

Subchapter I – Definitions, Authority, Purpose

ATCP 72.03 Definitions.

(19) “Contiguous” in this rule, means a property sharing a common border with another property, excluding private roadways.

(46) “Premises” means the contiguous land or property under the control of the license holder where the lodging facility is located and all associated buildings or structures.

Subchapter II – Licensing and Fees

ATCP 72.07 Licenses. (1) LICENSE REQUIRED. (a) *General.* Except as provided in par. (c), no person may provide sleeping accommodations offered for pay to a tourist or transient or operate a lodging facility on a single premises without holding a license from the department or its agent. A lodging facility does not include:

1. A boat with sleeping accommodations located on any waterway where it is possible to float a canoe or small watercraft on a recurring basis.
2. Overnight sleeping accommodations on a frozen waterway.
3. A camping cabin less than 400 square feet located in a licensed campground pursuant to ch. ATCP 79.
4. A recreational vehicle.

(b) *Licensing determination.* 1. A person operating a lodging facility on a single premises that meets all of the following:

- a. One or more county or municipal tax parcels of land or property that share a common border.
- b. The lodging facility and associated buildings are located on the land or property identified in subdpar. a.
- c. The license holder is under control of the lodging facility identified in subdpar. b

Note: For questions regarding tax parcels contact your local zoning department.

2. A separate license is required for each hotel, tourist rooming house, or specialty lodging type located on a single premises pursuant to subd. 1.
3. Except as provided under par. (c), if a license holder sells or otherwise transfers ownership or operation of a lodging facility to another person, a new license is required pursuant to s. 97.605 (1) (a), Stats., and the lodging facility may not be opened to the public until the department or its agent issues a new license.

4. A condominium association may be the license holder of a lodging facility by meeting all of the following:

- a. The condominium association is responsible for all maintenance of the facilities to include the interior and exterior of the buildings and the premises.
- b. The condominium association is responsible for the collection of user fees and payment of all department or agent issued fees.
- c. The condominium association shall have detailed in their bylaws, or documented in a legal contract signed by both the association and the owner of the condominium unit, that the condominium association is responsible for complying with ch. ATCP 72.

Hotel, Motel And Tourist	License Late Fee	Preinspection Fee	First Reinspection or	Second and Subsequent Reinspection or	Fee
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**Rooming House
License Fee
Category**

**Administrative
Follow-Up Fee**

**Administrative
Follow-Up Fee**

Tourist Rooming House (TRH) (Lodging unit is based on individually keyed units)

1 TRH
2 to 4 TRH's
5 to 9 TRH's
10 to 19 TRH's
20 to 39 TRH's
40 to 99 TRH's
100 to 299 TRH's
300 to 599 TRH's
600+ TRH's

Hotel and Motel (rooms are based on individually keyed units)

5 to 30 Rooms
31 to 99 Rooms
100 to 249 Rooms
250 to 499 Rooms
500 to 749 Rooms
750 to 1000 Rooms
1000+ Rooms

Specialty Lodging (SL) (Lodging unit is based on an individually keyed units)

1 SL
2 to 4 SL's
5 to 9 SL's
10 to 19 SL's
20 to 39 SL's
40 to 99 SL's

Subchapter III – Enforcement and Appeals

ATCP 72.09 Enforcement. (1) INSPECTIONS AND ACCESS TO THE PREMISES. (a) *Inspections.* Pursuant to ss. 93.07 (24) (e) and 93.08 Stats., an authorized employee or agent of the department, upon presenting proper identification, may enter any lodging facility at any reasonable time, for any of the following purposes:

1. To inspect the lodging facility.
2. To determine if there has been a violation of this chapter or ss. 97.605 to 97.65, Stats.
3. To determine compliance with previously written orders to correct violations.
4. To secure samples or specimens.
5. To examine and copy relevant documents and records related to the operation of the lodging facility.
6. To obtain photographic or other evidence needed to enforce this chapter.

(b) *Reinspections or administrative follow-up.* 1. The department or its agent may perform a reinspection or an administrative follow-up at a lodging facility whenever an inspection or the investigation of a complaint reveals any of the following conditions:

- a. Presence of an imminent hazard that cannot be corrected during the inspection.
- b. An inspection reveals 6 or more priority violations, regardless if they have been corrected during the inspection.
- c. Repeat violations, whether corrected during the inspection or not, are documented on 3 consecutive

inspections regardless of inspection type.

d. The department's authorized representative and that representative's supervisor determine there is a lack of active managerial control at the lodging facility, based on the quantity and the criticality of the violations observed on the most recent inspection.

2. A reinspection or administrative follow-up shall be scheduled to allow the operator a reasonably sufficient time to correct the violations.

3. A reinspection or administrative follow-up fee shall be charged for the reinspection or administrative follow-up in the amount listed in s. ATCP 72.08 Table A or B or applicable amount as determined by an agent of the department.

4. If an additional reinspection or administrative follow-up is required because a violation has not been corrected in the scheduled time, the department or its agent shall assess a second or subsequent reinspection or administrative follow-up fee listed in to s. ATCP 72.08 Table A or B pursuant to s. ATCP 72.08 (2) (d), and the department or its agent may order the operator to show just cause why the license should not be suspended or revoked pursuant to s. ATCP 72.10.

(2) GENERAL ORDERS TO CORRECT VIOLATIONS. (a) *Written orders.* If upon inspection of a lodging facility, the department or agent finds that the lodging facility is not designed, constructed, equipped, or operated as required under this chapter, the department or its agent shall issue a written order to correct the violation. The order shall specify the correction needed for compliance and the time period within which the correction should be made. The time period specified in the order may be extended at the discretion of the department or its agent as specified in par. (c).

