

AN ORDINANCE PERTAINING TO LODGING HOUSES

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 22 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

CHAPTER 22

BUSINESSES

ARTICLE I. IN GENERAL

Sec. 22-2. Definitions.

~~*Lodging place* means a building or group of attached or detached buildings that is permitted by the City under the Code of Ordinances, Appendix A-Zoning and Land Use Codes as a bed and breakfast establishment; hotel, inn or motel, lodging house; or tourist home.~~

Lodging house means a fixed structure, or any part of a structure, used, maintained or advertised as a place where sleeping accommodations are furnished in individual rooms or units, for direct or indirect consideration. "Lodging house" includes but is not limited to, a hotel, inn or motel; a bed and breakfast establishment; a dwelling unit occupied by more than one family; and, properties under common management at the same location where 4 or more rooms, cottages or condominium units are available. "Lodging house" does not include vacation rentals; youth camps; dormitories of charitable, educational or philanthropic institutions; fraternity or sorority houses affiliated with educational institutions; hospitals; convalescent, rest, or nursing homes; residential care or congregate care facilities or other institutional beds or rooms used for medical or mental health treatment services otherwise licensed by the city or state; mobile home parks; and, homeless shelters. For the purposes of this definition, the following shall have the same definitions as defined by the Code of Ordinances, Appendix A-Zoning and Land Use Codes: a bed and breakfast establishment; and hotel, inn or motel.

ARTICLE II. LICENSES

Sec. 22-41. Duration of licenses; expiration date.

All licenses, except when otherwise provided, shall be for 12 months' duration and shall expire according to the following schedule:

Lodging house ~~place operator~~ February

Sec. 22-49. Adoption of State of Maine Rules.

For the purpose of protecting the public health the City hereby adopts and enacts the following State of Maine Rules:

- (1) The U.S. FDA food code as adopted and amended by the Maine Department of Human Services 10-144 CMR 200, that were in effect on January 1, 2023, in the enforcement of all Food Service Establishments, Special Food Handlers, Mobile Units and Class A Lounges licensed by the City of Lewiston as if fully set forth herein, except for the changes set forth in the Article.
- (2) The rules relating to Lodging Establishments adopted and amended as set forth by the Department of Health and Human Services, Maine Centers for Disease Control and Prevention, Division of Environmental Health 10-144 CMR 206, that were in effect on January 1, 2023.
- (3) The rules relating to the Administration and Enforcement of Establishments licensed and amended by the Health Inspection Program, Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health Inspection Program 10-144 CMR Chapter 201, that were in effect on January 1, 2023.

All Maine Department of Human Services regulations and portions therefore adopted by this section may be viewed by contacting the Lewiston City Clerk or the health officer /sanitarian.

ARTICLE X. SALE OF PERSONAL PROPERTY FROM RESIDENTIAL PREMISES

Sec. 22-281. Definitions.

Residential premises means a building or structure having at least one dwelling unit, one or more rooms in a lodging house ~~boarding or lodging room~~, and the lot of land associated therewith, and any accessory structures; and any lot of land within a residential zone.

ARTICLE XVII. LODGING HOUSES

DIVISION 1. GENERALLY

Sec. 22-470. Purpose.

The City Council recognizes that many residents of the City of Lewiston live in lodging houses, which are an important component of the City's available housing. The purpose of this article is to protect the public health, safety, and welfare of the residents of the City of Lewiston by requiring licensure of lodging house operators and the regular inspection of lodging houses. This Article XVII is adopted pursuant to the authority granted by 30-A M.R.S. §§ 3001, et. seq., and not pursuant to its authority under 30-A M.R.S. § 3811(1), as may be amended.

For proper enforcement of the city’s fire, building, and property maintenance codes, all of which are designed to ensure the public safety and welfare of residents, this article requires disclosure of the ownership of lodging houses, of those individuals responsible for operating them, of those individuals responsible for maintaining them and responding to violations identified through city inspections, and of those individuals responsible for responding to emergencies.

The City Council recognizes that the definition of “Lodging House” is broad and includes establishments such as hotel, motels and inns. City personnel may conduct inspections for State-issued lodging establishment licenses, under authority delegated pursuant to 22 M.R.S. § 2499.

Sec. 22-471. Definitions.

Business Operator means a specific individual person with a legal ownership interest in a Legal Owner who makes financial, maintenance, and policy decisions regarding the Lodging House.

City Inspector means the city assessors, police chief, fire chief, health officer, building inspector, code enforcement officer, sanitarian, or other duly authorized city official.

Emergency Contact means the individual who responds to emergency after hour calls from tenants and public safety personnel.

Legal Owner means the individual or legal entity, including but not limited to a corporation, limited liability company or limited partnership, holding the deed or the lease to the property.

Property Management Company and Property Manager means the individual or business entity that maintains and repairs the physical property and often manages tenant relationships and routine matters involving the property, which may be the Legal Owner, Business Operator, or a party with no ownership or possessory stake in the property that serves as property manager on behalf of and at the direction of the Business Operator or Legal Owner. The Property Manager serves as the primary contact for the City, its inspectors, and tenants.

