

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 5.38 of the Lincoln Municipal Code
2 relating to Motels, Hotels, Rooming, Lodging, and Apartment Houses by amending Section
3 5.38.010 to add definitions of dwelling unit and rooming unit; amending Section 5.38.040 to
4 provide for an annual inspection; adding a new section numbered 5.38.045 to provide for an
5 interior inspection procedure; adding a new section numbered 5.38.085 to require tenant
6 brochures; and repealing Sections 5.38.010 and 5.38.040 of the Lincoln Municipal Code as
7 hitherto existing.

8 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

9 Section 1. That Section 5.38.010 of the Lincoln Municipal Code be amended to
10 read as follows:

11 **5.38.010 Definitions.**

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

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

15 **Dwelling unit** shall mean any room or group of rooms located within a dwelling and
16 forming a single habitable unit with facilities which are used or intended to be used for living,
17 sleeping, cooking and eating.

18 **House or houses** shall mean rooming houses, lodging houses, apartment houses, motels,
19 and hotels and shall include all buildings, structures, or dwellings containing three or more rooms
20 and/or suites of rooms, or both, in which sleeping accommodations are furnished by the owners

1 or operators, or which are suitable for sleeping accommodations furnished by the tenants or
2 guests, which rooms or suites of rooms are held out to the public to be places where such
3 accommodations are furnished or can be installed, and are rented, let, or leased to members of the
4 public. In the case of apartment houses, a three-unit apartment house with the owner occupying
5 one of the units shall be deemed a house.

6 **Rooming unit** shall mean any room or group of rooms forming a single habitable unit
7 used or intended to be used for living and sleeping, but not for cooking or eating purposes.

8 Section 2. That Section 5.38.040 of the Lincoln Municipal Code be amended to
9 read as follows:

10 **5.38.040 Compliance with Minimum Standard Housing and Inspection .**

11 (a) Before a permit for any such house is issued, or before any existing permit for any
12 such house is renewed, the Building Official shall ~~investigate~~ inspect or cause an ~~investigation~~
13 inspection to be made; ~~when deemed necessary~~; to determine if the premises for which such
14 permit is sought complies in all respects with the provisions of the minimum housing code of the
15 city.

16 (b) The permit inspection shall be an annual inspection and shall include a physical
17 inspection of the house's exterior and common areas.

18 (c) Nothing herein in this chapter shall be construed to prohibit an inspection
19 pursuant to a complaint or to prohibit entry of any Building Official at any time when an actual
20 emergency or the possibility for immediate danger to the public safety exists.

21 Section 3. That Chapter 5.38 of the Lincoln Municipal Code be amended by
22 adding a new section numbered 5.38.045 to read as follows:

1 **5.38.045 Interior Inspection.**

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

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

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

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

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

20 (c) Once the owner or representative receives notice of the inspection date with the
21 Building Official, and the owner or representative cannot attend the designated time and date of
22 inspection, the owner or representative shall notify the Building Official within five days of the

1 date on the notice and request an alternative time and date of inspection to be set by mutual
2 agreement between the Building Official and the owner or representative.

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

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

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

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

1 The owner or representative shall provide access and entry whenever a warrant is issued
2 pursuant to the provisions of this chapter.

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

8 (i) If the owner or representative is not present at the designated inspection time and
9 date, a reinspection fee of thirty dollars may be charged by the Building Official to the owner or
10 representative.

11 Section 4. That Chapter 5.38 of the Lincoln Municipal Code be amended by
12 adding a new section numbered 5.38.085 to read as follows:

13 **5.38.085 Duty to provide Tenant Brochure for Apartment House, Rooming and**
14 **Lodging Houses.**

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

22 Section 5. That Sections 5.38.010 and 5.38.040 of the Lincoln Municipal Code as
23 hitherto existing be and the same are hereby repealed.

1 Section 6. That this ordinance shall take effect and be in force from and after its
2 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2004:

Mayor

