

Chapter 175. Hotels and Motels

§175-1. Purpose.

- A. The City has learned from experience that working with area businesses in a collaborative effort provides a more effective means of addressing issues involving operating a safe environment.
- B. The creation of this chapter by the City will provide improved accountability by owners/operators of hotel/motel businesses with a focus on improving health and safety issues for guests, hotel/motel employees, and the community, by requiring owners/operators to obtain permits (as defined below) to operate hotel/motels in the City, by imposing penalties for inappropriate activities, and by providing an opportunity for owners/operators to mitigate those penalties by voluntary cooperation with the City.

§175-2. Definitions.

For the purpose of this chapter, unless otherwise expressly stated, the following words and phrases shall have the meanings respectively ascribed to them by this section:

AGGRIEVED

Any owner/operator of a hotel/motel whose rights, duties, or privileges are adversely affected by a determination of the City Council.

CALLS FOR SERVICE (CFS)

Includes, but is not limited to, any and all calls to emergency services (police, fire, and/or medical) that result in a representative being dispatched or directed to the hotel/motel. This shall include any calls for service within the surrounding neighborhood that, through information or investigation, can be traced to the hotel/motel staff and/or registered guest(s) and/or visitor(s). Calls for service (CFS) also include any self-initiated activity and/or investigation based on the observation(s) of an emergency services representative.

DRUG-RELATED ARRESTS

Include, but are not limited to, arrests that involve the manufacture, cultivation, importation into the state, transportation, possession, possession for sale, sale, furnishing, administering, or giving away, or providing a place to use or fortification of a place involving, any controlled drug, narcotic, or drug paraphernalia.

GROSS RECEIPTS

The total amounts of money or value or other consideration an organization receives from all sources during its annual accounting period, without subtracting any costs or expenses.

HOTEL/MOTEL

A building or group of buildings in which the public may obtain overnight accommodations for transient persons for a consideration, including, for example and without limitation, such establishments as inns, motels, hotels, tourist homes, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other buildings in which accommodations are available to the public, except accommodations furnished by any hospitals, sanitariums, or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

HOTEL OR MOTEL OPERATION

The rental or occupancy of any guest room or use of any hotel/motel facility or the act of an owner/operator allowing others to occupy a guest room or use a hotel/motel for any length of time except for maintenance or construction of said hotel/motel regardless of compensation or payment.

HOTEL OR MOTEL PERMIT (PERMIT)

A valid certificate approved and issued by the City Plan Commission, unless expired, revoked, or nonrenewed, authorizing a person, entity, partnership, or similar association to engage in hotel or motel operation on one or more specific tax parcels within the City.

MANAGER/AGENT

Any person who, in connection with the activities of a hotel/motel, manages the hotel/motel business's operations, including such things as, but not limited to, the collection of rental charges, issuing of keys, direction of personnel, assigning of rooms to guests, handling guest affairs, and overseeing security. The term shall also include resident manager and assistant manager.

OWNER/OPERATOR

Any person, firm, association, partnership, limited liability company, or corporation which is the record owner of real property containing a hotel/motel facility or which otherwise is in possession or control of a hotel/motel which offers and accepts payment for rooms, guest rooms, sleeping accommodations, or board and lodging.

PERMITTED PREMISES

Any specific tax parcel or parcels located within the City for which a permit has been issued and remains valid. A permitted premises constitutes the entire/all contiguous tax parcel(s) for which a permit is issued, regardless of whether the hotel/motel occupies the entire tax parcel(s).

PROSTITUTION-RELATED ARRESTS

Include, but are not limited to, arrests that involve prostitution or prostitution-related crimes, in violation of §944.30, Prostitution, §944.31, Patronizing prostitutes, §944.32, Soliciting prostitutes, §944.33, Pandering, or §944.34, Keeping place of prostitution, of the Wisconsin Statutes and City ordinances adopting the afore mentioned state statutes.

TRANSIENT

A person who travels to a location away from his or her permanent address for a short period of time for vacation, pleasure, recreation, culture, business, or employment.

§175-3. Permit to operate required.

Hotel or motel operation is prohibited everywhere within the City except for at a permitted premises.

