

CHAPTER 36
SUPERVISED HOMES.

Reference: Neb. Rev. Stat. Section 71-2031 et seq.

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36-101. Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meaning given in this section:

(1) Health Department. The Department of Environmental Health of the City of Hastings, Nebraska.

(2) Supervised Home. Any nursing home, halfway home, convalescent home or group care facility in which sixteen (16) or more persons who are unrelated to each other by blood, adoption or marriage, reside while receiving therapy, counseling or rehabilitation for any of the following purposes, but not limited to:

(a) battered children, aged, sick, infirmed, convalescent, invalid, mentally ill or mentally retarded, feeble minded or drug dependent persons;

(b) persons recently discharged from any hospital, clinic or mental institution;

(c) decrepit, blind, disabled, injured, chronically ill, or alcoholic persons;

(d) Persons who are being assisted in rehabilitation and recuperation from the effects of drugs and alcohol;

(e) Persons who are being assisted in rehabilitation and adjusting to living with the handicaps of emotional or mental disorder, or mental retardation;

(f) Persons who are being assisted in rehabilitation and adjusting to living with the handicaps of physical disability;

(g) Persons who are being housed and provided therapy and supervision while under constraints of alternatives to imprisonment, including, but not limited to probationary programs;
and

(h) Any other facility regulated by the State or Federal authorities as described in Section 36-117 thereof; for which a charge is made or compensation is required or expected, whether by fee or gift or government grant; provided, this Chapter shall not apply to a duly constituted and licensed hospital or to a facility having in excess of fifty (50) rooms for inhabitants. The number of persons residing in a facility, place or building shall be determined based upon the total facility, place or building, whether or not said persons reside in separate and independent rooms or groups of rooms.

(3) Inhabitant. Any person accommodated, cared for or boarded in any supervised home. Also any person who has suffered or sustained any physical or mental ailment or disability or has been hospitalized or

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institutionalized therefore and is in any state or degree of recovery, readjustment or care from the result of any mental or physical ailment, including but not limited to mental retardation or alcoholism.

(4) Licensee. The individual, partnership, corporation, association, company or organization responsible for operating the supervised home and the maintaining of acceptable standards both as to care provided for inhabitants, the physical facilities for housing, outside conditions of the housing and property and the residents therein.

(Code 1973, 23-1; Ord. No. 2615 and 3215-6/91)

36-102. Special use permit required.

All supervised homes shall after December 1, 1977, require a special use permit in accordance with applicable zoning requirements. However, no special use permit shall be issued for a supervised home outside the City limits but within the zoning jurisdiction of the City.

(Code 1973, 23-2; Ord. No. 2615)

36-103. License required.

It shall be unlawful for any person to conduct, operate or maintain or permit to be conducted, operated or maintained or to participate in the conduct, maintenance or operation of a supervised home within the city limits of the City of Hastings, Nebraska unless the health department has inspected and has issued a valid license therefore which is in full force and effect. Said license shall only be issued after all requirements have been met including but not limited to zoning, building, fire, electrical, gas and plumbing codes of the City of Hastings, Nebraska and codes adopted therefore. Such license shall only be issued after a hearing before the City Council and the issuance of such license is approved by a majority of the City Council members voting.

(Code 1973, 23-3; Ord. No. 2615)

36-104. Application.

Application for a license under this Chapter shall be made to the Health Department in such form and manner as it may prescribe. The application shall include such information and data respecting the supervised home for the license as the Health Department may require, including but not limited to a description of the facility and service; a plat of the premises showing structures, lot lines and appurtenance, a description of required automobile parking, a statement as to whether the service is to include convalescent treatment or rehabilitation care for any person who has been hospitalized for mental or emotional ailments, drug addiction, alcoholism; and a statement of the personnel and program that are to be used therefore. The application shall then be delivered to the Health Department who upon receipt of the application shall make an inspection. Upon completion of the inspection, the Department of Health shall advise the City Council who shall set a public hearing date at the next regularly scheduled Council meeting.

(Code 1973, 23-4; Ord. No. 2615)

36-105. Investigation.

