

AN ORDINANCE TO AMEND SECTION 38-5 "VIOLATIONS; PENALTY" OF ARTICLE I "IN GENERAL" OF CHAPTER 38 "HOUSING" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Planning and Zoning Board of the City of New Bern unanimously recommends that certain amendments be made to Chapter 38 "Housing" of the Code of Ordinances of the City of New Bern; and

WHEREAS, the City's planning staff further recommends approval of said proposed amendments; and

WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect said revisions to Chapter 38 "Housing" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Section 38-5. "Violations; penalty." of Article I "In General" of Chapter 38 "Housing" of the Code of Ordinance of the City of New Bern be and the same is hereby amended by deleting Section 38-5 in its entirety and inserting in its stead the following:

"Sec. 38-5. Violations; penalty.

(a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve it, or to vacate and close and remove or demolish it and remove the debris therefrom, upon order of the inspector duly made and served as provided in this chapter, within the time specified in the order, and each day that any such failure, neglect, or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to Section 38-29 of this Code, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement, or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(b) In accordance with G.S. § 160A-175, any act constituting a violation of the provisions of Chapter 38 or a failure to comply with any of its requirements, shall subject the offender to a civil penalty as follows:

- The sum of \$500.00 for failure to correct said violation within 31 days of notice;

- An additional sum of \$1,000.00 (for a total sum of \$1,500.00) for failure to correct said violation within 61 days of notice;
- An additional sum of \$1,500.00 (for a total sum of \$3,000.00) for failure to correct said violation within 91 days of notice;
- An additional sum of \$2,000.00 (for a total sum of \$5,000.00) for failure to correct said violation within 121 days of notice; and
- An additional sum of \$2,000.00 (\$5,000.00 plus \$2,000.00 per month) for each additional 30-days or fraction thereof for continuing failure to correct said violation as required in the initial notice after 121 days of notice, which includes administrative fees.

If the offender fails to correct the violation within thirty-one (31) days after being cited for said violation, the penalty may be recovered by the city in a civil action in the nature of a debt. In addition, should the offender commit the same violation within a twelve (12) month period from the date of the initial violation and fail to correct said violation after due notice, the penalty shall be double the amounts established herein. A civil penalty may not be appealed to the board of adjustment if the offender was sent final notice of violation in accordance with section 38-29 of this Code and did not take an appeal to the board of adjustment within the prescribed time.

(c) Each day that any violation continues, regardless of the date of notice, shall be considered a separate offense for purposes of the accruing penalties and remedies specified in this section. In such an event, civil penalties begin to accrue from the date of the first notice of violation. For continuing violations, the initial citation and requirement that the civil penalty be paid within the time prescribed there in shall be the only notice required to be given; and shall be deemed to be an on-going citation and notice for continuing violation after the date of the citation.”

SECTION 2. This ordinance shall be effective as of August 28, 2013.

ADOPTED THIS 27th DAY OF AUGUST, 2013.


MAYOR Pro-Tem


CITY CLERK

City of New Bern



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MEMORANDUM

TO: Mayor Bettis and Board of Aldermen

FROM: Bernard George, AICP *BGeorge*
Planning Division Manager

DATE: August 16, 2013

SUBJECT: Adopt Amendment to Chapter 38 "Housing" of the Code of Ordinances of the City of New Bern

Background

At its July 2, 2013 regular meeting, the Planning and Zoning Board unanimously voted to recommend approval of the City of New Bern's request to amend Section 38-5 "Violations; Penalty" of Article I "In General" of Chapter 38 "Housing" of the Code of Ordinances of the City of New Bern. The purpose of the proposed revision is to create a unified graduated penalty system for housing code violations enforced by the Development Services Department's Inspections Division. As proposed, any act constituting a violation of the provisions of Chapter 38 or a failure to comply with any of its requirements shall subject the offender to a civil penalty as follows.

- The sum of \$500.00 for failure to correct said violation within 31 days of notice;
- An additional total sum of \$1,000.00 for failure to correct said violation within 61 days of notice;
- An additional total sum of \$1,500.00 for failure to correct said violation within 91 days of notice;
- An additional total sum of \$2,000.00 for failure to correct said violation within 121 days of notice; and
- An additional sum of \$2,000.00 for each additional 30-days or fraction thereof for continuing failure to correct said violation as required in the initial notice after 121 days of notice.
- In addition, should the offender commit the same violation within a twelve (12) month period from the date of the initial violation and fail to correct

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said violation after due notice, the penalty shall be double the amounts established herein.

Recommendation

The Board of Aldermen is requested to adopt the attached ordinance amending Chapter 38 "Housing" of the Code of Ordinances of the City of New Bern at its regular meeting on August 27, 2013.

Please contact me at 639-7584 should you have questions or need additional information.

Attachment