Sec. 22-472. Applicability.

This article shall apply to any lodging house that is located within the city. Except to the extent that this article contains a contrary provision, all provisions of Article I and Article II of chapter 22 shall apply to this article. This article does not limit any authority of the Department of Health and Human Services under federal or state law.

Sec. 22-473. Severability.

If any clause, sentence, paragraph, section, article, or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

DIVISION 2. LICENSES

Sec. 22-474. License required.

No person, corporation, firm, co-partnership, association, or other entity may conduct, control, manage or operate any lodging house unless the same shall be licensed by the City. Notwithstanding the preceding sentence, a person, corporation, firm, co-partnership, association, or other entity that conducts, controls, manages or operates a lodging house on the day that this Article takes effect is exempt from the requirement to have a license from the City from that date until and including January 30, 2024. A person is in violation of this article if the person allows a room in an unlicensed lodging house to be occupied or let; offers to another such a room for occupancy or charge; or, accepts or retains payment for any such room.

Sec. 22-475. Transfer of ownership or change of location.

The requirements of sections 22-39 and 22-40 apply to licenses to operate a lodging house. A license is voided upon the sale or transfer of a lodging house to a new Legal Owner or new Business Operator.

Sec. 22-476. Application and information.

This section shall apply to an application for an initial license to operate a Lodging House as well an application for the renewal of such a license to operate a Lodging House.

An application shall be submitted to the City no sooner than 45 days from the renewal date or opening date.

All applications for licenses under this article shall be filed with, and in a form satisfactory to, the city clerk. Such application shall include, but is not limited to the following:

Any information which is required by section 22-32.

The identity of the Legal Owner of the lodging house.

The identity of the Business Operator of the lodging house.

The identity of the Property Manager of the lodging house.

The identity of the Emergency Contact of the lodging house.

Name, business address, residence address, cellular primary telephone number, primary telephone number, and email address of the Legal Owner, the Business Operator, the Property Manager, and the Emergency Contact of the lodging house.

Street address and real estate tax identification number of the lodging house.

Proof of right, title and interest to any real estate subject to the application.

The year the lodging house was constructed and documentation, if any, of the lodging house's lead free or lead safe status.

Whether the lodging house has a monitored or supervised fire alarm or sprinkler system.

A description of the premises for which the license is sought, including a floor plan for each floor of the premises which shows the location of rooms, bathrooms, kitchen facilities, and any other dwelling units.

Evidence of all land use approvals or conditional land use approvals required to operate the lodging house on the premises, including, but not limited to, development review approval, conditional use approval, building permit, change of use permit, certificate of occupancy, and/or any required food license.

Any information that the police chief may require for an investigation of applicants, pursuant to section 22-33, which may include but it not limited to a background check of any person named in the application.

The date and serial number of the last water analysis, if applicable.

All names, including, but not limited to maiden name, ever used by the applicant must be noted on the application.

Any change of the information that is required by the section must be reported to the city clerk within fifteen days of its occurrence, except that any change in the identity or contact information of the Property Manager or Emergency Contact of the lodging house must be reported immediately.

No person shall make any false, untruthful or fraudulent statement, either written or oral, or in any way conceal any material fact, or give or use any fictitious name in order to secure or aid in securing a license required by this article. Any license so secured shall be void.

Sec. 22-477. Inspections authorized; Right to enter.

Holding a lodging house license or submitting an application for a lodging house license shall constitute permission for entry and inspection of any real estate subject to the license or application.

Whenever authorized by the statutes of the state, the ordinances of the city or the regulations of any city department, or upon the request of the city clerk, an inspection may be made of a lodging house by any City Inspector prior to approval of any application for a license or permit. In addition, the premises of every licensee shall be subject to inspection at any time during the current license year; and the results of such inspections may be grounds for the suspension or revocation of any license issued.

Whenever authorized by the statutes of the state, the ordinances of the city or the regulations of any city department, or upon the request of the city clerk, any City Inspector shall be permitted to enter any licensed lodging house at any time for the purpose of making inspections and of copying any and all records. Inspections of an occupant's room shall only be conducted consistent with the process detailed in 14 M.R.S. § 6025.

It shall be the duty of every person responsible for the management or control of a lodging house to afford free access to every part of such establishment and to render all aid and assistance necessary to enable any City Inspector to make a full, thorough and complete examination thereof to determine compliance with this article and Section 22-49 of this code of ordinances.

Failure to cooperate with an inspection or to respond to notices of violations as specified shall be grounds for the city clerk to temporarily suspend the license of the lodging house, subject to further action by the city council.

Sec. 22-478. Compliance with codes required.

A lodging house shall comply with the following:

The version of the International Property Maintenance Code, currently in effect, as adopted by Sections 18-51 and 18-52;

The version of National Fire Protection Association (NFPA) 1, currently in effect, as adopted by Sections 38-26;

The version of NFPA 101, currently in effect, as adopted by Sections 38-26; and

Other codes, regulations or standards that may be applicable.

