

Chapter 5.38

MOTELS, HOTELS, ROOMING, LODGING, AND APARTMENT HOUSES

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5.38.010 Definitions.

The following words as used in this chapter shall have the following meanings:

Building Official shall mean the Director of Building and Safety or an authorized representative, who is hereby authorized and directed to enforce all the provisions of this chapter.

Code violation shall mean a violation of Lincoln Municipal Code Titles 5, 19, 20, 21, 23, 24, 25, or 27 requiring some corrective action on the part of an owner, local property manager, or tenant as a result of an inspection by the Building Official pursuant to procedures as set forth in Lincoln Municipal Code Titles 5, 19, 20, 21, 23, 24, 25, or 27, hereinafter referred to as “the Codes.”

Complaint Based Inspection shall mean any inspection required as a result of a complaint placed with the Building Official.

Dwelling unit shall mean any room or group of rooms located in a structure and forming a single habitable unit with permanent facilities which are used or intended to be used for living, sleeping, cooking, eating and sanitation.

House or **houses** shall mean rooming houses, lodging houses, apartment houses, motels, and hotels and shall include all buildings, structures, or dwellings containing three or more rooms and/or suites of rooms, or both, in which sleeping accommodations are furnished by the owners or operators, or which are suitable for sleeping accommodations furnished by the tenants or guests, which rooms or suites of rooms are held out to the public to be places where such accommodations are furnished or can be installed, and are rented, let, or leased to members of the public. In the case

of apartment houses, a three-unit apartment house with the owner occupying one of the units shall be deemed a house.

Inspection shall mean any investigatory review by the Building Official of a house or dwelling unit for compliance with the Codes.

Permit Inspection shall mean any inspection required as part of the permit issuing process required in Section 5.38.020.

Preliminary Inspection shall mean the first or initial inspection in any inspection process.

Rooming unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes. (Ord. 19421 §1; August 2, 2010: prior Ord. 18448 §1; October 4, 2004: Ord. 15473 §1; March 5, 1990: P.C. §5.51.010: Ord. 14837 §8; February 29, 1988: Ord. 12918 §2; May 27, 1980).

5.38.020 Permit Required.

It shall be unlawful for any person to maintain or operate such house or houses without first having procured a permit therefor as hereinafter provided. (Ord. 15473 §2; March 5, 1990: P.C. §5.51.020: Ord. 12918 §3; May 27, 1980).

5.38.030 Application for Permit; Contents.

Any person desiring to maintain or operate such house shall make written application for a permit therefor upon forms provided for that purpose by the Building Official, which application shall be filed with said Building Official and shall contain the following information, in addition to such other information as the Building Official may require:

- (a) Name and current residence and business address of applicant;
- (b) Street address and legal description of premises for which permit is requested;
- (c) Complete description of such premises; type of construction, size of building, number and location of rooms to be used or usable for sleeping accommodations and other facilities;
- (d) Name and current residence and business address of manager, representative, or person to be in direct charge of said real property who is authorized to transact business for such owner or owners and who is considered as the agent of said owner or owners for the collection of rents for said premises and to receive service of process and all other legal notice;
- (e) Total number of lessees, occupants, and renters of each house. (Ord. 15473 §3; March 5, 1990: P.C. §5.51.030: Ord. 14913 §1; June 20, 1988: prior Ord. 12918 §4; May 27, 1980).

5.38.040 Compliance with Minimum Standard Housing and Inspection.

(a) Before a permit for any such house is issued, or before any existing permit for any such house is renewed, the Building Official shall inspect or cause an inspection to be made to determine if the premises for which such permit is sought complies in all respects with the provisions of the Codes.

(b) The permit inspection under this section shall only be a physical inspection of a house's exterior and common areas, if any, unless otherwise permitted by this section. The permit inspection shall be on a twelve-month schedule, except as follows:

(1) A house shall be placed on a twenty-four month inspection schedule under the following conditions:

- (i) When a permit inspection results in no code violations; and
- (ii) No code violations in the last twelve months prior to inspection.

(iii) All prior fees, court fines, and court costs, if any, pursuant to this section, have been paid in full.

(2) A house shall be placed on a six-month inspection schedule upon the occurrence of any one of the following:

(i) For a house with 3 to 12 units: two or more different complaint inspections, each resulting in code violations, within any twelve-month period;

(ii) For a house with 13 to 24 units: three or more different complaint inspections, each resulting in code violations, within any twelve-month period;

(iii) For a house with 25 to 36 units: four or more different complaint inspections, each resulting in code violations, within any twelve-month period;

(iv) For a house with more than 36 units: five or more different complaint inspections, each resulting in code violations, within any twelve-month period;

(v) Adjudication by a court of competent jurisdiction of code violations.