§175-4. Permit term.

Permits shall be valid for one year, from July 1 through June 30 of the following year, and shall require renewal on an annual basis. Any hotel/motel engaging in hotel or motel operation without a valid permit issued pursuant to this chapter shall cease operations. In the event an owner/operator is issued a permit after July 1 in any given year, said permit shall nevertheless expire on June 30 of the immediately following calendar year.

§175-5. Maximum stay.

No owner/operator shall accommodate or allow any person to rent a room at a permitted premises or stay or sleep on a permitted premises within the City in excess of 60 days within any six-month period. For purposes of this section, a day is counted towards the 60-day maximum stay any time an individual rents or occupies a room or any portion of a room for any length of time in any given day. Any efforts to circumvent the requirements of this provision are prohibited. Any violation of this provision constitutes independent grounds for revocation of a permit.

§175-6. Minimum requirements for hotel/motel operation.

No owner/operator may engage in hotel or motel operation on any portion of a permitted premises unless the following services are provided to hotel/motel guests free of charge. No owner/operator may offer a discounted rate to guests who refuse or waive any of the following services. No owner/operator may discriminate against any guest who requests any of the following services one or less times per day. The following services must be provided to each occupied room at least one time per week regardless of whether a guest waives or refuses the provision of any of the following services.

A. Heat.

- B. Hot water.
- C. In-room janitorial services.
- D. Daily replacement of bed linens and towels, upon request.
- E. Complete room cleaning, bed making, and vacuuming.
- F. Maintenance of locks and security devices.
- G. Maintenance and provision of all in-room furnishings and fixtures, including, but not limited to, all bedding.
- H. Twenty-four-hour-per-day, seven-day-per-week staffed lobby coverage, or posted phone number of the on-call staff.
- I. A functioning telephone unit equipped to place a direct call to 911 and on-call staff.

§175-7. Minimum information required to be obtained by hotel/motel.

No owner/operator may engage in hotel or motel operation without maintaining and retaining an accurate record of all hotel/motel guests for a period of no less than 180 days following the last day the guest occupies or rents a room at the hotel/motel. Said information must be supplied to the City Police Department upon request. An owner/operator must also record and maintain the following information for a period of no less than 180 days following the last day the patron occupies or rents a room at the hotel/motel:

- A. The full name, phone number, and home address of each guest. Each owner/operator or manager/agent shall require each patron to provide valid photo identification prior to renting a room to that patron;
- B. The total number of occupants (patrons and their guests) staying in each room;
- C. The room number assigned to each patron;
- D. The date and time of check in of each patron;
- E. The date each patron is scheduled to check out; and
- F. The rate charged and amount collected for rental of the room.

§175-8. Application for permit.

- A. A permit application and the resulting permit shall apply to no less than the full tax parcel or parcels on which any portion of a hotel/motel is located, regardless of whether the hotel/motel occupies the entire parcel.
- B. Any owner/operator seeking renewal of a permit by July 1, so as to allow for continuous and uninterrupted hotel or motel operation, must submit his or her application to the City Clerk on or before April 15 of each year along with the applicable permit fee in accordance with the City Fee Schedule.
- C. All owners/operators applying to the City Plan Commission for a permit shall file with the City Clerk a complete sworn application on forms provided by the City containing any requested information, including, at a minimum:
 - (1) The prospective owner's/operator's Wisconsin seller's permit and federal ID number.
 - (2) The name of the corporation, partnership, or limited liability company, if any, of the hotel/motel and the name and address of said entity's agent for service.
 - (3) The name of the person responsible for the management and lawful operation of the hotel/motel.
 - (4) The name, address, and phone number of the manager/agent and the owner/operator.
 - (5) The trade name, address, and phone number of the hotel/motel and the twenty-four-hour emergency contact phone information for the hotel/motel.
 - (6) Proof of liability insurance, including the carrier, policy number, agent's name, address and phone number or a statement of self-insurance.
 - (7) Proof of an annual permit issued pursuant to §97.605, Wis. Stats., as well as an inspection report completed by a Waupaca County Health Inspector, certifying the facility is in compliance with Waupaca County Public Health requirements.
 - (8) The number of rooms constructed within the hotel/motel and the number and types of beds in each room.
 - (9) Any such other information as the City Council, City Plan Commission, or City Clerk requires.
- D. All applications will be reviewed by the Building Inspector, Fire Department and Police Department before being forwarded to the City Plan Commission with a recommendation for approval or denial. The City Plan Commission will receive the recommendation to approve

or deny the permit and take action as appropriate at a regular meeting, or a special meeting duly called for that purpose, of the City Plan Commission.