Sec. 22-479. Administration.

Issuance of a License. A license to operate a lodging house shall be issued by the city clerk, pursuant to Article 1. A license may be issued, consistent with the standards and process of

subsection 22-35(c). A single license to operate a lodging house shall not apply to more than a single lot. The issuance of the license does not provide exemption from other state or local laws, ordinances or regulations, notwithstanding any other provision of law.

If the city clerk determines that circumstances giving rise to the denial under subsection (c) below can be ameliorated by the imposition of conditions or limitations to the grant of a license, the city clerk may, notwithstanding the grounds set forth in subsection (c) below, grant a license to the applicant upon such conditions as the city clerk in an exercise of its sound discretion deems to be just and appropriate.

Revocation or Suspension of a License. Revocation or suspension of a license may occur pursuant to Sec. 22-44, amended as follows:

The city clerk is authorized, pursuant to section 22-44(a) of the Code of Ordinances, to immediately and temporarily suspend any license of a lodging house when the city clerk concludes in the city clerk's discretion that continued operation of the licensed premises or activity presents a danger to the health, safety or the general welfare of the public. No less than one week after the city clerk temporarily suspends a lodging house license and not later than its next regularly scheduled meeting, the city council shall hold a hearing to consider the suspension or revocation of the license. Such hearing may be held less than 3 days after service of the notice of hearing or less than one week after the city clerk temporarily suspends a lodging house license on the Business Operator's written request.

At the hearing held pursuant to this subsection, the licensee must be given an opportunity to:

Hear the evidence in support of the charge against the licensee and to cross-examine, alone or through counsel, the witnesses;

Provide evidence in response to the charge against the licensee; and

Be heard in the licensee's own defense.

Standard. Except as set forth in subsection 22-35(c), a license under this article shall be denied if the clerk makes a finding that:

The lodging house is not complying with the codes, as required by section 22-478.

The Legal Owner, Business Operator or Property Manager is a legal entity that is not registered to do business in Maine.

The Legal Owner, Business Operator or Property Manager has violated any other applicable City of Lewiston ordinance or state law and, if the violation is a civil

violation, has failed to correct the violation within the period of time prescribed by the relevant enforcement agency.

The applicant has not shown satisfactory evidence of the adequacy of any private wastewater disposal system and the quality of the drinking water.

Or, any of the parts under subsection 22-35(b) are met.

Appeal. Appeal from a decision of the City Council to the Superior Court in the county may be obtained in the manner provided in the Maine Rules of Civil Procedure. Courts of competent jurisdiction, for due cause shown, may issue temporary orders restraining the enforcement of revocations or suspensions, and after full hearing may vacate those temporary orders or make them permanent.

Enforcement. The City may enforce this article by the authority in 30-A M.R.S. § 4452. This section does not affect any existing enforcement authority of any City Inspector.

Civil Penalty. Any person who violates this article shall be subject to a civil penalties or other amounts imposed by sections 1-8 or 22-27 of this Code or 30-A M.R.S. § 4452, as amended. The city council finds that the remedies provided under 30-A M.R.S. § 4452 apply to any violation of this article and the terms of the license, because the ordinance is a local law administered by the city and the ordinance requires compliance with the terms of the license and the city's local land use ordinances. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

Any lodging house currently subject to enforcement action or an unsatisfied administrative notice is ineligible for any City administered state, federal, or city-sponsored loans or grants or other city-sponsored or provided programs that are available through separate applications and which are not universally provided to all lodging houses.

DIVISION 3. OPERATING REQUIREMENTS

Sec. 22-480. Guest register and record of departures.

In accordance with the provisions of 30-A M.R.S. § 3821, the Business Operator of any lodging house shall keep and maintain on premises, or cause to be kept and maintained on premises, a register containing the true names of each guest who has rented, or is renting a room. The person renting the room or rooms, or someone under that person's direction shall sign the register. The Business Operator of the lodging house, or the Business Operator's agent shall then write the number of each room assigned to and occupied by each guest, together with the date that room is rented, opposite the name or names so registered.

The Business Operator or its agent shall keep and maintain a record showing the date when the occupant of each room surrenders the room. This record may be made a part of the register.

Both the register and the record must be kept for 2 years and be available at all reasonable times to the inspection of any lawful agent of the city or any full-time law enforcement officer as defined in Title 25, section 2805. The guest register may be "kept," within the meaning of this section, when reproduced on any photographic, microfilm or other process that reproduces the original record.

Notwithstanding 17-A M.R.S. § 4-A, any person who intentionally or knowingly violates this section is guilty of a Class E crime and shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 90 days for each offense, or both.

Sec. 22-481. Posting of license.

Licenses issued shall be displayed in a place readily visible to customers or other persons using the licensed establishment at all times.

NOTE: Additions are underlined; deletions are ~~struck out~~.