

Subchapter I – Definitions, Authority and Purpose

ATCP 72.01 Authority and purpose. This chapter is promulgated under the authority of ss. 97.605, 97.607, 97.613, 97.615, 97.62, 97.625, 97.638, 97.65, and 227.11 (2) (a), Stats., to prescribe rules for hotels, motels, and tourist rooming houses for enforcement by the department and its agents to protect public health and safety.

ATCP 72.02 Scope. (1) APPLICABILITY. This chapter applies to the operator of any hotel, motel, or tourist rooming house and to the department and its agents.

(2) VARIANCES. When it appears to the department that strict adherence to a provision of this chapter is impractical for a particular hotel, motel, or tourist rooming house, the department may approve a variance from that provision requested by that hotel, motel, or tourist rooming house operator if the operator provides the department with satisfactory proof that the approval of the variance will not jeopardize the public's health, safety or welfare.

(3) PROCEDURE FOR A VARIANCE REQUEST. (a) Application. Request for modification or waiver of a requirement of this chapter shall be submitted in writing to the department or its agent having jurisdiction along with documentation specified in par. (d).

(b) Local review. A local inspector shall review the request and forward it to the department with recommendations for approval or disapproval.

(c) Department action on a variance. On receipt of a complete variance request as specified in this section, the department shall review the request and grant or deny the request in writing within 30 working days. A variance approved by the department shall be made conditional for a defined period of time, or shall expire 5 years from the date of issuance. The department or its agent shall maintain a copy of the variance in the establishment's inspection history file.

(d) Application contents. Documentation justifying a proposed variance from the requirements of this chapter shall include the following:

1. A statement of the proposed variance from this chapter requirement citing relevant chapter location numbers.

2. The rationale for how the potential public health hazards and nuisances addressed by the relevant chapter section will be alternatively addressed by the proposed variance.

(4) CONFORMANCE WITH AN APPROVED VARIANCE. If the department grants a variance as specified in sub. (2), the license holder shall meet all of the following requirements:

(a) Conditions. Comply with the department's conditions for the variance approval.

(b) Records. Maintain a copy of the approved variance at the hotel, motel, or tourist rooming house.

(5) TRANSFERABILITY. An approved variance is not transferable to any other hotel, motel, or tourist rooming house, entity, or licensee.

(6) REISSUANCE. (a) Request. A license holder who wishes to continue a variance after its expiration shall file a request with the department for reissuance of the variance at least 30 days prior to its expiration, unless permission for a later date has been granted by the department.

(b) Status of existing variance. When a license holder has made timely and sufficient application for the reissuance of a variance in reference to any activity of a continuing nature, the existing variance does not expire until the application has been finally acted upon by the department.

Note: To obtain a form for requesting a variance, e-mail datcpdfsrec@wisconsin.gov or contact the bureau of food and recreational businesses at (608) 224-4702 or PO Box 8911, Madison, Wisconsin 53708-8911.

ATCP 72.03 Definitions. In this chapter:

(68) "Temperature measuring device" has the meaning given in s. ATCP 75 Appendix 1-201.10 (B).

(68) "Time and temperature control for safety (TCS)" has the meaning given in s. [ATCP 75 Appendix 1-201.10 \(B\)](#).

Subchapter II – Licensing and Fees

ATCP 72.04 License holder qualifications. To qualify for holding a license, an applicant shall do all of the following: (1) LICENSE HOLDER. Be the entity that is legally responsible for the operation of a lodging facility.

(2) PAYMENT OF FEES. Pay the applicable license fees at the time the application is submitted.

ATCP 72.05 License holder responsibilities. Upon acceptance of the license issued by the department or its agent, the license holder shall do all of the following in order to retain the license:

(1) ACCESS. Allow an authorized representative of the department or its agent access to the hotel, motel or tourist rooming house and provide any required information to that authorized representative.

(2) COMPLIANCE. Comply with the provisions of this chapter.

(3) REPORTING. Follow reporting requirements to the department or its agent, as applicable, as outlined in this chapter.

(4) OPERATIONS. Immediately discontinue operations directly related to an imminent health hazard and notify the department or its agent.

(5) REPLACEMENT. Replace existing facilities and equipment that no longer comply with the criteria set forth in this chapter.

(6) CORRECTIVE ACTIONS. Comply with directives of the department or its agent including meeting deadlines for taking corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the department or its agent for the license holder's hotel, motel, or tourist rooming house or in response to community emergencies.

(7) NOTICES. Accept notices issued and served by the department or its agent according to law.

(8) PENALTIES. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this chapter.