- E. Every owner/operator of a hotel/motel shall report any change in the information upon which the permit has been granted, including, but not limited to, any change in the manager/agent or owner/operator, to the City Clerk, in writing, within five business days after the change has occurred. A change in the information on the application is subject to review by the City Council and may be grounds for denial, suspension, revocation, or nonrenewal of the permit.

§175-9. Consent to inspection.

- A. Submission of an application for a hotel/motel permit constitutes the owner's/operator's consent to an inspection of any and all portions of the hotel/motel by the City at anytime during the normal business hours of the hotel/motel, with or without advance notice, or at such other time as the City shall designate to the owner/operator, in writing. Inspections pursuant to this consent may be conducted by any City or County personnel, including, but not limited to, the City Police Department, the Manawa Rural Fire Department, the Building Inspector, or the Waupaca County Public Health. Inspections pursuant to this section are for the purposes of determining compliance with the provisions of this chapter and for purposes of determining compliance with any other applicable code or regulation. The consent for inspection shall extend to any portion of the permitted premises. The existence of code violations may justify denial, suspension, revocation, or nonrenewal of a permit.
- B. Upon acceptance of a permit, consent under this section shall continue as long as the permit remains valid. Upon denial, suspension, revocation, or nonrenewal of a permit, consent under this section shall be considered revoked. An owner's/operator's application for reinstatement after suspension, revocation, or nonrenewal shall serve as renewed consent under this section.
- C. An owner's/operator's refusal to grant access to the permitted premises for an inspection shall constitute grounds for denial of a pending application (without refund of any posted application or renewal fees) and shall also constitute sufficient grounds for revocation of an existing permit.

§175-10. Display of permit.

The owner/operator of a hotel/motel shall display the permit in an open and conspicuous place on the permitted premises.

§175-11. Non-transferability.

- A. Each permit issued pursuant to this chapter shall be separate and distinct from all others and shall not be transferable from the owner/operator to whom it was issued to any other owner/operator.
- B. Whenever an owner/operator sells or transfers title to, or assigns the lease of or subleases, a hotel/motel the owner/operator shall notify the City Clerk, in writing, within five business days of such transfer.
- C. A prospective new owner/operator shall apply for a permit 30 business days in advance of a change in ownership.

§175-12. Complaints seeking suspension, revocation, and non-renewal of permit.

- A. The City Clerk, Fire Chief, Building Inspector, County Health Inspector, or Chief of Police may file with the City Clerk a written complaint against any owner/operator holding a permit in the City at any time that said permit is in existence, seeking suspension, revocation or non-renewal of the permit.
- B. The complaint shall set forth the factual grounds for seeking suspension, revocation, or non-renewal, including, but not necessarily limited to, the grounds set forth in §175-13 below. A copy of the complaint shall be served by certified mail, return receipt requested, or personal service on the owner/operator at the owner's/operator's address shown on the most recent application for permit on file pursuant to this chapter.
- C. The owner/operator shall file, by mail or personal delivery, a written response to the complaint with the City Clerk within 14 days of receipt. Failure to file an answer shall render the allegations in the complaint deemed true for purposes of imposition of penalties.
- D. The City Clerk, Fire Chief, Building Inspector, County Health Inspector, or Chief of Police that initiated the complaint (the "complainant") shall make a written recommendation regarding suspension, revocation, or nonrenewal to the City Plan Commission. The City Plan Commission shall make a decision regarding suspension, revocation, or nonrenewal, and issue written notice of the decision to the owner/operator (the "initial decision"). This initial decision shall be made based upon the parties' written submissions. The City Plan Commission may, but is not required to, conduct a hearing when making its initial decision.

