

Amended by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989).

See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Deleted "fire prevention" in (a); added (c).

Amended by R.1991 d.288, effective June 17, 1991.

See: 23 N.J.R. 932(a), 23 N.J.R. 1925(a).

Requirement to keep proof of compliance on premises added at (c)4.

Administrative Correction.

See: 25 N.J.R. 5928(b).

Administrative correction.

See: 46 N.J.R. 74(c).

#### Case Notes

Communal living arrangement of four elderly women qualified as boarding house subject to licensing regulations. In the Matter of Frank Gialanella, 96 N.J.A.R.2d (CAF) 40.

Allowing residents, including a high percentage of mental patients, to remain in hazardous living quarters warranted imposition of civil penalty against rooming house. *Community Affairs v. Sea Phoenix*, 95 N.J.A.R.2d (CAF) 21.

Unlicensed premises operated as a boarding house; closure and a fine. *Levin v. Bureau of Rooming and Boarding House Standards*, 92 N.J.A.R.2d (CAF) 12.

Multiple violations of fire safety regulations as basis for order to vacate. *Dept. of Community Affairs v. St. Jude's Boarding Home*, 2 N.J.A.R. 432 (1981).

#### 5:27-1.4 Continuation of lawful existing use

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.

Administrative Correction.

See: 25 N.J.R. 5928(b).

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

(a) Except as otherwise provided in these rules with regard to required alterations, no rooming or boarding house may be constructed or altered except in accordance with the Uniform Construction Code. Requirements of any adopted subcode of the Uniform Construction Code that exceed requirements of this chapter shall be inapplicable to required alterations unless the Bureau shall otherwise direct.

(b) No building which is not lawfully occupied and used as a rooming or boarding house on August 27, 1980 shall be used as a rooming or boarding house unless the owner and any operator thereof has been licensed by the Bureau and unless a certificate of occupancy allowing use as a rooming or boarding house, as the case may be, for the number of residents accommodated or intended to be accommodated has been obtained from the construction official having jurisdiction, if a certificate of occupancy is required as a result of change of use group or as a result of construction or alteration.

(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.

(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.

(e) The construction official having jurisdiction in each municipality is hereby designated as an agent of the Bureau for the purpose of inspecting newly constructed, converted or altered rooming and boarding houses in order to enforce the provisions of this chapter dealing with the construction of the building. Copies of all permits and certificates of occupancy issued by the construction official for rooming and boarding houses shall be provided by him or her to the Bureau.

(f) Nothing in this chapter shall be construed to impair the power of the construction official to enforce all provisions of the Uniform Construction Code pertaining to rooming and boarding houses, including, without limitation, provisions concerning hazardous conditions in existing buildings.

Amended by R.1983 d.342, effective September 6, 1983.

See: 15 N.J.R. 821(a), 15 N.J.R. 1468(b).

In (c), deleted exemption of certificate of occupancy for conversion from multiple dwelling to rooming or boarding house occupied by six and not more than 20 residents and conversion from hotel to rooming house occupied by more than 20 residents.

Amended by R.1985 d.16, effective February 4, 1985.

See: 16 N.J.R. 3073(b), 17 N.J.R. 275(a).

(a) added text: "except that alterations . . . shall otherwise direct".

Amended by R.1995 d.280, effective May 12, 1995.

See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

#### Case Notes

Initial Decision (2010 N.J. AGEN LEXIS 12) adopted, which found that an owner was properly penalized for failing to update an R-2 Use Group certificate of occupancy to reflect that the number of residents had increased to six. *A.L.L.Y. Housing Coop. v. Bureau of Rooming & Boarding House Standards*, OAL Dkt. No. CAF 10883-09, 2010 N.J. AGEN LEXIS 823, Final Decision (February 25, 2010).

Initial Decision (2008 N.J. AGEN LEXIS 183) reduced penalties for operating an unlicensed rooming house from \$20,000 to \$1,250, where hotel had been exempted from rooming house regulations pursuant to an internal, unwritten departmental policy, and the Department of Community Affairs revoked the exemption without notice and without promulgating objective standards as to what constituted a "poor condition." Commissioner modified the ALJ's decision to provide that the penalty reduction was contingent on the operators timely filing an application for a rooming house license and abating all violations. *Kennedy v. Bureau of Rooming & Boarding House Standards*, OAL Dkt. No. CAF 40-07, 2008 N.J. AGEN LEXIS 277, Final Decision (April 14, 2008).

