

DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to section 227.112 of the Wisconsin Statutes, the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is hereby accepting comments on the proposed guidance document:

Determining Family Group Licensing

LOCATION OF PROPOSED GUIDANCE

Proposed guidance document may be reviewed by accessing:

https://datcp.wi.gov/Pages/About_Us/GuidanceDocuments.aspx

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance document may be submitted by accessing:

https://datcp.wi.gov/Pages/About_Us/GuidanceDocuments.aspx

DEADLINE FOR SUBMISSION

The comment period will run no fewer than 21 days after the publication of this document in the Administrative Register.

AGENCY PUBLICATION

The attached guidance document contains statements or interpretations of law under the following applicable provisions of federal law or the applicable state statutory or administrative code provisions: Wis. Stat. 97 Subchapter III, Wis. Admin. Code, ch. 72.

CERTIFICATION

Pursuant to the authority delegated to me by the Secretary, I have reviewed the attached guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.



Steve Ingham

Administrator

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GUIDANCE DOCUMENT

Guidance Document Title: Determining Family Group Licensing

This guidance document is based on Wis. Stat. 97 Subchapter III and chapter ATCP 72 Wis. Admin. Code. This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed.

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November 12, 2019

Steven Ingham, Ph.D. - Administrator, Division of Food and Recreational Safety

DATE

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Lodging Policy

Effective Date: 07/01/2016

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This policy supersedes the Department of Health Services policy put forward on 10/15/2014

TRH – Family Groups

Question

If a home is being rented to a group that is typically not a discrete family unit, can it still comply with the UDC, or must it be built to commercial standards? In other words, can a house rented for crafting, scrap booking, or similar hobby- or interest-focused activity still be licensed as a tourist rooming house?

Background

Historically, ATCP has worked closely with the DSPS in the application and enforcement of codes related to human habitat. There are essentially two types of buildings- single/two-family and commercial- with different construction code requirements for each. SPS determined what codes applied based at least in part on whether or not the building was used by a discrete family unit. If a building was rented to a family, it was considered “inaccessible to all other parties”, and therefore was considered a residence. On the other hand, if individual rooms could be rented by different persons unrelated to each other, then the building had to comply with commercial standards. A tourist rooming house (TRH), which is simply a very small hotel, can be either a single family home or a commercial building, depending on how it is rented. The vast majority of the time it is rented as a single unit- the operator signs a contract with a single person representing the interests of the “group” renting the house. Bedroom doors probably don’t have key locks, and each room is not “self-contained” as in a typical hotel.

SPS has realized that what defines a family group is no longer easily determined. Accordingly, the use of a “family” as a determinant of code requirements has been abandoned, and replaced by application of the concept of “accessible/inaccessible to all others.” Thus, it doesn’t matter if a family of six rents out a 3-bedroom house for a week, or if a group of fishing buddies rents the same house at a different time. During the time it is occupied by the group, it is “inaccessible to all others”, and thus need only be built to residential standards.

Code interpretation

The advent of special-interest groups meeting for periods of time to immerse themselves in a hobby or activity has created a new use for residences typically licensed as a tourist rooming house. When a group of like-minded individuals contracts with a property owner or manager to use a residential facility for a period of time, to the exclusion of all others outside that group, then residential building codes are adequate, and the facility can be licensed as a TRH. Note



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that it is irrelevant whether the group is a family, a formal or informal organization, or even members of different organizations who may not know each other. The determining factor is that there is a single contractual agreement with the group, and rooms are not rented to individuals.