

## **CHAPTER 818**

### **Hotel, Motel, and Tourist Home**

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#### **CROSS REFERENCES**

Administration, Enforcement and Penalty – see B. & H. Ch. 1462  
Board of appeals – see B. & H. Ch. 1464

#### **818.01 SCOPE.**

This chapter regulates the rental accommodation(s) of any hotel, motel or tourist home by any person.

#### **818.02 PURPOSE.**

The purpose of this chapter is to encourage operational reliability of hotels, motels, and tourist homes by regulation, inspection, and Permitting of hotels, motels, and tourist homes to:

- (a) Protect the health, safety, and welfare of persons affected by or subject to the provisions of this chapter.

(b) Ensure that owners, legal agents, and employees are informed of and adhere to all applicable code provisions governing the use and maintenance of hotel, motel, and tourist home accommodations.

(c) Establish standards for inspecting and Permitting of hotels, motels and tourist homes.

(d) Regulate the operation of hotels, motels and tourist homes which are engaged in the business of providing rooms or residential properties for lodging or sleeping purposes to transient guests and to provide an orderly and nondiscriminatory procedure for the review and approval of accommodations.

### **818.03 DEFINITIONS.**

(a) “Accommodation” means the room, unit, or space provided to transient guests for lodging or sleeping, including furnishings and other accessories therein. Accommodations does not mean food or beverages.

(b) “Administrator” means the City’s Community Services Director or the designee of the Director.

(c) “All Trades Inspections” means an inspection of all currently adopted building, electrical, mechanical and plumbing state codes.

(d) “Board of Appeals” means the Board of Appeals as provided in Battle Creek Ordinances Chapter 1464.

(e) “Calls-for-service” means the total number of calls to Calhoun County Consolidated Dispatch Authority, law enforcement, and/or the fire department resulting in a request for a police and/or fire department representative to be dispatched or directed to the property when those responses:

- (1) Result in a representative being dispatched or directed to the property;
- (2) Allege evidence of criminal activity;
- (3) Result in an arrest, charge or citation; or
- (4) Find an imminent threat to safety of persons or property.

Calls-for service shall also include police department generated enforcement action that results in the issuance of a citation or arrest, except where the arrest is for domestic violence alone. Calls-for-service shall not include calls to law enforcement made by employees or agents of the hotel property itself, nor for traffic citations alone in which the hotel, motel, or tourist home is used as the address for the citation. It shall also not include calls for service to law enforcement specific to domestic violence.

(f) “Calls-for-service-ratio” means the number of calls for service divided by the number of rooms.

(g) “Cause” shall include the doing or omitting of any act or permitting any condition to exist on the premises where a Permit has been issued, which act, omission or condition is contrary to the health, safety and welfare of the public, is unlawful, irregular or fraudulent in nature, is unauthorized or beyond the scope of the Permit issued or is forbidden by this chapter or any applicable law.

(h) “Guest” means any person that occupies an accommodation.

(i) “Hotel”, “Motel”, and/or “Tourist Home” means a building or group of buildings containing dwelling units (a bed and a bathroom) or rooms, which provides accommodations for transient persons. Every building or structure kept, used, or maintained, as or advertised or held out to the public to be an inn, hotel, family hotel, apartment hotel, lodging house, dormitory or place where sleeping or rooming accommodations are furnished for rent, whether with or without meals, shall be included in the definitions of hotel, motel and tourist homes.

(j) “Kitchenette” means a portion of a room used or intended to be used for the preparation of food or for both the preparation and consumption of food while the remainder of the room is used or may be intended partially for purposes other than cooking. A kitchenette shall have a sink, cooktop, cabinets or storage shelves and a counter or table, and refrigerator all of which shall be in good repair.

(k) “Nuisance” shall include but not be limited to the following:

(1) Existing violations of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes;

(2) Existing factors constituting a nuisance under the Revised Judicature Code, specifically MCL 600.3801(1);

(3) A pattern or practice of guest conduct which is in violation of the law or interferes with the health, safety and welfare of the guests and/or persons on or near the premises; or

(4) Failure to maintain the grounds and exterior of the premises, including allowing litter, debris, or refuse to exist on the premises outside of proper repositories or to blow onto or be deposited upon adjoining properties.

(l) “Permittee” means a person, corporation, partnership or other entity which was granted a Permit under this chapter.

(m) “Resident agent” means a person who resides within Michigan and who is designated by the owner to be contacted by city staff for purposes of addressing ordinance violations, compliance problems or any other issues reasonably related to the provisions of this chapter and who is granted the authority by the owner or Permittee to take action on his, her or its behalf to ensure compliance with this chapter and to accept service on behalf of the owner.

(n) “Transient” means a person lodging in and/or providing compensation for the use of any hotel, motel or tourist home facilities.