#### 5:27-1.6 Licenses

(a) No person shall own or operate a rooming or boarding house without a license from the Bureau allowing such person to own or operate a rooming or boarding house providing the services therein provided and housing the number of residents therein housed.

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

1. Class A license: Valid for rooming houses only;
2. Class B license: Valid only for rooming houses and for boarding houses offering no financial services and no personal services other than meals and other food services and laundry;
3. Class C license: Valid for all rooming and boarding houses;
4. Class D license: Valid only for facilities operated under contract with an agency of the State of New Jersey; and
5. Class E license: Valid only for alcohol and drug rehabilitation facilities owned and operated by non-profit religious organizations.

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

1. Class A license: \$320.00 plus the amount determined in accordance with (c)6 below;
2. Class B license: \$360.00 plus the amount determined in accordance with (c)6 below;
3. Class C or Class D license: \$400.00 plus the amount determined in accordance with (c)6 below;
4. Class E license: \$300.00;
5. Any license, other than Class E, issued to a corporation, partnership or association: \$600.00;
6. Except as otherwise provided in (c)7 below, the fee for any license, other than a Class E license, shall also include the following additional fee if the facility (or facilities) is (or are) occupied by, or intended to be occupied by, six or more residents:
  - i. Six - 10 residents—\$50.00;
  - ii. Eleven - 15 residents \$100.00;
  - iii. Sixteen - 30 residents \$140.00;
  - iv. Thirty-one or more residents: \$200.00.
7. The total fee for any license shall in no case exceed \$600.00.

(d) The licensee shall specify whether the licensee is licensed as an operator or as an owner and shall identify the property or properties, including occupied accessory buildings, operated or owned by the licensee. A separate endorsement shall be required for each building occupied by residents which is not an accessory building.

(e) Except as otherwise provided in the Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.), no license shall be issued to any person who has at any time been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, crimes against the person or other like offense or offenses, or to any partnership of which such person is a member, or to

any association or corporation of which said person is an officer, director or employee or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly.

(f) No license shall be issued to any person if the Bureau determines that the issuance of a license to such person would be contrary to the best interests of the residents of any rooming or boarding house or of the public generally.

(g) No owner shall employ any person not licensed as an operator to operate any rooming or boarding house. A separate operator shall be required for every building occupied by residents other than an accessory building.

(h) No license shall be issued to any person who has previously been denied a license by either the Department of Health or the Department of Human Services for reason of personal unfitness or who has had a license revoked by either the Department of Health or the Department of Human Services.

(i) No license shall be issued to, or shall continue to be held by, any person, who, in a final adjudication by a court of record or by the Division on Civil Rights, has been found to have discriminated against any resident or prospective resident on the basis of race, color, creed, national origin or ancestry.

(j) A Class D license shall specify the type of facility for which it is issued. Except as otherwise provided in this chapter, any service which may be provided under a Class C license may be provided under a Class D license and any facility operated under a Class D license shall conform to all standards that would be applicable to the facility were it operated under a Class C license.

(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 and shall only be effective so long as there exists a training program funded by the Department of Human Services.

(l) No license to operate a rooming or boarding house shall be issued by the Bureau prior to receipt from the local enforcing agency responsible for enforcement of the Uniform Fire Code in the municipality in which the rooming or boarding house to be operated by the applicant is located of certification that the building does not have any outstanding violations of the Uniform Fire Code N.J.A.C. 5:70.

(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) No person shall own or operate a rooming or boarding house that offers or advertises or holds itself out as offering personal care services to residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, hold out a building as available for rooming or boarding house occupancy for such residents, or apply for any necessary construction or planning approvals related to the establishment of a rooming or boarding house for such residents without first having a Class C or Class D license with an endorsement from the Bureau allowing such services to be offered and provided at the facility.

As amended, R.1981 d.359, effective October 8, 1981.  
See: 13 N.J.R. 382(a), 13 N.J.R. 393(a), 13 N.J.R. 704(c).

(e) Substantially amended.

As amended, R.1981 d.435, effective November 16, 1981.  
See: 13 N.J.R. 562(b), 13 N.J.R. 842(c).

(h) and (i) added.

As amended, R.1982 d.422, effective December 6, 1982.  
See: 14 N.J.R. 1075(a), 14 N.J.R. 1365(a).

Added occupied accessory buildings and last sentence to (d). Added last sentence to (g).