ATCP 72.06 Plan review. The department or its agent may request a plan review for a lodging facility that has submitted an application for a license or has made alterations to an existing lodging facility.

Note: In addition, a person should consult with other agencies that may also require prior plan or construction approval, such as the Wisconsin department of safety and professional services, the Wisconsin department of natural resources, or the local building and zoning agency before commencing construction or modification of a hotel, motel, or tourist rooming house.

ATCP 72.07 Licenses. (1) LICENSE REQUIRED. (a) *Conditions requiring a license.* Except as specified in (c), no person may operate a lodging facility without holding a license from the department or its agent. The following requirements apply: 1. A separate license is required for each hotel, motel, or tourist rooming house.

2. Except as provided under subd. 3., if a license holder sells or otherwise transfers ownership or operation of a hotel, motel, or tourist rooming house to another person, a new license is required pursuant to s. 97.605 (1) (a), Stats., and the hotel, motel, or tourist rooming house may not be opened to the public until the department or its agent issues a new license.

3. A hotel, motel or tourist rooming operator can transfer ownership of the hotel, motel or tourist rooming house under any of the following:

a. Pursuant to s. 97.605 (4) (d) and (e), Stats., an individual may transfer a license to an immediate family member.

b. A sole proprietorship that reorganizes as a business entity, as defined in s. 179.70 (1), Stats., or a business entity that reorganizes as a sole proprietorship or a different type of business entity may transfer a license to the newly formed business entity or sole proprietorship if the hotel, motel, or tourist rooming

house remains at the location for which the license was issued and at least one individual who had an ownership interest in the sole proprietorship or business entity to which the license was issued has an ownership interest in the newly formed sole proprietorship or business entity.

4. No license issued under this chapter is transferable from one premises to another.

5. A person who wishes to transfer a license shall notify the department or its agent prior to operation of the hotel, motel, or tourist rooming house.

Note: To notify the department of a transfer of ownership, please e-mail datcpdfsrec@wisconsin.gov or contact the Bureau of Food and Recreational Businesses at (608) 224-4702 or PO Box 8911, Madison, Wisconsin 53708-8911.

(b) *Preinspection required.* Before the department or its agent may issue a license to operate a hotel, motel, or tourist rooming house pursuant to par. (a) and s. 97.607 (1) Stats., the department or agent shall conduct a preinspection. A preinspection is not required for a transfer of a license under par. (a) 3.

Note: To arrange a preinspection from the department contact the Bureau of Food and Recreational Businesses at (608) 224-4702 or PO Box 8911, Madison, Wisconsin 53708-8911 or contact the department's agent.

(c) *Exemptions.* A lodging facility does not include:

1. A boat with sleeping accommodations located on any waterway that it is possible to float a canoe or small watercraft on a recurring basis.

2. A camping cabin less than 400 square feet located in a licensed campground pursuant to ch. ATCP 79.

3. Recreational vehicle.

4. Overnight sleeping accommodations on a frozen waterway.

(2) **LICENSE DURATION AND RENEWAL.** (a) *Expiration.* Each license issued under this chapter expires on June 30, except that a license initially issued during the period beginning on April 1 and ending on June 30 expires on June 30 of the following year.

(b) *Annual renewal.* Each license shall be renewed annually as provided in sub.(4) (a).

(3) **NEW LICENSE.** (a) *Application.* The license applicant shall apply on an application form provided by the department or its agent. The completed application form shall be accompanied by all of the following:

1. The applicable fees pursuant to s. ATCP 72.08 and any fees previously due to the department or its agent under this chapter.

2. Information, as determined by the department or its agent, including documentation that indicates the hotel, motel, or tourist rooming house will be maintained and operated in compliance with this chapter, applicable local, federal and state laws, as it relates to the health, safety, and welfare of the public.

Note: As provided pursuant to s. 97.615 (2) (d), Stats., a local health department can establish and collect fees for licenses. If you need a license application for an agent-licensed hotel, motel or tourist rooming house, contact the local health department.

Note: To obtain a copy of a license application form for a state-licensed hotel, motel or tourist rooming house, contact the bureau of food and recreational businesses at (608) 224-4702 or PO Box 8911, Madison, Wisconsin 53708-8911.

(b) *Requests for preinspection.* The operator shall contact the department or its agent and arrange a time for the preinspection required pursuant to sub (1) (b), before operating a hotel, motel, or tourist rooming house.

(4) **LICENSE RENEWAL.** (a) *Payment.* To renew a license, the operator shall pay the department the applicable license fee specified pursuant to s. ATCP 72.08 **Table A or B**, before the license expires. If payment to renew a license fee is not received by the department or its agent before the expiration date of the license, the late fee specified pursuant to s. ATCP 72.08 **Table A or B**, shall be paid in addition to the license fee. Submission of an application for a renewal license is not required.