#### **818.04 PERMIT REQUIRED.**

(a) No person, firm, corporation or other entity shall operate a hotel, motel or tourist home within the City of Battle Creek without having obtained a Permit for that purpose. A Permit shall expire December 31 at least one year, but not more than two years, following the date of issuance, unless sooner suspended, revoked, or pursuant to 818.13(a)(1) or (2) .

(b) The City may impose reasonable conditions upon the issuance of any Permit.

(c) All persons, firms, corporations or other entities operating a hotel, motel or tourist home within the city at the time this chapter is adopted shall be permitted to continue operation for 120 days without having obtained a Permit provided that a properly completed application for a Permit shall be submitted as required by this chapter and shall be permitted to continue such operation during the consideration of the application.

#### **818.05 APPLICATION AND INSPECTION FEES.**

The fees which shall be charged by the City Community Services Department, or another official designated by the City Manager, for the application, Permit, and inspections required by this Chapter 818 shall be prescribed in the Fee, Bond, and Insurance Schedule provided for in Section 802.24. The City may enforce payment by any lawful means including, but not limited to, a civil suit, an order to show cause, a lien assessed against the dwelling, the structure, or real property to which the fee(s) pertain, and by denying or suspending a Permit as provided in Chapter 818, Sections 818.09 and 818.10.

#### **818.06 FAILURE TO HAVE A PERMIT.**

In addition to all other remedies provided for in this chapter or by any other local ordinance, state statute, or federal law, the following shall apply when there is no Permit as required:

(a) Order to vacate. Failure to have a current, valid, Permit subjects the hotel, motel or tourist home to being ordered vacated as provided in Section 818.14 until a valid Permit is issued.

(b) Failure to vacate. In addition to any other remedy available to the City under law, including City ordinances, an occupant who fails to vacate an accommodation after having been given notice of an order to vacate under this chapter is subject to the penalties set forth at Section 818.99.

(c) In addition to any other remedy available to the City under law, including City ordinances, an owner who rents an accommodation to any guest where there is no Permit as required is subject to penalties set forth at Section 818.99.

(d) Abatement of rent. Where there is no current, valid, Permit, no financial compensation shall be charged, accepted, retained or recoverable by the owner or lessor of the premises for the period where no current, valid Permit existed. This abatement shall not be

retroactively eliminated regardless of whether there was subsequent compliance. This subsection shall not apply to owners operating without a Permit during the time permitted under section 818.04(c).

### **818.07 REGISTRATION APPLICATION FOR PERMIT; RENEWAL OF PERMIT.**

(a) Application process. The Permit application is commenced by the premises owner(s) submitting to the City Community Service Department Code Compliance Division a completed application form as provided in this section. The application is not complete, and no Permit decision can be made under Section 818.09, until the owner or owner's legal agent meets all requirements of this section. This includes, but is not limited to, the accommodations or unit being inspected consistent with Section 818.08, and that all applicable fees have been paid. A complete application, along with the below additional information, shall be submitted to the Administrator for review and a decision on the application.

(b) Permit application form. A Permit application form shall require at least the following:

(1) The name, primary residence, business and email address, home and business telephone number, and date of birth of the owner(s) and the legal agent, if any. In the case of a corporation, limited liability company, or partnership, the state of Michigan Department of Licensing and Regulatory Affairs ID number shall also be provided.

(2) The street address(es) of the accommodation(s).

(3) Description of business.

(4) The number of units in the structure.

(5) Number of units with kitchenettes, if any.

(6) Signature(s) and date as required by this section.

(c) Effect of signature. By signing the Permit application form the owner(s) is (are) verifying that all information supplied by the owner(s) on the form is accurate as of the date signed.

(d) Additional information. In addition to the information supplied by the applicant for the Permit application, the City Community Services Department Code Compliance Division shall also attach any recommendation(s) provided by a City department, office, board, or employee, on granting or denial of the Permit and the basis for the recommendation. A copy of any adverse recommendation that is attached to the application shall be mailed by first class to the applicant. The copy of the adverse recommendation may be emailed if applicant has approved the use of email. The applicant shall have ten business days from the date of mailing to provide a written response to an adverse recommendation to the City Community Services Department Code Compliance Division, which shall be attached to the application.

(e) Deficiency in form. The City Community Services Department Code Compliance Division within five business days of receipt of a Permit application form, shall notify the applicant of any deficiencies in the application form, including the failure to pay any fee, which prevents its acceptance. Failure to cure the deficiencies set forth in the notice within thirty days

from date of the notice will result in the application being deemed abandoned. In such case, any fee paid shall be retained by the City, and the application file closed. Thereafter, an application initiated for the same property is deemed a new application requiring compliance with all initial Permit application provisions, including payment of all required fees.

(f) Changes. Applicant will notify the Administrator within 30 days of any change of information as submitted on a Permit application form.