(3) A house placed on a six-month inspection schedule shall remain on said schedule until it has received two consecutive six-month inspections with no code violations and no complaint-based code violations during that time.

(c) An inspection fee shall be charged in an amount set by the Director, subject to the approval of the Mayor.

(1) For houses on a six-month inspection schedule: inspection fee is waived for a preliminary complaint-based inspection when no code violations are found.

(2) For houses on a twelve- or twenty-four month inspection schedule:

(i) Inspection fee is waived for a preliminary inspection.

(ii) Inspection fee is waived for the first re-inspection when all code violations noted in the preliminary inspection are repaired within the time allowed by the Building Official.

(iii) Fees as required under §5.38.050 shall be payable for each year of the permit.

(3) No permit shall be issued until all inspection fees are paid in full.

(d) Nothing herein in this chapter shall be construed to prohibit an inspection pursuant to a complaint or to prohibit entry of any Building Official at any time when an actual emergency or the possibility for immediate danger to the public safety exists. (Ord. 19421 §2; August 2, 2010: prior Ord. 18448 §2; October 4, 2004: Ord. 15473 §4; March 5, 1990: P.C. §5.51.040: Ord. 14913 §2; June 20, 1988: Ord. 12918 §5; May 27, 1980).

5.38.045 Interior Inspection.

(a) An interior inspection of one hundred percent (100%) of the house's interior dwelling units and rooming units shall be conducted by the Building Official when the following conditions have been met:

(1) When two or more different units in a house with three to twelve units have received a housing code complaint within a year of each other requiring action as directed by the Building Official.

(2) When three or more different units in a house with 13 to 24 units have received a housing code complaint within a year of each other requiring action as directed by the Building Official.

(3) When four or more different units in a house with 25 or more units have received a housing code complaint within a year of each other requiring action as directed by the Building Official.

(4) When a dwelling unit or rooming unit in a house has become vacant and is not occupied and the unit is available for rent. The owner or agent of the house may contact the Building Official for an interior inspection of the vacant unit at any time after the vacancy has commenced. Said interior inspection of the unit may not be conducted, without cause, until five years after the interior inspection date.

(b) After any of the conditions in subsection (a) above have been met, the Building Official shall provide written notice to the owner or representative in direct charge of said house of the date and time for an interior inspection of all the units or vacant unit(s) as identified pursuant to Section 5.38.045(a)(4). Said written notice shall be properly served if it is delivered by personal service on the owner or representative or by first class mail to the owner or representative at the address provided on the last permit application filed with the Department of Building and Safety or to the last known address.

(c) Once the owner or representative receives notice of the inspection date with the Building Official, and the owner or representative cannot attend the designated time and date of inspection, the owner or representative shall notify the Building Official within five days of the date on the notice and request an alternative time and date of inspection to be set by mutual agreement between the Building Official and the owner or representative.

(d) For purposes of an interior inspection of dwelling units or rooming units, the Building Official shall provide a written notice and consent form to each tenant or occupant of each occupied dwelling unit or rooming unit, informing the tenant or occupant of the inspection and requesting their voluntary consent in providing access and entry to the interior dwelling unit or rooming unit for the permit inspection. The owner or representative shall provide the names of the tenants upon request by the Building Official.

(e) Said written notice and consent form shall be served by the Building Official to each tenant or occupant scheduled for an inspection at least two weeks prior to the inspection date. Said written notice and consent form shall be deemed to be properly served if it is delivered in hand to the tenant or occupant or mailed by first class mail at the place held out by said tenant or occupant as the place for receipt of any communication, or in the absence of such designation, to his last known place of residence. The Building Official shall collect the consent forms.

(f) In all cases where a tenant or occupant has voluntarily consented to access and entry to the dwelling unit or rooming unit for an inspection, pursuant to the consent form, the owner or representative shall provide access and entry to the dwelling unit or rooming unit.

(g) In the event that a tenant or occupant has not voluntarily consented to access and entry to the dwelling unit or rooming unit for an inspection pursuant to this chapter, the Building Official or his designee may apply to a court of competent jurisdiction for a warrant authorizing such an inspection to enforce and determine compliance with the City's minimum housing code. The owner or representative shall provide access and entry whenever a warrant is issued pursuant to the provisions of this chapter.

