

## CHAPTER 4

### BED AND BREAKFAST ESTABLISHMENTS

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**5-4-1: DEFINITIONS:**

**BED AND BREAKFAST ESTABLISHMENT:** An operator-occupied residence providing accommodations for a charge to the public with no more than five (5) guest rooms for rent. Breakfast may be provided to the guests only. Bed and breakfast establishments shall not include motels, hotels, boarding houses, or food service establishments.

**GUEST ROOM:** A sleeping room intended to serve no more than two (2) transient guests per night.

**HEALTH DEPARTMENT:** The Department of Health of the County of Jackson.

**LICENSEE:** Any person licensed to operate and maintain a bed and breakfast establishment under the provisions of this Chapter.

**OPERATOR:** The owner of the bed and breakfast establishment, or the owner's agent, who is required by this Chapter to reside in the bed and breakfast establishment, or on contiguous property.

**PERSON:** Any individual, firm, trust, partnership, association, corporation or combination of individuals acting for a common purpose. (Ord. 98-41)

**5-4-2: RESIDENTIAL/COMMERCIAL USE DISTINGUISHED:**

A. **Housing Regulations Applicable:** For purposes of the housing regulations of the City, a bed and breakfast establishment shall be considered a residential dwelling use and shall conform to all the requirements of a residential dwelling use as set forth in said housing regulations.

B. **Handicapped-Accessibility Standards:** For purposes of handicapped-accessibility determination, a bed and breakfast shall be considered a change in use from private residence to public accommodation and the establishment shall conform to all applicable handicapped-accessibility standards.

C. **State Tax Requirements:** For purposes of the Illinois Department of Revenue, a bed and breakfast establishment shall be considered a hotel and shall be subject to all requirements of the Illinois Department of Revenue including payment of all applicable hotel taxes.

D. **City Room Tax:** For purposes of the City's hotel/motel privilege tax, a guest room within a bed and breakfast establishment shall be considered a "hotel or motel room" and shall be subject to said tax pursuant to Title 7 Chapter 9 of this Code. (Ord. 98-41; 1998 Code)

**5-4-3: LICENSE REQUIRED:**

It shall be unlawful for any person to publicly or privately advertise, maintain or operate a bed and breakfast establishment within the corporate limits of the City without first obtaining a license from the Manager of Building and Neighborhood Services as provided in this Chapter. (Ord. 98-41)

**5-4-4: LICENSE EXPIRATION; RENEWAL; TRANSFERAL:**

A. **Validity:** A license is valid from the date issued until the following September 1. No license shall be granted for a period exceeding one year.

B. **Reinspection:** Licensed bed and breakfast establishments shall be reinspected by the Manager of Building and Neighborhood Services, Fire Department, and the Jackson County Health Department for compliance with this Chapter prior

to renewal of license.

C. Nontransferable: A license shall be a purely personal privilege and shall not constitute property. Nothing in this Chapter shall be construed to grant a right to transfer or accept the transfer of any licenses whenever there is a change in interest or ownership. No bed and breakfast license shall be transferred.

D. Continuation Of Business: The death of a licensee, termination of a partnership, dissolution of a corporation, or bankruptcy of a licensee shall cause the license to cease to exist except that the administrator or executor of the estate or trustee in bankruptcy may continue to operate the business for six (6) months upon order of the appropriate court; provided, however, that the trustee, administrator or executor of an estate shall meet the qualifications set forth in this Chapter. (Ord. 98-41)

**5-4-5: FILING AND CONTENTS OF APPLICATION:**

Application for a bed and breakfast license shall be filed with the Manager of Building and Neighborhood Services on forms provided by the Building and Neighborhood Services Division. The application shall contain the following:

A. The name, business address, business telephone number, residence address and residence telephone number of the proposed licensee, operator and property owner. If the proposed licensee, operator or property owner is a corporation, the officer's name and residence addresses shall be furnished.

B. The address and legal description of the proposed bed and breakfast establishment.

C. A drawing of the site showing:

1. The location of all existing and proposed structures in relation to the property lines, and
2. The location of all existing and proposed parking areas and driveways in relation to the property lines and structures.