(b) *Department action on a license renewal.* 1. The department or its agent may refuse to renew a

license as provided pursuant to s. 93.06 (7), Stats., and under sub. (5) (a).

2. The department shall refuse renew a license as provided pursuant to s. 93.06 (7), Stats., and under sub. (5) (b).

(5) DEPARTMENT OR AGENT ACTION ON A LICENSE APPLICATION. (a) *Department discretion on a license.* The department or its agent may not issue a new license or renew an existing license for hotel, motel or tourist rooming house unless all of the following conditions are met:

1. The operator has corrected a condition for which the department or agent has issued a written health or safety-related order.

2. The operator, applicant, or license holder has provided the department or its agent with the information required under sub. (3) (a) 2. or documentation indicating that the hotel, motel, or tourist rooming house is designed and constructed in accordance with state law and regulations stated in this chapter.

3. The department or its agent has determined that the operator, applicant or license holder is not in violation of ch. 97, Stats., or has only a minor violation as defined in s. 227.04 (1) (a), Stats.

(b) *License prohibited.* The department or its agent shall refuse to issue a new license or renew an existing license to operate a hotel, motel or tourist rooming house under any of the following circumstances:

1. A fully and accurately completed, signed and dated application has not been received by the department or its agent.

2. The department or its agent has not conducted the preinspection required pursuant to s. ATCP 72.05 (1) (b).

3. The department or its agent has not approved the plan for the hotel or motel pursuant to s. ATCP 72.04, for which a plan was requested for review.

4. The operator has not paid all of the applicable fees pursuant to s. ATCP 72.08 **Table A or B**.

5. The operator has modified, repaired, or maintained the hotel, motel, or tourist rooming house in a manner that is not in accordance with this chapter.

(c) *Conditional license.*

Except as provided in s. 93.135, Stats., the initial issuance, renewal, or continued validity of a license may be conditioned pursuant to s. 97.605 (1p), Stats., upon the requirement that the license holder correct a violation of this chapter, s. 97.625, Stats., or ordinances adopted pursuant to s. 97.615 (2) (g), Stats., within a specified period of time. If the condition is not satisfied within the specified time or after an extension of time approved by the department or its agent, the license is void. No person may operate a hotel, motel, or tourist rooming house after a license has been voided. Any person who does so shall be subject to the penalties pursuant to s. 97.72, Stats., an injunction pursuant to 97.73, Stats., and payment of fees pursuant to s. ATCP 72.08 (2) (e). An operator whose license is voided under this paragraph may appeal the decision pursuant to s. ATCP 72.11. If the decision was made by the department's agent, the applicant may appeal the decision pursuant to s. ATCP 72.12.

(d) *Granting or denial of a license.* 1. The department or its agent shall issue or deny a new license or shall renew an existing license for a hotel, motel or tourist rooming house within 30 days after the applicant meets all of the requirements pursuant to subs. (3) or (4), as applicable.

2. If the department or its agent denies an application for a license, the applicant shall be given the decision and reason, in writing, for the denial and information regarding appeal rights pursuant to s. ATCP 72.11. If the decision is issued by the department's agent, the applicant may appeal the decision pursuant to s. ATCP 72.12.

(6) VOIDED LICENSE FOR FAILURE TO PAY FEES. (a) *Payment deadline.* If an applicant or operator fails to pay all applicable fees, late fees and processing charges under s. ATCP 72.08, within 45 days after the expiration of the license, the license is void.

(b) *Appeal rights.* An operator whose license is voided by the department under this subsection may appeal the decision as provided pursuant to s. ATCP 72.11 or if the license is voided by the department's

agent, the operator may appeal the decision pursuant to s. ATCP 72.12. Pursuant to s. 97.605 (1) (c), Stats., the license applicant or operator shall demonstrate that all applicable fees, late fees and processing charges have been paid. In an appeal concerning voiding of a license under this subsection, the burden is on the license applicant to show that the entire applicable fees, late fees, and processing charges have been paid. During any appeal process concerning a payment dispute, the operation of the hotel, motel, or tourist rooming house in question is considered to be in operation without a license.

(7) **LICENSE POSTING.** A current license issued by the department or its agent shall be posted on the premises in a place visible to the public. A license may not be altered or defaced.

ATCP 72.08 Department fees. (1) **FEE SCHEDULE.** Pursuant to s. 97.605 (1) (c), Stats., no license may be issued until all applicable fees have been paid. Fee amounts listed in s. ATCP 72.08 Table A or B apply to hotel, motel, and tourist rooming house licenses issued by the department under this chapter.