As amended, R.1983 d.60, effective March 7, 1983.

See: 15 N.J.R. 7(a), 15 N.J.R. 330(c).

Class A license increased from \$75.00 to \$80.00 and added plus amounts of (c)5; Class B license added plus amounts of (c)5; Class license reduced from \$120.00 to \$100.00 and added plus amounts of (c)5; added new (c)5 and 6.

As amended, R.1984 d.154, effective May 7, 1984.

See: 16 N.J.R. 181(a), 16 N.J.R. 1071(a).

(b)4, "Class D license" added.

(j) added.

Amended by R.1985 d.300, effective June 17, 1985.

See: 17 N.J.R. 777(a), 17 N.J.R. 1543(b).

(k) added.

Amended by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989).

See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).

Added (l).

Amended by R.1990 d.274, effective June 4, 1990.

See: 22 N.J.R. 912(a), 22 N.J.R. 1720(b).

Class E license and fee provisions added; local zoning approval requirement added at (m).

Administrative Correction.

See: 25 N.J.R. 5928(b).

Amended by R.1995 d.280, effective May 12, 1995.

See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

Amended by R.1998 d.298, effective July 6, 1998.

See: 30 N.J.R. 509(a), 30 N.J.R. 2433(a).

Added a new (n).

Amended by R.2000 d.362, effective September 5, 2000.

See: 32 N.J.R. 2179(a), 32 N.J.R. 3291(a).

In (c), increased fees throughout.

Administrative Correction.

See: 38 N.J.R. 4693(a).

Amended by R.2008 d.174, effective June 16, 2008 (operative July 1, 2008).

See: 40 N.J.R. 1427(a), 40 N.J.R. 3630(a).

In (c)1 through (c)4, (c)6i through (c)6iii and (c)7, increased the fees; in (c)5, substituted "other than Class E" for "regardless of class" and increased the fee; in the introductory paragraph of (c)6, inserted "Class E" and "also" and deleted "issued to a corporation, partnership or association" preceding ", shall"; and added (c)6iv.

#### Case Notes

Initial Decision (2009 N.J. AGEN LEXIS 152) adopted, which found that an owner was properly denied a license to own and operate a rooming house based on the owner's failure to comply with a prior Final Decision of the Commissioner; res judicata and collateral estoppel

prevented the owner from re-litigating the prior case. *Morrison v. Bureau of Rooming & Boarding House Standards*, OAL Dkt. No. CAF 10595-08, 2009 N.J. AGEN LEXIS 1216, Final Decision (May 7, 2009).

Only proper basis for reduction of a valid penalty is an agreement on the part of the person against whom the penalty is imposed to promptly comply with the law, and any such reduction must be further conditioned upon his or her doing so. *Bureau of Rooming & Boarding House Standards, Dep't of Community Affairs v. Morrison*, OAL Dkt. No. CAF 244-06 and CAF 245-06, 2006 N.J. AGEN LEXIS 853, Final Decision (September 14, 2006).

Appointment of receiver to conserve boarding facility modified to denial of boarding house license. *Milligan v. Bureau of Rooming and Boarding House Standards*, 97 N.J.A.R.2d (CAF) 81.

Building lessees violated state law by operating rooming and boarding house without license. *Division of Housing and Development v. Cummins and Malhtra*, 97 N.J.A.R.2d (CAF) 7.

Rooming house with numerous fire and safety code violations was subject to being vacated as a hazard to health, safety and welfare of occupants. *Department of Community Affairs v. M.C. Investment*, 95 N.J.A.R.2d (CAF) 91.

Rooming house license denied; fire code. *Department of Community Affairs v. Stoner*, 94 N.J.A.R.2d (CAF) 105.

Penalty; operation of rooming house without license. *Department of Community Affairs v. Roshop*, 94 N.J.A.R.2d (CAF) 100.

License held by rooming house tenant did not meet owner's licensing requirements. *1020 River Road Realty Co. v. Bureau of Rooming and Boarding House Standards*, 92 N.J.A.R.2d (CAF) 22.

Rooming house operator required to renew owner's license. *1020 River Road Realty Co. v. Bureau of Rooming and Boarding House Standards*, 92 N.J.A.R.2d (CAF) 22.

Operation of unlicensed boarding house warranted fine and closure. *Levin v. Bureau of Rooming and Boarding House Standards*, 92 N.J.A.R.2d (CAF) 12.