- E. The owner/operator may appeal the initial decision under §175-14 below, and imposition of the penalty determined by the initial decision shall be stayed pending completion of the appeal process.

§175-13. Grounds for denial, suspension, revocation, or nonrenewal of permit.

- A. A permit may be denied, suspended for an amount of time ranging from five to 30 days, revoked, or nonrenewed for any of the following reasons:
- (1) Any violation of this chapter.
 - (2) The owner/operator or manager/agent has multiple criminal misdemeanor convictions that relate to the hotel/motel or has been convicted of a felony that relates to hotel or motel operation. This subsection shall not apply to corporations, limited liability companies, or partnerships, but shall apply to all officers, directors of such corporations and members of any such limited liability companies, and partners of any such partnerships.
 - (3) The owner/operator or manager/agent provides incomplete, false, or misleading information on the permit application or in response to questions, if any, submitted by the City to either the owner/operator or the manager/agent.
 - (4) The owner/operator is unable to establish a degree of financial responsibility required by the City or has delinquent taxes, delinquent assessments, or other delinquent payments. Delinquent taxes, delinquent assessments, or other delinquent payments includes, but is not limited to, any delinquency for (unpaid) special assessments, personal property taxes, real estate taxes, hotel/motel taxes, failure to pay any adjudicated fines or penalties and delinquent (unpaid) fees or charges originally payable to the City, the State of Wisconsin, Waupaca County, or any bank of any kind or nature, etc.
 - (5) The owner/operator, manager/agent, or hotel/motel property has an unabated notice of violation of any other provision of the City Municipal Code in excess of 30 days, excepting only to the extent that said City ordinances are preempted by the provisions of Ch.254, Wis. Stats., and state agency regulations issued pursuant there to, all in accordance with the provisions of this chapter.
 - (6) Such other relevant facts as the Fire Chief, Building Inspector, County Health Inspector, or Chief of Police may discover or deem applicable or necessary in the course of the review of the application of, or complaint against, the owner/operator, manager/agent, or hotel/motel, such as:
 - (a) Incidence of drug-related arrests or CFS.
 - (b) Incidence of prostitution-related arrests or CFS.
 - (c) Excessive number or nature of CFS (Appendix A).[1]

[1] Editor's Note: Appendix A is included as an attachment to this chapter.

- (7) The owner/operator, manager/agent, the hotel/motel or the permitted premises is noncompliant with any federal law, state law, or City ordinance.
- (8) Good cause, in the discretion of the City Council, showing that the operation of the hotel/motel has, is, or will negatively impact the health, safety and/or welfare of its guests, the residents or businesses of the surrounding community, or the City due to any of the foregoing factors listed above.

B. In processing a complaint for revocation, suspension, or nonrenewal, a representative of the Fire Chief, Building Inspector, County Health Inspector, or Chief of Police shall prepare an investigative report that details the circumstances that led to the recommendation for suspension, revocation, or nonrenewal. It may include any or all of the foregoing factors, or following factors that are applicable:

- (1) Frequency of violations, arrests, or CFS;
- (2) Seriousness of violations, arrests, or CFS in relation to the threat or impact upon public health, safety or welfare;
- (3) History of the violations, arrests, or CFS;
- (4) Good-faith efforts taken by the responsible party to correct, reduce and/or alleviate violations, arrests, or CFS;
- (5) Any activity, action or effort taken by the responsible party to obstruct or interfere with correction of the problem;
- (6) The impact of the violations, arrests, or CFS on the surrounding property and community;
- (7) The financial impact to the City;
- (8) Factors shown on Appendix A.[2]

[2] Editor's Note: Appendix A is included as an attachment to this chapter.

§175-14. Appeal process; notice of hearing.