Note: Local health departments that are agents for the department have authority pursuant to s. 97.615 (2) (d), Stats., to establish and collect fees for licenses issued by the local health department. If your establishment is under the jurisdiction of a local health department, contact the local health department for its license fee schedule.

(2) **TYPES OF FEES.** (a) *Preinspection fee.* The operator shall, pay the applicable preinspection fee listed in ATCP 72.08 Table A or B to the department before a new license is issued pursuant to s. ATCP 72.07 (1) (b).

(b) *License fee.* The operator of a hotel, motel, or tourist rooming house shall pay the applicable license fee listed in s. ATCP 72.08 Table A or B to the department for each hotel, motel, or tourist rooming house for which the operator applies for a new or renewal license.

(c) *Late fee.* If the license fee for a license renewal is not paid on or filed before the expiration date of the license, the operator of the hotel, motel, or tourist rooming house shall pay to the department a late fee as specified in s. ATCP 72.08 Table A or B pursuant to s. 93.21 (5) (b), Stats., in addition to the renewal license fee.

(d) *Reinspection or administrative follow-up fee.* If the department conducts a reinspection or an administrative follow-up of a hotel, motel, or tourist rooming house under pursuant to s. ATCP 72.09 (1) (b)1. or 4., the operator shall pay to the department the applicable reinspection or administrative follow-up fee listed in s. ATCP 72.08 Table A or B. The department shall assess an additional fee as listed in s. ATCP 72.08 Table A or B, whichever is applicable, for any second or subsequent reinspection or administrative follow-up conducted pursuant to s. ATCP 72.09 (1) (b) 4.

(e) *Fees for operating without a license.* If a hotel, motel, or tourist rooming house is found to be operating without a license, the operator shall pay to the department an amount of \$749.00, in addition to all applicable fees and any processing charges pursuant to sub. (3).

Note: Anyone operating a hotel, motel, or tourist rooming house without a license is also subject to the penalties in ss. 97.72 and 97.73, Stats.

(f) *Duplicate license.* if an operator requests a duplicate license, the operator shall pay the department a fee of \$15.00.

(g) *Fees for special condition inspections.* For inspection or consultation activities that are not directly related to the department's licensing responsibilities for issuing licenses, the department shall charge the operator or the entity requesting the inspection or consultation \$175.00.

Note: An example includes a buyer that wants an inspection or consultation prior to a real estate transaction.

(3) **PENALTIES FOR INSUFFICIENCY OF PAYMENT.** If the payment for a new or renewal license is by check or other draft drawn upon an account containing insufficient funds, the applicant or operator shall, within 15 days after receipt of notice from the department of the insufficiency, pay all applicable fees under sub. (1), and the financial institution's processing charges by cashier's check or other certified draft, or money order.

Current Fee Tables:

Table ATCP 72.05 A
Fee Schedule — SFY 2010
For permits issued April 1, 2009 through March 31, 2011

Type of Facility	Permit Fee	Preinspection Fee	First Reinspection Fee	Second and Subsequent Reinspection Fee
Tourist Rooming House	\$100	\$280	\$120	\$160
Hotel / Motel Permit Fee 5–30 Rooms	\$165	\$380	\$173	\$230
Hotel / Motel Permit Fee 31–99 Rooms	\$260	\$615	\$274	\$365
Hotel / Motel Permit Fee 100–199 Rooms	\$330	\$795	\$353	\$470
Hotel / Motel Permit Fee 200+ Rooms	\$400	\$950	\$431	\$575

Table ATCP 72.05 B
Fee Schedule — SFY 2012
For permits issued on or after April 1, 2011

Type of Facility	Permit Fee	Preinspection Fee	First Reinspection Fee	Second and Subsequent Reinspection Fee
Tourist Rooming House	\$110	\$300	\$128	\$170
Hotel / Motel Permit Fee 5–30 Rooms	\$205	\$480	\$218	\$290
Hotel / Motel Permit Fee 31–99 Rooms	\$280	\$665	\$300	\$400
Hotel / Motel Permit Fee 100–199 Rooms	\$355	\$795	\$379	\$505
Hotel / Motel Permit Fee 200+ Rooms	\$490	\$1185	\$525	\$700

History: CR 08–073: cr. Register January 2009 No. 637, eff. 2–1–09; renum. from DHS 195.05 Register June 2016 No. 726; correction in (1), (2) (a), (b), (d), (e), Tables A, B made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726; CR 18–019: am. (1), (2) (a) to (c), (e) to (g), (3) Register January 2020 No. 769, eff. 2–1–20.