(g) Renewal of Permit. An application for the renewal of a Permit shall be made as follows:

(1) City Community Services Department Code Compliance Division sends renewal reminder to Permittee. A Permit renewal reminder will be emailed to the Permittee or the Permittee's legal agent at the most recent email address on file with the City for that structure, at least ninety days prior to the expiration of the current Permit. The Permittee remains responsible for timely renewal regardless of receipt of reminder.

(2) Contents of Permit renewal application form. A Permit renewal application form will require the same information as an initial application form. The Permittee must provide all changes in information from the previous application form. Where there is no change in information from the previous application form, the Permittee shall indicate that there is no change on the renewal application form. In that case, the prior information is considered incorporated by reference.

(3) Filing time limits. The completed Permit renewal application form, along with payment of required fees, must be filed by the Permittee with the City no less than sixty days before the expiration of the current Permit to obtain a decision on the Permit renewal application prior to the expiration of the current Permit and to avoid Permit renewal late fees as are set out in the Fee, Bond and Insurance Schedule provided for in 802.24.

### **818.08 INSPECTIONS; PERIODIC INSPECTIONS; INVESTIGATION OF COMPLAINTS.**

(a) Permit application inspection. Upon the filing of a completed Permit application form, whether initial or renewal, the proposed accommodations and structure shall be inspected by City code and fire officials for compliance with the requirements of local and state codes by consent or upon the issuance of an administrative search warrant.

(b) An All Trades Inspection. An all trades inspection may be scheduled and made when, during the course of an inspection provided for under this chapter, a code official concludes that there are violations, which considering the nature and/or severity of the violation, either poses a hazard to the health, safety or welfare of the occupants or that an all trades inspection is needed either to properly determine the extent of the violations or the corrective action required to comply with the Property Maintenance Code.

(c) Additional inspections. Additional inspections may be scheduled and conducted on one or more of the following bases:

(1) Due to recurrent violations, a combined three or more substantiated recurrent or uncorrected violations for a particular structure and/or accommodations and/or unit(s) within a structure, within a twelve-month period from the date of the most recent violation.

(2) Whenever reasonable cause exists to believe that there is a violation of the Property Maintenance Code on any premises, or other condition(s) which make the structure or premises unsafe, dangerous, hazardous or a nuisance.

(3) For the purpose of auditing compliance with conditions on a Permit.

(4) For the purpose of reinspection to ensure the correction of any violations in existence at a previous inspection.

(5) For all other purposes set forth in Section 1462.01.

(d) Inspection of multiple units. For properties having more than fifty units, a minimum of twenty five percent (25%) of the units contained in those properties shall be inspected. The units to be inspected shall be randomly selected by the code official. The number of units inspected may be increased at the discretion of the code official should significant code violations be found or should the inspector have reasonable cause to believe other violations exist in the uninspected units.

(e) Notification and presence of owner at inspection. Subject to below subsection (f), the owner(s), or the owner's legal agent if any, shall be notified of any initial or renewal inspections for the purposes of Permitting. The failure of the owner(s) or owner's legal agent to appear for the inspection after notification does not preclude the inspection if access to the structure or unit can otherwise be lawfully obtained.

(f) Entry for inspection. Except as otherwise provided by law, authorized inspections inside a unit will be made during reasonable hours with the consent of an owner, legal agent, or occupant. Entry without the consent of an owner, legal agent, or occupant, will be made only after obtaining an administrative or criminal search warrant for the premises, a court order allowing entry of the premises for inspection, or otherwise as provided by law.

(g) Failure to allow inspection during Permit application process. The refusal of an owner or the owner's legal agent to allow an inspection of the unit shall not provide a basis, in whole or in part, to deny the issuance of a Permit under this chapter. The owner or the owner's agent retain the right to decline to consent to inspections under this chapter. The City, however, may issue Permits absent an inspection on a conditional basis, subject to inspection of the proposed structure, accommodations, or unit pursuant to either an administrative subpoena, an administrative search warrant, or any other order by a court having jurisdiction. A conditional Permit under this section will automatically become a regular Permit, subject to all other provisions of this chapter, after an inspection showing that the structure satisfies the requirements of the Property Maintenance Code or within ninety-days after the conditional Permit was issued, whichever occurs first, unless uncorrected cited violations remain outstanding.

(h) Inspection reports. If there are any violations noted on an inspection, within ten business days after an inspection has been conducted, the owner(s) or the owner's legal agent

shall be given written notice of the results. The notice of the inspection results shall be given personally or by first class mail at the most recent address provided to the City Community Services Department Code Compliance Division.

### **818.09 APPLICATION REVIEW; GROUNDS FOR DENIAL, TERM.**

(a) Provided the application is complete, the Administrator shall issue a new Permit, or grant the renewal of a Permit, except as provided in subsections (b) or (c) of this section, which require the Administrator to deny any application for a new Permit, or renewal of a Permit, and except as provided in subsections (d) and (e) of this section, under which the Administrator may deny any application for a new Permit, or renewal of a Permit.