- A. Pursuant to §68.16, Wis. Stats., the City expressly opts out of the administrative review Procedures contained in Ch.68, Wis. Stats., and expressly opts out of Chapter 7 of the City Code of Ordinances. The City hereafter provides its own alternative due process procedure for administrative review.
- B. If a permit is denied, suspended, revoked, or nonrenewed by the initial decision of the City Plan Commission, the City Clerk, within 15 days, shall provide the owner/operator a letter stating the reasons for denial, suspension, revocation, or nonrenewal. Said letter shall be delivered in person or sent by certified mail to the owner/operator as identified on the most-

recent permit application and shall be mailed to the owner's/operator's address listed on the most-recent permit application. If served by certified mail, service is deemed complete upon mailing.

- C. Any owner/operator may appeal the City Plan Commission initial decision by submitting to the City Clerk, within 14 days of service of the denial letter, a written letter requesting an appeal. The letter should state in detail the grounds for requesting reversal of the initial decision of denial, suspension, revocation or nonrenewal, and shall be signed by the owner/operator.
- D. If an appeal is timely requested, the City Council shall schedule and hold a hearing. The City Clerk shall serve the appellant with notice of said hearing by mail or personal service at least 10 days before the date that said hearing is scheduled to occur.
- E. If an appeal is not timely requested, the initial decision shall become the final decision after 14 days have elapsed from service of the initial decision on the owner/operator.
- F. In the event of an appeal, the City Council has the ultimate authority to affirm or reverse the initial decision to deny, suspend, revoke, or nonrenewal the permit following the hearing (the "final decision").
- G. Said hearing shall be conducted in accordance with the following:
 - (1) The City Council shall serve as an impartial decisionmaker to oversee the hearing and make any decisions on appeal and no members may participate that participated in making the initial decision.
 - (2) The appellant and the complainant may be represented by an attorney, may present evidence, may call and examine witnesses, and may cross-examine witnesses of the other party. All witnesses shall be sworn by the person conducting the hearing.
 - (3) The complainant and/or the complainant's designees shall testify under oath in support of his or her recommendation. The appellant, or his or her attorney, may cross-examine the complainant.
 - (4) The appellant may testify under oath in support of his/her position. The complainant, or his or her attorney, may cross-examine the appellant if the appellant chooses to testify. The complainant may call the appellant adversely if the appellant chooses not to testify on his or her own behalf.

- (5) The City Council may issue subpoenas. The appellant, through his or her attorney, and the complainant, through his or her attorney, may also issue subpoenas to compel the attendance of witnesses or the production of documents. All subpoenas must be in substantially the same form as provided in §805.07(4), Wis. Stats., and must be served in accordance with §805.07(5), Wis. Stats. If any subpoenas are issued, a copy must be sent to all parties and the City Council at the time of issuance.
- (6) Unless extended by order of the Mayor, or other presiding member of the City Council, the complainant, or his or her attorney, and the appellant, or his or her attorney, may provide a ten-minute (or less) closing statement to the City Council.
- (7) The City Council may make an oral final decision from the bench or may issue a written final decision within 10 days of said hearing.
- (8) The Mayor, or other presiding member of the City Council, shall be in control of said hearing, shall maintain order at all times, and may place reasonable limitations on the parties, including, but not limited to, time limits, limits on the number of witnesses, hearing decorum, and the prohibition of repetitive or irrelevant testimony.
- (9) The Mayor, or other presiding member of the City Council or his or her designee, shall take notes of the testimony and shall mark and preserve all exhibits. The Chairperson, or other presiding member of the City Council, or his or her designee, may cause the proceedings to be taken by a stenographer or a recording device, the expense of which shall be borne by the City.
- (10) The party aggrieved by the final decision may appeal the final decision to the Waupaca County Circuit Court by certiorari within 30 days of service of the final decision. Service of the final decision is complete upon the issuance of a final decision from the bench or upon the Clerk mailing a written final decision by certified mail to the owner/operator identified on the most-recent permit application at the address contained within the most recent permit application.

§175-15. Effective date of decision; posting of notice.

- A. Upon the earlier of the expiration of the time to appeal an initial decision to deny, suspend, revoke, or nonrenewal if no appeal is timely filed; the expiration of the time to appeal a final decision to deny, suspend, revoke, or nonrenewal if no appeal is filed; or the issuance of a decision by the Waupaca County Circuit Court on certiorari to deny, revoke, suspend or non renew the permit, the Chief of Police or his or her designee shall post a copy or copies of the notice of denial, suspension, revocation, or nonrenewal in a prominent location at the hotel/motel.