D. Existing and proposed floor plans of all structures on the property.

E. Any other information as may be required to determine compliance with this Chapter. (Ord. 98-41)

**5-4-6: APPLICATION REVIEW PROCEDURE:**

A. Departmental Review: The Manager of Building and Neighborhood Services shall, within five (5) days of the receipt of the application, refer copies of the application to other relevant City departments and the Health Department. The City departments shall within ten (10) days review the application and, if required, inspect the premises proposed to be operated as a bed and breakfast establishment and make written recommendations to the Manager of Building and Neighborhood Services concerning compliance with the codes and laws that they administer. In particular, the departmental responsibilities shall be as follows:

1. The Planning Office shall make a determination as to whether a site plan is necessary and shall determine applicable zoning requirements.

2. The Building and Neighborhood Services Division shall determine what, if any, modifications are needed to meet the local housing regulations and all applicable handicapped-accessibility standards.

3. The Fire Department shall determine what, if any, modifications are needed to meet all local requirements, the State Fire Marshal's requirements for one- and two-family dwellings and all additional requirements in the State Bed and Breakfast Act <sup>1</sup>.

4. The Police Department shall verify all the information pertaining to the proposed licensee, operator and property owner. Providing false information will result in denial of the license.

5. The Health Department shall determine what, if any, modifications are needed to meet all local standards and all additional requirements in the State Bed and Breakfast Act.

B. Notification To Applicant: Within five (5) days of receipt of the recommendations of the aforementioned departments, the manager of building and neighborhood services shall notify the applicant of those determinations and requirements. (Ord. 98-41)

Notes

<sup>1</sup> 1. 50 ILCS 820/1 et seq.

**5-4-7: ISSUANCE OF LICENSE:**

A. Requirements: The manager of building and neighborhood services shall issue a bed and breakfast license when it is determined that all of the following requirements have been met:

1. A zoning certificate or site plan for the bed and breakfast establishment has been approved.
2. All applicable health department licenses and approvals have been issued.
3. All applicable state and local fire standards have been complied with including:

- a. The state fire marshal's requirements for one- and two-family dwellings.
  - b. Additional standards as required by the Illinois bed and breakfast act.
  - c. All other applicable local fire prevention standards.
4. All other applicable standards, including, but not limited to, building construction, plumbing, electrical and handicapped accessibility standards.

5. The licensee shall maintain minimum liability insurance coverage of five hundred thousand dollars (\$500,000.00) for each individual and one million dollars (\$1,000,000.00) for each occurrence. The licensee shall submit a certificate of liability insurance prior to the issuance of the license. Failure to maintain minimum liability insurance shall result in automatic revocation of the bed and breakfast license.

6. The licensee shall submit a certificate of registration from the Illinois department of revenue for payment of any applicable state hotel and retail sales taxes.

7. The licensee shall have registered with the city's finance department for payment of all applicable municipal fees or taxes, including the hotel/motel and food/alcoholic beverage privilege tax.

B. License Displayed: Once the license is issued, the licensee shall display the license at all times in a location easily viewed by guests and prospective guests of the bed and breakfast establishment. (Ord. 98-41)

#### **5-4-8: APPEAL FROM DETERMINATION AND/OR REQUIREMENTS:**

A. Request For Hearing: If an applicant believes any determination and/or requirement made by any department of the city with regard to the issuance of a bed and breakfast license is erroneous, the applicant may request a hearing before the city manager to determine the propriety of any such determination and/or requirement.

B. Notification Required: To request a hearing, the applicant must notify the city manager within fourteen (14) days of receipt of the determinations and requirements from the manager of building and neighborhood services as provided in subsection 5-4-7A of this chapter. The city manager will, within fourteen (14) days of receipt of the request for the hearing, schedule said hearing. (Ord. 98-41)

C. Decision By City Manager: Both the applicant and the city department involved may present testimony and evidence. The city manager can limit but not prohibit evidence and testimony. The city manager shall make his decision regarding the propriety of the determination or recommendation based on the applicable industry standards (international, ANSI, etc.) and with due regard for the health and safety of the public. (Ord. 98-41; Ord. 2003-72)

#### **5-4-9: VIOLATION; SUSPENSION OF LICENSE:**

A. Temporary Suspension: Bed and breakfast licenses may be suspended temporarily by the manager of building and neighborhood services for failure by the licensee or any employee of the licensee to comply with the requirements of this chapter, or in any case where the licensee refuses to permit any duly authorized employee of the city or the county to inspect the premises or the operations therein. Upon notification by the city's finance director, the manager of building and neighborhood services may temporarily suspend a bed and breakfast license if the licensee fails to pay any applicable municipal tax or fee, including, but not limited to, the hotel/motel and food/alcoholic beverage privilege tax.