(b) The Administrator shall deny any application for a new Permit, or renewal of a Permit, if any of the following are shown to exist or have occurred at the hotel, motel, and/or Tourist Home property:

- (1) The applicant makes a material misrepresentation of fact on the application;
- (2) The applicant or any owner of the premises that is the subject of the application has been found in violation of sections 818.07 or 818.08 this chapter; or
- (3) Any owner, applicant, operator, manager or resident agent of the property is shown to have been convicted of the act of prostitution or soliciting for prostitution, on the premises of the hotel, motel and/or Tourist Home in question, or any hotel, motel and/or Tourist Home in which that individual has any interest, including, but not limited to, ownership, licensure, or management.

(c) The Administrator shall deny any application for a new Permit, or renewal of a Permit, if the applicant is delinquent to the city, county or state for any taxes, or indebted to the city, county or state for any other reason unless the delinquency or indebtedness is the subject of pending litigation.

(d) The Administrator may deny any application for a new Permit, or renewal of a Permit after consultation with the City of Battle Creek Inspections, Police, and/or Fire Departments, if any of the following are shown to have occurred at the property:

- (1) The property has outstanding orders from the City of Battle Creek that have not been corrected for six months or more, including but not limited to, orders regarding:
  - (A) Bed bugs, cockroaches, rats, mice, flies, and any other insects or vermin;
  - (B) Mold;
  - (C) Heating, cooling, and ventilation;
  - (D) Water supplies, including drinking water and hot and cold availability;
  - (E) Lavatories, baths, and sewage;
  - (F) Electricity;
  - (G) Adequate lighting;
  - (H) Pools and spas;
  - (I) Housekeeping practices and policies;
  - (J) Refuse removal;
  - (K) Defective locks;
  - (L) Non-functional smoke or fire suppression systems; or
  - (M) Severe structural defects.

(2) The property fails to meet accessibility requirements required by the Americans with Disabilities Act (ADA);

(3) The owner, applicant, operator, manager or resident agent has obstructed or interfered with correction of the violations, or is party to pending enforcement actions related to the property; or

(4) The owner, applicant, operator, manager or resident agent has hindered or prevented any inspection of the property authorized by 818.08 of this chapter.

(5) The owner, applicant, operator, manager or resident agent of the property has previously violated this chapter by operating without a Permit.

(6) A Calls-For-Service-Ratio of 1.0 or greater over any 12 consecutive-month period within the last twenty-four (24) months from the application and/or renewal date.

(7) Three or more violations of the §15 Rules and Regulations (818.15) within a 12 consecutive month period over the last twenty-four (24) months from the application and/or renewal date.

(e) Upon the written recommendation of the City of Battle Creek Inspections, Police, and/or Fire Departments, the Administrator may prohibit the renting of accommodations until all violations and orders stemming from such guestrooms or spaces have been remedied.

(f) Any attempt to rent accommodation(s) described in above subsection (e), or any failure to remedy all violations or orders for such guestrooms or spaces within three months, shall be deemed a violation under section 818.09 (d)(4).

(g) The Administrator may deny any application for a new Permit, or renewal of a Permit, if a written objection detailing the reason for objection is submitted by the City of Battle Creek Inspections, Police and/or Fire Departments and the Administrator concludes that issuance or renewal of the Permit would be detrimental to the public welfare.

### **818.10 PERMIT; DENIAL; SUSPENSION; REVOCATION OR NONRENEWAL.**

A Permit requested under this section may be denied by the Administrator, and any Permit issued under the provisions of this chapter may be suspended, revoked or not renewed by the Administrator for cause. Cause shall include, but not be limited to:

(a) Fraud or material misrepresentation in the application for Permit;

(b) Fraud or material misrepresentation in the operation of the Permitted business;

(c) Any material violation of this section or of the regulations authorized herein;

(d) Any violation of federal or state law or local ordinance which creates a risk to the health, safety or welfare of the transients or to the community or where such violation brings into question whether the Applicant/Permittee is of suitable character to operate the business;

(e) Conducting the business in an unlawful manner or in such a manner as to constitute a maintenance of a nuisance as defined in this chapter upon or in connection with the proposed Permitted premises. Nuisance shall include, but not be limited to:

(1) Existing violations of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes;

(2) A pattern or practice of guest conduct which is in violation of the law and/or interferes with the health, safety and welfare of the properties in the area;

(3) A Calls-For-Service-Ratio of 1.0 or greater over any consecutive twelve (12) month period occurring within the twenty-four (24) months prior to the application or renewal.

(4) Failure to maintain the grounds and exterior of the Permitted premises, including permitting litter, debris or refuse to exist on the proposed and/or Permitted premises outside of proper repositories or to blow onto or be deposited upon adjoining properties; or

(5) Existing factors constituting a nuisance under the Revised Judicature Code, MCL 600.3801(1).