The investigation by the Health Department shall be of the activities, services and facilities of the applicant, including the character, reputation, health and qualifications of the applicant and members of the applicant's staff and of the applicant's financial responsibility. The applicant shall afford representatives of the Department reasonable opportunity to inspect the applicant's premises for which the license is requested, its books and records and to interview the applicant's agents and employees and any inhabitant within the care or custody of the applicant in such supervised home. Such report shall be presented in writing to the City Council for their use at the public hearing in determining if the license shall be granted.

(Code 1973, 23-5; Ord. No. 2615)

36-106. Denial, suspension or revocation of license.

The City Council shall deny or suspend a license for a supervised home if it shall appear that the applicant, or if the applicant is a corporation, any officer or person who is to be in charge of such supervised home, has been convicted of a felony, or of a misdemeanor involving moral turpitude, or has had inadequate training or experience in the care of the inhabitants. The Health Department may revoke or suspend any license for a supervised home if it is determined that the supervised home is being operated or maintained in violation of the requirements of this Chapter or of the regulations promulgated pursuant to this Chapter or for any of the additional following causes: Fraud or misrepresentation in obtaining the license; maltreating or abusing any residents of such supervised home; using practices inimical to the physical, mental or moral

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well being of any inhabitant; or conducting the supervised home in a manner constituting a breach of the public peace to the City or the neighborhood; or a menace to the public health, safety, morals or welfare of the citizens of the City. Such revocation or suspension of the license shall be in addition to any other penalty that may be provided by law.

(Code 1973, 23-6; Ord. No. 2615)

36-107. Issuance of license.

Upon direction of the City Council the Health Department shall issue a City license to the applicant for the supervised home if said Health Department finds and determines that the applicant is adequately qualified and equipped to conduct, operate and maintain the supervised home for which the license is to be issued; that such supervised home conforms to the requirements of this Chapter; that the supervised home shall not disturb the nature of the neighborhood; that adequate parking and other facilities on the approved site plan shall be provided for inhabitants and employees and other persons in the supervised home; that the supervised home will be operated and maintained in such manner as to be conducive to the benefit and welfare of the inhabitants in such supervised home; that the applicant's financial responsibility is such as to give reasonable assurance of the continued operation and maintenance of such facility; that the applicant and applicant's staff are of good character and reputation; and that the appearance of the supervised home shall be compatible with the neighborhood.

(Code 1973, 23-7; Ord. No. 2615)

36-108. Contents; terms; form; transferability; provisional license; fees.

(1) Number of inhabitants. The license when issued shall designate the maximum number of inhabitants to be accommodated in the supervised home to which it applies and this number shall at no time be exceeded.

(2) Expiration. Each license, whether an original or a renewal license, shall expire on June 30 of each year, unless sooner revoked or surrendered.

(3) Form; transferability. The licenses shall be issued on forms prescribed by the Health Department. Licenses shall not be transferable either as to place or person.

(4) Fees. There shall be collected by the Health Department before the issuance of any license or renewal license an annual fee for each individual facility operated by the applicant, or applicants in an amount as set forth in the most recent Council fee resolution.

(5) Complaints. The Health Department shall investigate any and all complaints filed with its office and report the results of such investigation in writing to the City Attorney for his disposition. Any complaint filed with the Health Department shall require the name of the complainant, their address and the nature of the complaint filed. All complaints received shall become a permanent part of the licensee file.

(6) Separate license. Separate buildings or structures on the same premises under one (1) licensee shall require only one (1) license; however, upon request by the licensee, a separate license may be issued.

(7) No license shall be issued for any supervised home which will be located within 150 feet of a business holding an existing license from the Nebraska Liquor Control Commission.

(8) No supervised home shall be granted a license under this Chapter if it shall be within twelve hundred (1200) feet of an existing supervised home, unless the City Council shall grant a special use permit therefor to said supervised home.

(9) The total number of supervised homes in the City shall not exceed one supervised home for each three thousand residents of the City and no license shall be granted under this Chapter for any supervised home which would cause the number of supervised homes in the City to exceed that number, provided that the Council may waive this restriction upon application for said waiver by the applicant for a supervised home license.

(Code 1973, 23-8; Ord. No. 2615)

36-109. Rules and regulations.