B. Notice Of Violation; Timely Response: Whenever a licensee or any employee of the licensee has failed to comply with the requirements of this Chapter, the licensee shall be provided written notice of the violation. Such notice shall cite the violation, specify the corrective action to be taken, state that such violation shall be corrected within ten (10) days or the bed and breakfast license shall be suspended, and shall inform the licensee of the right to request a hearing before the City Manager, as hereinabove provided. Such notice may be personally served on the licensee or shall be sent by certified mail, return receipt requested. Such service by mail shall be deemed to have been served at the time of posting thereof. Any notice given under the provisions of this Section shall operate as and shall become a final order without further action being necessary upon the expiration of ten (10) days from and after the effective date of service of such notice, unless, within such ten (10) day period, the licensee files a written request for a hearing before the City Manager. A properly filed written request shall suspend the effective date of the suspension until the date of the City Manager's decision. The City Manager shall provide such a hearing within five (5) days of the written request. The City Manager shall render written decision within three (3) working days of the conclusion of the hearing. (Ord. 98-41)

#### **5-4-10: REVOCATION OF LICENSE:**

A. Repeated Offenses: Bed and breakfast licenses may be revoked by the Manager of Building and Neighborhood Services for continuing violations or repeated failures by the licensee or any employee of the licensee to comply with the requirements of this Chapter.

B. Notice Of Revocation Date; Request For Hearing: Whenever a licensee or any employee of the licensee continuously fails to comply with, or repeatedly violates the requirements of this Chapter, the licensee shall be provided written notice of the effective date of the revocation. Such notice shall cite the existing violation(s) (if any), specify the corrective action(s) to be taken, state the date that such violation(s) shall be corrected, and shall inform the licensee of the right to request a hearing before the City Manager, as hereinabove provided. Such notice may be personally served on the licensee or shall be sent by certified mail, return receipt requested. Such service by mail shall be deemed to have been served at the time of posting thereof. The Manager of Building and Neighborhood Services shall notify the licensee at least ten (10) days prior to the effective date of the revocation. If requested, the City Manager shall provide such a hearing within five (5) days of the written request. The City Manager shall render a written decision within three (3) working days of the conclusion of the hearing.

C. Liability Insurance Required: Bed and breakfast licenses shall be automatically revoked if a licensee fails to maintain the minimum amount of liability insurance. If a license is automatically revoked due to failure of the licensee to maintain the minimum liability insurance, no prior notice of said revocation shall be required; however, if such failure becomes known to the Manager of Building and Neighborhood Services, he shall provide written confirmation of the revocation within ten (10) days after his knowledge of the failure to maintain insurance.

D. Surrender License: In any case where a bed and breakfast license is revoked, the licensee shall immediately surrender such license to the Manager of Building and Neighborhood Services. (Ord. 98-41)

**5-4-11: POWER TO ACT IN EMERGENCIES:**

Notwithstanding any other provision of this Chapter, whenever unsanitary, unsafe, or other conditions are found in the operation of the bed and breakfast establishment which constitute a substantial and immediate hazard to the public health and safety, the Manager of Building and Neighborhood Services or the Fire Chief may, without warning, notice or hearing, issue a written notice to the licensee citing the condition, specifying the corrective action to be taken, specifying the time period within which such action shall be taken, and if necessary, stating that any or all bed and breakfast operations are to be discontinued immediately. The licensee to whom such an order is issued shall immediately comply therewith, but may request in writing, within ten (10) days, a hearing before the City Manager to abate such order. If requested, the City Manager shall provide such a hearing within five (5) days of the written request. The City Manager shall render a written decision within three (3) working days of the conclusion of the hearing. (Ord. 98-41)

**5-4-12: PENALTY:**

Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this Chapter or the rules and regulations authorized by this Chapter shall be guilty of an ordinance violation and, upon conviction thereof, shall be fined not less than one hundred dollars (\$100.00), nor more than seven hundred fifty dollars (\$750.00), and in addition shall be liable in a civil action for the amount of any tax due. Each day of any violation of this Chapter shall constitute a separate offense. (Ord. 98-41)