(f) Failure by the Applicant/Permittee to permit the inspection of the Permitted premises by the City's agents or employees in connection with the enforcement of this section, provided the intended inspection was in conformance with 818.08(f).

(g) Failure of the Applicant/Permittee to pay personal property taxes, other city obligations and real property taxes by the established due date of each year arising from the Permittee's use and occupancy of the property. A Permittee who does not own the real property is not responsible for the payment of the real property taxes unless a lease or contract requires such payment.

(h) Permit suspension/revocation shall be in accordance with the following:

(1) A Permit may be temporarily suspended without hearing by the Administrator where there is any violation of health, safety or welfare of occupants and/or the public. The Permit shall be reinstated once city staff has determined all health, safety or welfare conditions have been remedied.

(2) If a Permit is suspended, the hotel, motel or tourist home is prohibited from furnishing accommodations or other space to new guests, including but not limited to, conference rooms, ballrooms, pools and spas, and parking lots. The premises Owner may only continue to operate and furnish accommodations to current guests, unless an emergency order requires immediate evacuation of the property.

(3) If a Permit is revoked, the owner of the property is prohibited from furnishing accommodations or rented space to new guests and must cease operations within 30 days of a final decision, during which time they must:

(A) Notify all guests of the hotel/motel's cessation of operation;

(B) Provide a reasonable amount of time for guests to vacate their accommodations, which shall be no less than one week;

(C) Comply with all health codes and provisions of this chapter until all guests have vacated the property;

(D) Allow the City or any collaborating organizations or charities to contact current guests directly, in order to provide information regarding potential alternative accommodation options; and

(E) Any Permittee whose Permit is revoked must apply for a new Permit as provided in above section 818.07.

## **818.11 PROCEDURE FOR SUSPENSION; HEARING.**

(a) Except pursuant to 818.10(h)(1), before any action is taken concerning nonrenewal, revocation or suspension of a Permit, the City shall serve the Permittee by first class mail, or email, mailed at least ten days prior to a hearing with notice of hearing before the:

(1) Board of Appeals, if the action is taken based upon a violation of the Property Maintenance Code, or any other applicable regulatory code; or

(2) Battle Creek City Commission, if the action is taken based upon a violation related to something other than the Property Maintenance Code or other applicable regulatory code.

(b) The Notice of Hearing before the appropriate body as specified above shall contain the following:

(1) Date, time and place of the hearing;

(2) Notice of the proposed action;

(3) Reasons for the proposed action;

(4) Names of witnesses known at the time who will testify;

(5) A statement that the Permittee may be represented by legal counsel, and present evidence and testimony;

(6) A statement requiring the Permittee to notify the City of Battle Creek Code Compliance office at least three days prior to the hearing date if the Permittee intends to contest the proposed action and to provide the names of witnesses known at that time who will testify on behalf of the Permittee.

(c) Upon completion of the hearing, the body conducting the Hearing shall submit to the Permittee a written statement of findings and determination within 30 days.

### **818.12 PERMIT DENIAL; HEARING.**

(a) Any person whose initial request for a Permit is denied shall have a right to a hearing before either the Board of Appeals, or the Battle Creek City Commission, depending upon the basis for the denial as specified below, provided a written request for a hearing is filed with the Administrator within ten days following such denial. Failure to request a hearing within this time frame shall result in a final decision.

(b) Body before whom a hearing is requested:

(1) Board of Appeals shall conduct the hearing if the denial is based upon a violation of the Property Maintenance Code, or any other applicable regulatory code.

(2) Battle Creek City Commission shall conduct the hearing if the denial is based upon a violation related to something other than the Property Maintenance Code or other applicable regulatory code.

(c) In addition to the information required in this chapter, an applicant whose application for a Permit under this chapter was denied by the Administrator should be prepared to submit and discuss any additional information required by the body before whom the appeal will be considered for the appeal hearing. The body before whom the appeal will be considered shall have the right to reverse, modify, or affirm and sustain any denial to issue a Permit.

### **818.13 PERMIT EXPIRATION.**

(a) Expiration date. A Permit shall expire on December 31 in the calendar year after its issuance, but not more than 24 months from the effective date of the Permit, with the following exceptions:

(1) Inspection violations. A Permit will expire no more than 12 months from the effective date of the Permit if, at the last inspection, the property was cited for violations of the building and/or Property Maintenance Code.

(2) In accordance with conditions. The Permit expires in accordance with the conditions placed on the Permit under this chapter.

(b) Effect of Permit expiration. Upon expiration of a Permit:

(1) Vacate. The structure is subject to being ordered vacated in accordance with this chapter until a valid Permit is issued.

(2) Meet conditions before new application. If the Permit expired for failure to comply with conditions placed on it, application for a new or renewal Permit may be made only after the conditions have been met.