(h) It shall be the duty of any authorized official conducting an inspection under this chapter to make such inspections as required between the hours of 8:00 a.m. and 5:00 p.m. on Monday through Friday of each week, excluding holidays, unless otherwise mutually agreed upon by the owner, occupant, or representative in charge and to present to the owner, representative, or occupant proper credentials issued to him or her by the City of Lincoln.

(i) If the owner or representative is not present at the designated inspection time and date, a reinspection fee of thirty dollars may be charged by the Building Official to the owner or representative. (Ord. 18448 §3; October 4, 2004).

5.38.050 Permit Issuance and Fee.

(a) Issuance. If the Building Official is satisfied that the house and the application for permit complies with the requirements of this chapter and other pertinent laws and ordinances and that the fee specified herein has been paid, the Building Official shall issue a permit therefor to the applicant. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter and any other pertinent laws and ordinances.

(b) Fees. A fee for the permit to operate any house or houses regulated by this chapter shall be paid at the office of the Department of Building and Safety as set forth below:

(1) For the first three units in each house, counting each unit of the house rented, leased, or let as a separate unit, including the owner-occupied unit, \$60.00 commencing on April 1, 1999 through April 30, 2009; and \$65.00 commencing on May 1, 2009; and

(2) For each additional unit of the house rented, leased, or let as a separate unit, \$6.00 commencing on April 1, 1999 through April 30, 2009; and \$7.00 commencing on May 1, 2009.

(c) Waiver of Fee. The fee required by (b) above shall be waived if the seller and buyer of the property shall have reported the change in ownership to the Building Official within thirty days of the transfer of ownership and a certificate of compliance as hereinafter provided had been issued for the property on the date of the reported change in ownership. (Ord. 19235 §1; April 27, 2009; prior Ord. 17157 §1; March 17, 1997: Ord. 16530 §1; December 6, 1993: Ord.16185 §1; August 10, 1992: Ord. 15473 §5; March 5, 1990: P.C. §5.51.050: Ord. 14913 §3; June 20, 1988: Ord. 14277 §1; November 25, 1985: Ord. 12918 §6; May 27, 1980).

5.38.060 Permits; Expiration; Nontransferable; Renewal.

All permits issued under this chapter shall expire one year following date of issuance, unless sooner revoked; and no permit shall be assignable or transferable either as to permittee or as to location. Such permit shall be renewable annually without further application. Renewal of permits shall be accomplished within thirty days of the date that the previous permit expired. A delinquent penalty fee shall be charged in the amount of fifty dollars in addition to the regular permit fee for the renewal of a permit, if the owner fails to renew the expired permit within thirty days of expiration. Payment of the delinquent penalty fee shall not prevent prosecution for violations of this title nor prevent assessment penalties provided in this title. (Ord. 16741 §1; February 27, 1995: prior Ord. 15473 §6; March 5, 1990: P.C. §5.51.060: Ord. 14913 §4; June 20, 1988: Ord. 12918 §7; May 27, 1980).

5.38.065 Certificate of Compliance at Time of Sale.

(a) General. Every owner of a house shall tender to a prospective buyer, at the time of the transfer of ownership of such house, a copy of a valid certificate of compliance or a notice of deficiencies, which shall include a copy of any notice and order issued pursuant to the Lincoln Minimum Housing Code or any other applicable law or ordinance, issued by the Building Official.

(b) Application. The owner of any house desiring to sell or transfer the same shall file an application for a certificate of compliance with the Building Official upon a form provided for that purpose by the Building Official.

(c) Issuance. The Building Official shall issue a certificate of compliance for a house only after he has inspected such house and has found that it complies in all respects with the Lincoln Minimum Housing Code and all other applicable laws and ordinances. If such house is found not

to be in compliance with the Lincoln Minimum Housing Code and all other applicable laws and ordinances, the Building Official shall issue a notice of deficiencies.

(d) **Validity.** A certificate of compliance shall be valid only for ninety days from the date of issuance. A certificate of compliance shall not be deemed a warranty or guarantee that a house complies with all provisions of the Lincoln Minimum Housing Code or other applicable laws and ordinances, nor shall the City be held responsible for any violations not noted or discovered by the Building Official during his inspection of the house.

(e) **Fees.** The Building Official is hereby authorized to establish reasonable fees for inspections made pursuant to an application for a certificate of compliance, which fees, before becoming effective, shall be approved by the Mayor. (Ord. 16530 §2; December 6, 1993).

5.38.070 Permit; Revocation or Suspension; Grounds; Notice.

(a) Any permit issued under this chapter may be revoked or suspended for cause at any time by the Building Official for the violation of this or any other related ordinance of the city. Notice of such revocation or suspension shall be served upon said permittee, or upon the manager of such house, and notice shall set forth wherein said permittee, or said house, fails or has failed to comply with city ordinances. (Ord. 16351 §1; May 3, 1993; prior Ord. 15473 §7; March 5, 1990: P.C. §5.51.070; Ord. 12918 §8; May 27, 1980).