The Health Department shall have the power and is hereby authorized to promulgate such rules and regulations for the operation of supervised homes within its jurisdiction which it finds necessary or proper

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to carry out the intent of this Chapter. (Code 1973, 23-9; Ord. No. 2615)

36-110. Records and reports required.

Every licensee under this Chapter shall provide and maintain in such supervised home a register in bound book form setting forth the following facts concerning each inhabitant received, cared for or accommodated in such supervised home: Name; last previous address; age; date of admission; next of kin; name and address of the responsible person for the inhabitant's care and maintenance; phone numbers of each or where they can be contacted; name of inhabitant's attending physician and his phone numbers, both office and residence; all written or verbal orders of the inhabitant's attending physician, and the date on which such orders were given; date of discharge or death; cause of death; disposition of personal property at death; and the amount and disposition of any money or other valuables deposited with the licensee to the credit of the inhabitant. Every licensee who accommodates any person who has been or is an inhabitant of any mental or penal institution in this or any other state shall furnish within five (5) days after receiving any such person, the following facts, information and documents about any such person to the Chief of Police: Name; name of mental or penal institution of which the person was an inmate; nature of any mental or physical ailment; number of admissions to mental institutions; number and nature of crimes any such person has been either accused of or convicted of. All entries required herein shall be made within twenty-four (24) hours from the time of admission, or from the time of occurrence of the event required to be recorded. Every licensee shall keep and maintain such other records and make such report to the Health Department as it may reasonably require upon such forms as it may prescribe.

Every licensee shall maintain a record setting forth the following facts concerning each nurse, attendant or other employee in such supervised home: Name; age; date of employment began in the supervised home; present and last previous address; name and address of employers during the preceding three (3) year period; position and duties, if employed as a nurse, date and state of registration; date employment terminated; and reason for termination.

A copy of such record shall be delivered to the Health Department at its office in the City upon request. (Code 1973, 23-10; Ord. No. 2615)

36-111. Inspection of records.

All records required to be kept under the terms of this Chapter by the licensee shall be open to inspection by the Health Department at all reasonable hours. It shall be unlawful to make any false entries in the records. In addition to the penalties provided in this code, falsification of such records or omission of information required thereon shall be cause for revocation of the license. (Code 1973, 23-11; Ord. No. 2615)

36-112. Inspection; enforcement of chapter; correction of non-compliance with chapter.

It shall be the duty of the Health Department to inspect supervised homes for which licenses have been issued under this Chapter as often as it shall be necessary for the adequate control and supervision of the same, and the Health Department shall have the right to enter all such homes at any reasonable time for the purpose of making necessary investigations and inspections, and shall be charged with the responsibility of enforcing and administering the provisions of this Chapter. Every supervised home shall at all reasonable times be open for inspection by the Fire Chief and representatives of the Engineering Department of the City as well as the Health Department. The Health Department may call upon any department or agency to evaluate any aspects of the supervised home.

In case of any failure by a licensee to comply with the requirements of this Chapter or any rules and regulations promulgated pursuant thereto, the Health Department shall notify the licensee to correct the noncompliance, breach, default or illegal condition within such number of days as is reasonable in light of the conditions to be remedied. In the event of failure, or upon refusal of the licensee to comply with the Health Department's instructions, the Health Department shall revoke the license in writing; Provided, that upon a showing of hardship or other circumstances warranting such action, the Health Department shall have the authority to grant an extension of time for compliance with the Health Department instructions. (Code 1973, 23-12; Ord. No. 2615)

36-113. Compliance with city codes and ordinances.

No license for a supervised home shall be issued unless it is determined that the Code and Ordinances of the City of Hastings which are applicable to such supervised homes are being observed and complied with,

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including but not limited to Chapter 31 thereof and codes and ordinances relating to health, sanitation, safety, fire, building, housing, zoning, electrical.

36-114. Alterations, additions or conversion of an existing facility.

Any licensee or applicant desiring to add new construction to an existing facility or to make alterations, additions or conversions of an existing facility for use as a supervised home, before commencing such new construction, alterations, additions or conversions shall apply to the Planning and Zoning Commission for a new special use permit and shall prepare a revised site plan plus such other plans as may be necessary to assist the Planning and Zoning Commission in review of the request. This standard shall not apply in the making of repairs or in matters of general maintenance.