### **818.14 ORDER TO VACATE; AUTHORITY TO ISSUE.**

Where a current, valid, Permit is not in effect for a structure for any reason under this chapter, the Administrator may issue an order to vacate to the owner and/or owner's legal agent in accordance with Section 1462.24. The order to vacate may be held in abeyance for up to 45 days if there are no conditions on the property posing a hazard to life, limb, property or safety of the occupants or the general public and the owner makes application in compliance with this chapter.

### **818.15 RULES AND REGULATIONS.**

The following rules, regulations and conditions shall be observed by each Permittee:

(a) All accommodations must afford easy and unobstructed access to a hall or passageway or to the outdoors;

(b) In every hotel, motel or tourist home hereafter erected, all accommodations shall be in compliance with the State Codes and Property Maintenance Code as adopted by the city and all applicable building codes in the city;

(c) In every hotel, motel or tourist home there must be provided at least one toilet, washing facilities and shower and/or bathtub for every eight or fewer occupants. Hot and cold running water must be provided;

(d) The third or higher floor of any building shall not be used for lodging or sleeping purposes, unless equipped with fire escape facilities as required by all applicable regulations and codes and unless otherwise approved by the proper authorities designated in those regulations and codes;

(e) Accommodations must be kept clean and free from dirt, vermin, garbage and rubbish. The Permittee shall be responsible for the sanitary maintenance of the entire premises;

(f) Clean sheets, pillow cases, blankets and towels must be provided before a transient guest may occupy a bed previously occupied by a different guest;

(g) The cooking of food in or upon the premises is prohibited except in a kitchenette facility in compliance with this chapter, applicable codes and regulations, and approved by the proper authorities designated in those codes and regulations, or as may be accomplished in a microwave oven provided by the Permittee. The use of hot plates or similar equipment which can be utilized to heat or cook food is specifically prohibited. However, microwave ovens or coffee makers provided by the Permittee may be used in the premises. A notice to this effect shall be conspicuously posted in each accommodation, utilizing bold lettering;

(h) No guest shall remove any furniture from any of the Permittee's facilities; nor shall any guest permit any furniture, regardless of whether it belongs to the Permittee, to be placed outside of the accommodations. A Permittee, its agent(s) or its employee(s) shall take prompt action to immediately remove furniture from any area of public egress, whether it be a porch, driveway, walkway or any similar area;

(i) A register shall be provided and maintained on the premises near the main entrance. Register information shall be maintained by a Permittee for a period of one year. The register shall contain the following information:

(1) The name and address of every guest renting an accommodation. The Permittee, or its agent, servant or employee shall request proper photo identification from all guests who are actually renting the accommodation and who pay for it with a means other than a financial transaction device and shall note in the register whether such request was made and whether such identification was actually provided;

(2) The make, year, model and color of every motor vehicle parked by a guest on the Permittee's premises;

(3) The date and time of arrival and date of departure of every guest, the number of days each guest has been at the establishment during the calendar year and the amount paid by the guest for each stay;

(4) Where at least two persons occupy the same room, the total number of occupants that shall be lodging in and/or occupying the accommodation;

(j) Permittee shall maintain, and enforce, a list of guests to whom the Permittee will not provide an accommodation and/or who has been banned from Permittee's premises. The guest's name shall be maintained for a period of 90-days following the ban and/or following the end of the time when Permittee has refused to provide an accommodation to the guest, whichever date shall be later.

(k) Permittee shall prominently post notices and signs that clearly outline acceptable and unacceptable guest behaviors.

(l) In addition to the required register information, the Permittee shall also maintain telephone usage records for a period of one year for each room, accommodation and telephone (with the exception of public "pay" telephones) on the Permittee's premises. The information to be maintained shall include but is not limited to the telephone number called, the date and time of the call and the telephone and/or room from which the call was made; The police may request to inspect the register and/or telephone records required under this section, provided however, if

such request is refused by the Owner, Operator, Manager, desk clerk or any other person in charge of any hotel, motel, and/or tourist home inspection shall not occur without a search warrant.

(m) No Permittee shall knowingly permit any accommodations and/or other location on the premises to be used for an unlawful purpose. A Permittee with reasonable cause to believe that the premises are being used for an unlawful purpose shall be deemed to be "knowing" for purposes of this section;

(n) All Permittees shall permit free access to areas of the premises open to the public by building officials, the fire marshal, the Chief of Police or their representatives at all reasonable times. All Permittees shall exhibit, upon demand, a valid Permit issued by the city authorizing the operation of the establishment. Before a Permit is issued under this chapter and bi-annually thereafter prior to renewal inspection of the premises shall be made by the inspection division, which shall certify that the premises comply with applicable provisions of the Property Maintenance Code. The bi-annual inspection period shall take place between October 1 through December 31, subsequent to the initial inspection;

(o) The right to occupy any accommodation shall not be assigned or transferred without the express written consent of the Permittee. No Permittee shall allow any transient guest to obtain accommodations for more than 28 consecutive days in a 90 consecutive day period, except as provided in 818.16;

(p) All Permittees shall post a safety notice in each accommodation, in a prominent and conspicuous place and manner, containing the following information:

(1) An accurate egress route to be followed by the Permittee's guests in the event of fire or other emergency, except where the accommodation has an existing door opening directly to the outdoors at ground level;

(2) City contact information to register a complaint; and

(3) Emergency contact numbers, including 9-1-1.

