houses.

Supporting documentation required with your application includes:

- A Building Code of Australia Compliance Assessment Report
- An Access report
- Statement of Environmental Effects
- Plan of Management
- Waste Management Plan.

What is an illegal Boarding House?

A building operating as a boarding house will be considered **illegal** if:

- It does not have prior development consent from Council
- It is not registered
- Is a house with 5 or more lodgers with no development consent and/or registered
- Is a house with 4 or less bedrooms and more lodgers than bedrooms
- It has multiple beds in bedrooms
- Illegal building works have been carried out
- Breaches the development consent and Plan of Management
- It does not meet fire safety requirements.

How to report a suspected illegal Boarding House

If you suspect that a building is unlawfully operating as a boarding house as outlined above you may request Council to investigate on 9952 8222. You are required to provide your contact details. This information is kept confidential. It is Council policy not to investigate anonymous complaints.

If Council receives a request to investigate the following process occurs.

Step 1 Review (Investigation Initiation)

Council's Health and Building Unit will:

- Check if the building is within an approved zone and if it is subject to conditions such as heritage, flood prone, etc
- Contact the customer who made the request for further details

- Review previous development applications and floor plans
- Review any previous inspection reports
- Review aerial photographs
- Look up the NSW Department of Fair Trading Boarding House Register.

Step 2 Site Inspection

If the review suggests the building may in fact be illegal, Council will:

- Provide written notice to owners or lodgers of Council's intent to inspect the building
- Inspect the building. If no one is home a business card will be left and will be followed by another letter seeking access
- Obtain a search warrant, in accordance with the Environmental Planning and Assessment Act 1979 and the Boarding Houses Act 2012 if there is no response or if access is denied.

Step 3 Investigation

When access is provided, Council staff will interview the lodgers, owners and nearby residents. During the investigation of the building and property staff may collect photographic evidence and will be looking for:

- Any unauthorised building works
- Illegal bedrooms, or multiple beds in rooms
- Conversions of garages to bedrooms
- Numbers displayed on bedroom doors
- Number of kitchens and bathrooms, laundries
- House Rules on display
- Smoke alarms installed and working
- Emergency evacuation plans displayed
- Availability and management of bins/waste
- Clean and tidy condition of the property
- General amenity and safety of house eg. No exposed electrical wires
- Availability of approved car spaces
- Swimming pool fencing, where applicable.

Step 4 Enforcement Action

If evidence finds a building is operating as an illegal boarding house, Council can:

1) Serve an Order on the owner of the property

An Order is a written direction to do something. Council issues a Notice of Intention prior to serving an Order to allow the owner the opportunity to address the terms and timeframe of the Order. A common Order could be demolish illegal walls or reinstate to its original state, cease the unauthorised use as a boarding house, upgrade fire safety, treat pool water or clear overgrown vegetation.

2) Issue a Fine (Penalty Infringement Notice)

Fines are issued for the erection of illegal building works and for failing to comply with a Council Order. Multiple fines will be issued where no action is taken or the owner is slow to act.

Penalty Infringement Notice	For an individual	For a Corporation
Carrying out illegal works	\$750	\$1500
Not complying with an Order	\$1500	\$3000
Not registering a Boarding House	\$4125	\$8250

3) Commence Legal proceedings

Where there is a lack of cooperation from the owner to meet the terms of the Order, Council will commence legal proceedings to remedy the breach. In circumstances where Council feel the safety of the lodgers may be at risk a Court Attendance Notice (CAN) will be issued to bypass Orders to achieve immediate remedy.

CONTACT US

Customer Service Centre

Civic Centre, 1 Devlin Street, Ryde NSW
 Monday to Friday, 8.30am-4.30pm
 Phone 9952 8222
 Fax 9952 8070
 TTY 9952 8470
 Email cityofryde@ryde.nsw.gov.au

Website





www.ryde.nsw.gov.au

Postal Address

Locked Bag 2069, North Ryde NSW 1670

Ryde Planning and Business Centre

1 Pope Street, Ryde NSW 2112
 Phone 9952 8222
 Monday to Friday, 9.00am-5.00pm

-  [Twitter.com/CityofRyde](https://twitter.com/CityofRyde)
-  [Facebook.com/CityofRyde](https://facebook.com/CityofRyde)
-  [Instagram.com/CityofRyde](https://instagram.com/CityofRyde)
-  [Pinterest.com/CityofRyde](https://pinterest.com/CityofRyde)
-  YouTube.com/CityofRydeCouncil
-  www.ryde.nsw.gov.au/eNews

TRANSLATION SERVICES

ENGLISH

To understand this document ring the Translating and Interpreting Service on 131 450 and ask an interpreter to contact Council for you on 9952 8222.

CHINESE

欲了解本文件內容，請致電翻譯和傳譯服務，電話：131 450，要求傳譯員為您致電 9952 8222，聯絡協會

KOREAN

본 문서에 대한 이해를 위해 131 450번 통번역서비스(Translating and Interpreting Service) 센터에 전화하셔서 통역사에게 귀하를 대신해 9952 8222번 의회에 전화를 하여 대화 내용을 통역해 달라고 요청하십시오

VIETNAMESE

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