36-115. Required parking spaces.

For all supervised homes there shall be provided one (1) off street parking space for each three (3) occupants plus one (1) space for each two (2) staff members and employees, such parking shall be located on the same lot as the main building or immediately adjacent to such supervised home. Parking facilities shall be hard surfaced in accordance with the requirements of Chapter 40 and parking on the streets shall be limited in accordance with this Code.

(Code 1973, 23-13; Ord. No. 2615)

36-116. Building and structural standards -- General.

(1) Approval of plans. Whenever construction of or addition to a supervised home is contemplated by any licensee or applicant, and following approval of a special use permit, copies of plans and specifications shall simultaneously be submitted in duplicate to the Health Department, Fire Chief and the Engineering Department for review and approval. The submission shall be made in not less than two (2) stages, preliminary and final. After each stage has been reviewed, each copy will be returned to the applicant with comments. Construction work shall not be placed on the market for bids or work commenced until the above departments have approved the final drawings and specifications. Any deviations from these final documents must have approval from each Department which previously reviewed the documents in writing prior to work being performed. This standard shall not apply in the making of minor repairs or in matters of general maintenance.

(2) New construction and additions - Preliminary stage. Plot plan showing the size, shape of the entire site, location of proposed building or structure, and relation to any existing buildings or structures, streets, roads, highways, sidewalks or railroads. The plan shall also show properly designated size, characteristics, and location of connections to water, sewer and gas lines.

Floor plans showing the overall dimensions of the building or buildings or structure or structures; location, size and purpose of all rooms; location of all doors, windows, fire escapes and other openings, with the swing of the doors properly indicated; and location of stairs, elevators, vertical shafts and chimneys.

Outline of specifications giving the kind and type of material to be provided.

Final floor plans and specifications shall include complete working drawings and contract specifications including layout for plumbing, heating, ventilation and electrical work.

(3) Alteration, remodeling or conversion. All plans and specifications as required for new construction or additions shall be provided to the Health Department, Fire Chief and the Engineering Department.

(4) Requirements - general. If construction or addition is delayed for a period of time exceeding one (1) year from the time of review of the final drawings or if any major changes are made, a new evaluation is required.

(Code 1973, 23-14; Ord. No. 2615)

36-117. Adoption of federal and state regulations.

The Health Department hereby adopts by reference the following State and Federal regulations and standards, three copies of each of which are on file in the office of the City Clerk:

Regulations and Standards for Centers for the Developmentally Disabled, effective date May 8, 1984.

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Regulations and Standards for Centers for Residential Care Facilities, effective date July 28, 1986.

Regulations and Standards for Intermediate Care Facilities, Title 175, Chapter 8, effective date July 2, 1986.

Regulations and Standards for Skilled Nursing Facilities, Title 175, Chapter 12, June 20, 1986.

Regulations and Standards Governing Drug Treatment Centers, effective date January 28, 1974.

Regulations and Standards Governing Treatment Centers for Persons With Alcohol Problems or the Chemically Dependent, effective date March 21, 1974.

Regulations and Standards for Health Clinics, effective date September 2, 1975.

Regulations and Standards for Domiciliary Facilities, effective date April 30, 1984.

Regulations and Standards for Boarding Homes, effective date December 12, 1984.

Regulations and Standards for Hospitals, Title 175, Chapter 9, R.R.S. 1943, as amended.

Hastings Food Service Code, Chapter 6, effective date December 1, 1988.

Food Service Ordinance and Code, U.S. Department of Health, Education, and Welfare, Public Health Service, Food and Drug Administration, effective 1976.

36-118. Noncompliance with this chapter.

After the effective date of this Chapter no original license and no renewal license shall be issued for any supervised home as defined in this Chapter not in compliance with the provisions as set forth in this Chapter. Any supervised home in existence and in actual operation on the effective date of this Chapter shall have until May 1, 1978 within which to comply as a condition of licensure.
(Code 1973, 23-15; Ord. No. 2615)