(q) These Rules and Regulations (818.15) and Permit issued under this chapter shall be conspicuously displayed with the Permit at each registration area.

### **818.16 LONGER TERM OCCUPANCY LIMITATIONS.**

Longer-term occupancy of accommodations may be permitted in a hotel, motel or tourist home, subject to the following limitations:

(a) The accommodation must include a City approved kitchenette, except where the Permittee has a written agreement with an employer or business, or an insurance company in response to a properly declared disaster, requesting that an individual be permitted a corporate long-term stay and complies with the following:

(1) Permittee provides City written proof of the written agreement;

- (2) Permittee provides City proof that its franchisor permits long-term stays at this particular brand hotel and that the franchisor prohibits adding a kitchenette;
- (3) If the franchisor prohibits adding a kitchenette, then the requested longer-term occupancy of accommodations pursuant to the written agreement may be permitted; however, no food preparation may take place in the unit except that which can be accomplished in a microwave oven provided by the Permittee.

(b) The Permittee shall provide a report to the city on a quarterly basis (January 1, April 1, July 1, and October 1 of each calendar year) of the number of accommodations being utilized in excess of 90 consecutive days. The quarterly report shall include:

(1) The date and time of arrival and date and time of departure of every guest (without identifying information) who has utilized an accommodation in excess of 90 consecutive days;

(2) A description of the specific accommodation, including the dimensions of the accommodation, the existence of a kitchenette and available appliances, the existence of a bathroom, the number of beds and a description of any other appliances or facilities available in the specific accommodation.

(c) The Permittee shall also maintain for a period of one year from the departure date, the correct name and address of every guest renting, occupying or residing at the Permittee's establishment for a period in excess of 90 days, including but not limited to non-paying minors and/or dependents. However, the Permittee shall not be obligated to disclose this information to the City except upon the issuance of a search warrant or otherwise being compelled by subpoena or court order.

(d) Any room occupied in excess of 90 days shall be considered to be a residence and open for inspection, as provided by law, for compliance with state and local laws and codes by personnel of the Police Department, Fire Department, Building Department and any other department of the city. A fee may be assessed to recoup the costs of the inspection.

#### **818.17 REPORTING FALSE INFORMATION.**

It shall be a violation of the chapter for any person to inscribe in any hotel, motel and/or tourist home register, or to give for the purpose of being inscribed in such register, any false information. Knowing or having reasonable cause to believe such information to be false, the Permittee or its employee shall notify the Police Department of such fact and failure to do so shall be grounds for revocation of the Permit.

#### **818.18 MAINTAINING A PUBLIC DISORDER.**

(a) A Permittee shall be guilty of maintaining a public disorder when the Permittee or any of the Permittee's employees permit any of those things set out in MCL 600.3801(1)(a) through (g) to be conducted upon the premises or immediately adjacent to the premises by any person or persons letting an accommodation from said Permittee.

(b) A Permittee shall be held to be guilty of maintaining a public disorder when the Permittee or any employee of the Permittee through the exercise of ordinary care and diligence under such circumstances that a reasonable person would infer that a public nuisance as defined by MCL 600.3801(1)(a) through (g) is being conducted upon the premises or immediately adjacent to the premises by any person or persons letting an accommodation from the Permittee.

(c) No Permittee shall be punished under this chapter for maintaining a public disorder if the Permittee notifies the police of suspicions that the aforesaid conduct is occurring on the premises and the Permittee terminates the letting of the accommodations immediately upon learning that the aforesaid conduct is occurring on or adjacent to the Permittee's premises. No employee of the Permittee shall be punished for maintaining a public disorder if the employee makes the notification required herein or notifies the Permittee of the existence of the prohibited conduct for the Permittee's action immediately upon learning that the conduct is occurring on or immediately adjacent to the premises.

### **818.19 HEARINGS.**

All rights to hearing and the hearing proceedings are as set forth herein:

(a) Persons entitled to hearing. The following persons are entitled to a hearing upon request under the terms of this section:

- (1) An applicant who has been granted a conditional Permit.
- (2) An applicant who has been denied a Permit.
- (3) An owner or owner's legal agent who has been given an order to vacate a premises.
- (4) An occupant who has received an order to vacate a premises or been given an order to vacate.
- (5) A Permittee whose Permit has been suspended or revoked.