5.38.075 Appeal Procedure.

(a) Any person who is aggrieved by a decision, notice, or order of the Building Official may appeal such decision, notice, or order to the Housing Advisory and Appeals Board in the same manner and with the same procedures as set forth in Section 21.05.020 of the Lincoln Municipal Code.

(b) Any decision of the Board may be appealed to the District Court of Lancaster County, Nebraska.

(c) Enforcement of any decision, notice, or order of the Building Official issued under this title shall be stayed during the pendency of an appeal therefrom which is property and timely filed. (Ord. 19458 §1; October 4, 2010; prior Ord. 16351 §2; May 3, 1993).

5.38.080 Duty to Report Transfer of Ownership and Apply for New Permit.

Upon the sale of a hotel, motel, rooming, lodging, or apartment house, the seller and buyer of the property shall report the change in ownership to the Building Official within thirty days of the transfer of ownership. The new owner shall apply for and receive a permit within thirty days of the transfer of ownership to operate said house or units with the date of issuance being the date of sale. A delinquent penalty fee shall be charged in the amount of fifty dollars in addition to the regular permit fee to all owners failing to apply for and receive said permit within the thirty days set forth above. The payment of such delinquent penalty fee shall not relieve the new owner from fully complying with the requirements of this title, nor prevent prosecution for violations of this title, nor prevent assessment of penalties provided in this title. A sale of the property on land contract shall be deemed a transfer of ownership under this section and the buyer shall apply for and receive the permit within thirty days of the execution of the contract. (Ord. 16741 §2; February 27, 1995; prior Ord. 15473 §8; March 5, 1990: P.C. §5.51.080; Ord. 12918 §9; May 27, 1980).

5.38.085 Duty to Provide Tenant Brochure for Apartment House, Rooming and Lodging Houses.

Upon commencement of any lease of an apartment, rooming or lodging house unit to a tenant, the owner or representative of said house shall provide the tenant with a brochure, as approved by the Building Official, outlining the tenant's rights and landlord's duties under the Nebraska tenant/landlord act and under the City of Lincoln minimum housing code. The brochure will include common housing code requirements, will outline a complaint procedure for alleged code violations and the brochure will note that in accordance with state law an owner or representative cannot retaliate against a complaining tenant. (Ord. 18448 §4; October 4, 2004).

5.38.090 Bedding and Register Requirement for Motels, Hotels, Rooming and Lodging Houses.

Every permittee shall provide and keep in such house a register for the signing and recording of the names of all persons staying in such house. Such register shall at all times be available for inspection by the Building Official. It shall be unlawful for such permittee, officers, agents, or employees to fail or refuse to require any person stopping at such house to register; and further, it shall be unlawful for any person accepting or occupying accommodations in such house to fail or refuse to sign such register.

All beds, mattresses, pillows, and bed clothing furnished and maintained by a permittee shall at all times be kept clean and be kept free from vermin. All sheets and pillow slips shall be washed and ironed before they are used by another tenant or guest. This section shall not apply to apartment houses. (Ord. 15473 §9; March 5, 1990: P.C. §5.51.090: Ord. 12918 §10; May 27, 1980).

5.38.100 Condition of Premises.

The permittee shall keep such registered house and premises in a clean, sanitary, healthful, and safe condition at all times and shall not permit any condition to exist in or upon such premises that shall constitute a fire hazard, and such house shall be equipped with suitable and adequate sanitary toilet facilities. (Ord. 15473 §10; March 5, 1990: P.C. §5.51.100: Ord. 12918 §11; May 27, 1980).

5.38.110 Penalty for Violations.

Any person upon whom a duty is placed by the provisions of this chapter who shall fail, neglect, or refuse to perform such duty, or who shall violate any of the provisions of this chapter, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed \$500.00, or be imprisoned in the county jail for a period not to exceed six months, or both, except that each person so convicted shall be fined in a sum of not less than \$200.00 for the first offense, not less than \$300.00 for a second offense, and not less than \$400.00 for the third offense and each offense thereafter. Each day that a violation of this ordinance continues shall constitute a separate and distinct offense and shall be punishable as such. (Ord. 19421 §1; August 2, 2010: prior Ord. 15473 §1; March 5, 1990: P.C. §5.51.110: Ord. 14277 §2; November 25, 1985: Ord. 12918 §12; May 27, 1980).