#### 5:27-1.7 License applications

(a) Applicant information to be provided by an individual shall include the following:

1. Name, plus any other names ever used;
2. Present address, last previous address and any other addresses within the last two years, including dates of residency;
3. Telephone number, if any;
4. Social security number;
5. Date of birth;
6. Bank or other credit reference;
7. Any criminal convictions;
8. Education and work experience;
9. Class of license for which application is made.

(b) Applicant information to be provided by a corporation, association or partnership shall include the following:

1. Names and addresses of all officers, directors, stockholders, members and partners and any registered agent;

2. Designation of primary owner and all information required pursuant to (a) above with respect to such primary owner.

(c) Building information shall be provided for each building owned, operated, or intended to be owned or operated by an applicant and used or intended to be used as a rooming or boarding house and shall include the following:

1. Street address and lot and block designation of the building;
2. Whether or not a license was ever previously issued by the Bureau for the use of the building as a rooming or boarding house;
3. The number of stories;
4. The number of sleeping rooms to be used to accommodate residents;
5. The maximum number of residents intended to be accommodated;
6. The year, or approximate year, of construction;
7. The construction class;
8. Whether or not the building was previously registered with the Bureau of Housing Inspection as a hotel or multiple dwelling and, if so, the registration number;
9. Whether or not the property was ever licensed by the New Jersey Department of Health, and if so, the license number;
10. Date of transfer of the property to the present owner;
11. The name and address of any mortgage or other lien holder.

(d) In the event that any person who is licensed as an owner subsequently acquires another building which he intends to use as a rooming or boarding house, he shall submit to the Bureau a supplemental application containing the building information required pursuant to (c) above.

(e) In the event of a change in any information provided to the Bureau pursuant to this section, the licensee shall notify the Bureau of such change within 14 days.

#### 5:27-1.8 Administrative hearings

(a) Any person aggrieved by any ruling, action or order of the Bureau shall be entitled to an administrative hearing in accordance with the Administrative Procedure Act.

(b) The administrative hearing shall be conducted by a judge of the Office of Administrative Law and the final decision shall be issued by the Director.

(c) The application for such hearing must be filed with the Director within 15 days of the receipt of the applicant of notice of the ruling, action or decision complained of. The

Director shall have authority to waive this requirement when the interests of justice so require.

#### 5:27-1.9 Exceptions and exemptions

(a) Pursuant to N.J.S.A. 55:13B-5(b), an owner may request an exception waiving, modifying or postponing the application of any regulation to any owner's rooming or boarding house.

(b) Requests for exceptions shall be made to the Chief of the Bureau, who shall have authority to approve or deny such requests in accordance with the standards set forth in N.J.S.A. 55:13B-5(b). Requests shall be made in triplicate upon forms to be supplied by the Bureau.

(c) A request for an exception shall be submitted within 30 days of the receipt by the owner of notice of the ruling, action or decisions at issue and no request submitted thereafter shall be considered unless the owner advised the Bureau of his desire to file an exception request within 15 days of his receipt of notice of filing, action or decision at issue and was unable to submit the application within the 30 day period allowed because of the Bureau's failure to provide him with the required forms in a timely manner. The Chief of the Bureau shall have authority to waive these time requirements when the interests of justice so require.

(d) Upon the request of a State agency which has a contractual relationship with the owner of a facility operated under a Class D license, the Bureau shall waive application of any regulation contained in subchapters six through eleven of this chapter, unless the Bureau finds that harm to residents or the public generally would thereby result.

(e) Owners and operators who have been issued Class E licenses are, with respect to drug or alcohol rehabilitation facilities owned or operated under such licenses, exempt from the following requirements of this chapter:

1. N.J.A.C. 5:27-1.6(i), with respect to creed only;
2. N.J.A.C. 5:27-1.7(a)5 through 8;
3. N.J.A.C. 5:27-3.1(a)1 through 4, 9, 13 and 14;
4. N.J.A.C. 5:27-3.2(d);
5. N.J.A.C. 5:27-3.3(c);
6. N.J.A.C. 5:27-3.4(b);
7. N.J.A.C. 5:27-3.10;
8. N.J.A.C. 5:27-8.1(b)2;
9. N.J.A.C. 5:27-8.2;
10. N.J.A.C. 5:27-8.3;
11. N.J.A.C. 5:27-8.4(a); and
12. N.J.A.C. 5:27-9.2(a).