(b) Request for hearing. Unless the person entitled to a hearing under this section makes a request for a hearing within ten business days from the date notice of any action was served under this chapter, by filing a signed and completed "request for hearing" form with the City Community Services Department Code Compliance Division, the decision is final. The request for hearing form is available from the City Code Compliance office and will contain at least the name and signature of the person entitled to a hearing, the date the form is filed with the City Code Compliance office, and information sufficient to identify the action that is being contested.

(c) Hearing date. Hearings shall be scheduled as expeditiously as possible, but in no case any later than the following:

- (1) At the next regularly scheduled meeting of the body before whom the hearing will be considered for which proper notice could be given.

(2) Notwithstanding paragraph (1), above, except where the order to vacate is due to an imminent danger to life, limb, property or safety of the occupants or the general public, in no case shall a hearing contesting an order to vacate be scheduled after the date a guest is ordered to vacate under this chapter.

(d) Notice of hearing. The notice of hearing shall be made pursuant to Chapter 1464.05. Where the City has proof of service of the notice given as required, failure of the Permittee, or the Permittee's legal agent, or a guest to receive the notice does not affect the validity of the hearing or its outcome.

(e) Conduct of the hearing. The hearing provided for under this section shall be conducted in conformance with Chapter 1464, Board of Appeals.

(1) Standards. The body before whom the hearing is conducted shall apply the standards set forth in this chapter that are applicable to the action being contested. All determinations shall be based upon competent, material and substantial evidence on the record.

(2) Continuation of hearing. In the discretion of the body before whom the hearing is taken, the hearing once commenced may be continued to another date if the body before whom the hearing is being conducted finds that such continuation is for good cause.

(3) Decision. After hearing all of the evidence, the body before whom the hearing is conducted shall make a decision regarding the contested action by setting forth findings of fact on the record, and by entering an order affirming, modifying, or reversing the action being contested. If not appealed in accordance with below section twenty (818.20), the order is final.

(f) Failure to appear/rescheduling. Failure of the person(s) requesting the hearing to appear for a properly scheduled hearing constitutes an abandonment of the request for hearing.

## **818.20 APPEALS.**

(a) A Permittee aggrieved by a final decision or order of the Board of Appeals or the City Commission may appeal that decision or order to the Calhoun County Circuit Court by filing a petition/appeal within 20 days from the date of that decision or order. If not appealed, orders of the Board and/or City Commission shall be final.

(b) On appeal the Circuit Court shall review the record and final decision or order of the Board of Appeals and/or City Commission to insure that the decision meets all of the following:

- (1) Complies with the constitution and laws of this state.
- (2) Is based upon proper procedure.
- (3) Is supported by competent, material, and substantial evidence on the record.
- (4) Represents the reasonable exercise of discretion granted by law to the Board of Appeals and/or City Commission.

(c) If the Circuit Court finds the record of the Board of Appeals and/or City Commission inadequate to make the review required by this section, or that additional evidence

exists which is material and with good reason was not presented to the Board of Appeals and/or City Commission, the Court shall order further proceedings before the Board of Appeals and/or City Commission on conditions which the Court considers proper. The Board of Appeals and/or City Commission may modify its findings and decision or order as a result of the new proceedings, or may affirm the original decision. The supplementary record and decision shall be filed with the Court.

(d) As a result of the review required by this section, the court may affirm, reverse, or modify the decision of the Board of Appeals and/or City Commission.

### **818.99 PENALTIES; OTHER REMEDIES.**

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding \$500 or be imprisoned for a period not exceeding 90 days, or be both so fined and/or imprisoned, in the discretion of the court. Any entity violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding \$500 and shall be subject to the revocation procedures set forth in this chapter.

(a) Except as provided in subsections (b) and (d), an owner or occupant or Permittee who fails to vacate a property after notice of an order to do so is responsible for a Class D municipal civil infraction. Each day that the person fails to vacate after the date indicated on the notice is a new violation.

(b) Where the order to vacate is based upon an imminent danger to life, limb or property of the occupant or the public at large, then a person who fails to vacate after notice of the order to do so is guilty of a misdemeanor with a fine of up to five hundred dollars (\$500.00) and/or 90 days in jail. Each day that the person fails to vacate after the date indicated on the notice is a new violation.

(c) Except as provided in Chapter 1462.10(i), an owner, Permittee, or guest who has filed an appeal in accordance with the provisions of this chapter is not subject to the provisions of subsection (a) hereof during the course of those actions.

(d) Anyone who intentionally makes a false statement to a City employee in the course of the City employee's duties under this chapter, or who intentionally gives false information, including a signature which is not their own, on an application for Permit under this chapter, is guilty of a misdemeanor punishable by a fine of up to five hundred dollars (\$500.00) and/or ninety days in jail. Each false statement or false piece of information is a separate violation.

(e) The actions, sanctions, and remedies in this chapter are in addition to all other actions, sanctions and remedies available to the City under any other City ordinance, State or Federal law.