- B. If an appeal is taken as outlined above, the notice described above shall not be posted until such appeal process has concluded. Denial, suspension, revocation, or nonrenewal shall be stayed pending appeal and may then be imposed by the City Council in accordance with the outcome on appeal.

§175-16. Removal or tampering with posted notice.

A posted notice of revocation, suspension, or nonrenewal of a permit may only be removed by an authorized City official. Any removal, covering, defacing, altering or tampering by unauthorized persons may be prosecuted as an ordinance violation or as a misdemeanor under §946.72(2), Wis. Stats.

§175-17. Surrender of permit following revocation or suspension.

Whenever a permit has been revoked, suspended, or is nonrenewed by the City, the owner/operator of the hotel/motel for which such permit was issued shall surrender such permit to the City Clerk, or his or her designee, immediately following the posting of the notice of revocation, suspension, or nonrenewal. The hotel/motel shall cease all operations immediately following the posting of the notice of revocation, suspension, or nonrenewal.

§175-18. Violations and penalties; voluntary mitigation.

- A. It is unlawful to operate a hotel/motel without a valid permit or to fail to comply with any of the requirements established by this chapter. Violations of this chapter shall be subject to enforcement by any and all remedies listed in City of Manawa Municipal Code. Furthermore, this chapter may be enforced by injunctive relief prosecuted through the Circuit Court for Waupaca County in the event the hotel/motel owner/operator fails to comply with directives to cease operations issued by City officials declaring the hotel/motel to be in violation of this chapter.
- B. In addition to the foregoing remedies, owner/operators shall be subject to civil forfeitures set forth in Chapter 1 Article III, Fines and Penalties, reference this Code section, for operating a hotel/motel without a permit, each day being a separate offense. The City Council may bring action in the name of the City against the owner/operator and/or other individual responsible for said illegal operation in addition to any other remedy available at law or in equity.
- C. The owner/operator may mitigate penalties authorized here in, and may also mitigate and delay imposition of, or shorten the term of, the suspension, revocation, or nonrenewal pursuant to such conditions as recommended by the City Police Department and approved by the City Council.

§175-19. Reissuance of permit after suspension, revocation, or nonrenewal.

- A. A permit that is suspended shall not be reissued until the term of suspension has expired, which shall be a minimum of five days and a maximum of 30 days, unless the period of

suspension is either delayed or shortened by the City Council due to voluntary mitigation action by the owner/operator, and such mitigation action is approved by the City Council.

- B. A permit that is revoked shall not be reissued for a period of one year from the date of such revocation unless the period of revocation is either delayed or shortened by the City Council due to voluntary mitigation action by the owner/operator, and such mitigation action is approved by the City Council.
- C. A permit that is nonrenewed shall not be reissued for a period of one year from the date of such nonrenewal unless the period of nonrenewal is either delayed or shortened by the City Council due to voluntary mitigation action by the owner/operator, and such mitigation action is approved by the City Council.
- D. If there is a transfer or sale of the hotel/motel or the real estate on which the hotel/motel is operated and at that time the permit is either under suspension, revocation, or nonrenewal, the permit may not be reissued if the following apply:
 - (1) The new owner/operator or manager/agent is related to the former owner/operator by blood, adoption, or marriage, or common ownership or control.
 - (2) The new owner/operator or manager/agent held a business or financial interest in the previous permitted hotel/motel business, real estate at which the hotel/motel business is operated, or equipment utilized by the hotel/motel business.
 - (3) The former owner/operator retains a business or financial interest in the hotel/motel business or real estate at which the hotel/motel business is operated or equipment used by the hotel/motel business.
 - (4) The new owner's/operator's acquisition of the hotel/motel business did not involve an arm's-length transaction consisting of an open-market sale in which the former owner/operator is willing, but not obligated, to sell and the new owner/operator is willing, but not obligated, to buy.

§175-20. Severability.

It is declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this chapter are severable, and if any phrase, clause, sentence, paragraph or section of this chapter shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this chapter.