(b) *Failure to correct a violation.* 1. If a violation is not corrected by the expiration of the time period stated in the order given pursuant to par. (a), or any extension of time granted pursuant to par. (c), the department or its agent may issue a special order pursuant to s. ATCP 72.10 to suspend or revoke the license to operate the lodging facility. An order for suspension or revocation shall take effect as provided pursuant to s. ATCP 72.10.

2. Pursuant to s. 97.12 (5), Stats., any person who fails to comply with an order of the department or its agent may be required forfeit \$50 for each day of noncompliance. A person may appeal a forfeiture pursuant to s. ATCP 72.11.

(c) *Requests for an extension to correct a violation.* 1. The department or its agent may extend the time to correct a violation based on a determination of the seriousness of the violation, the operator's progress towards correcting the violation, and the operator's previous history of compliance.

2. To request an extension to correct a violation, the operator shall contact the department or its agent before the time specified in the written order to correct the violation expires. The operator shall provide information that demonstrates to the department or its agent that corrective action has been initiated, but additional time is needed to fully correct the violation.

(3) TEMPORARY ORDERS. (a) *Conditions for a temporary order.* As provided in s. 97.65 (2) (a), Stats., whenever, as a result of an inspection pursuant to sub. (1), the department or its agent has reasonable cause to believe that any construction, sanitary condition, operation, or method of operation of the premises or equipment used on the premises creates, an immediate danger to health, the department or its agent may issue a temporary order and cause it to be delivered to the licensee, or to the owner or custodian, or to both. The order may prohibit the continued operation or method of operation of specific equipment, or require the premises to cease other operations, or methods of operation which create the immediate danger to health or set forth any combination of these requirements. The department or its agent may order the cessation of all operations authorized by the license only if a more limited order does not remove the immediate danger to health.

(b) *Duration of a temporary order; action prohibited.* 1. A temporary order shall take effect upon delivery to the operator or responsible supervisor. Except as provided in par. (c), the temporary order shall remain in effect for 14 calendar days from the date of delivery, but a temporary order may be reissued for one additional 14 calendar day period if necessary to complete any analysis or examination of samples, specimens, or other evidence.

2. No operation or method of operation prohibited by the temporary order may be resumed without

the approval of the department or its agent until the order has terminated or the time period specified in subd. 1., has expired, whichever occurs first, unless as provided pursuant to par. (c), the department or its agent provides notice that an immediate danger to health or safety is present. If, upon completed analysis or examination, the department or agent determines that construction, sanitary condition, operation, or method of operation of the premises or equipment does not constitute an immediate danger to health or safety, the department or its agent shall immediately notify the owner, operator or responsible supervisor in writing and the temporary order shall terminate upon receipt of the written notice.

(c) *Notice of findings upon analysis or examination.* If the analysis or examination under sub. (1), shows that the construction, sanitary condition, operation or method of operation of the premises or equipment constitutes an immediate danger to health or safety, the department or its agent, within the effective period of the temporary order specified in par. (b) 1., shall provide written notice of the findings to the owner, operator or responsible supervisor. Upon receipt of the notice, the temporary order remains in effect until a final decision is issued pursuant to s. ATCP 72.10. The notice shall include a statement that the facility has a right to request a hearing pursuant to s. ATCP 72.11, within 10 calendar days after issuance of the notice.

(d) *Failure to comply with temporary order; forfeitures and penalties.* Pursuant to s. 97.65 (5) (a), Stats., any person who fails to comply with a temporary order issued by the department or its agent may be may be fined not more than \$10,000 or imprisoned not more than one year in the county jail, or both. A person may appeal a forfeiture pursuant to s. ATCP 72.11.

(4) ACTION PLANS. (a) *Required components.* When required by the department, its agent, or this chapter, the lodging facility and the department or its agent shall develop, on a form provided by the department, an action plan for compliance and the license is conditioned. The action plan shall include all of the following:

1. A description of the violation and code citation.
2. The steps the operator will take to correct the violation.
3. The date compliance will be achieved.

(b) Licensed conditioned. Pursuant to ATCP 72.07 (5) (c), the operator's license shall be placed in a conditional status.

(c) *Continued noncompliance.* The department or its agent shall void the lodging facility license pursuant to s. ATCP 72.07 (5) (c), if the operator continues to be out of compliance or fails to meet the objectives outlined in the action plan past the date provided in the action plan.

ATCP 72.10 Suspension or revocation of licenses. Pursuant to s. 97.12 (3) (b), Stats., the department or its agent may, by summary order and without prior notice or hearing, suspend a license issued under this chapter if the department or its agent finds that there has been a substantial failure to comply with the applicable requirements of this chapter and that the continuation of the violations constitutes a serious danger to public health. The order shall be in writing, have the force and effect of an order issued pursuant to s. 93.18, Stats., and is subject to the right of hearing before the department or its agent, if requested within 10 calendar days after the date of service.

ATCP 72.11 Appeals of actions by the department.

If requested in writing within 10 calendar days after date of the service of an order, a hearing shall be conducted as pursuant to ch. ATCP 1. Enforcement of the order shall not be stayed pending action on the hearing. A request for hearing does not automatically stay or modify a summary special order.

Note: A request for hearing shall be submitted to the DATCP Secretary via e-mail at datcpappeals@wisconsin.gov, faxed to (608) 224-5034, mailed to PO Box 8911, Madison, Wisconsin 53708-8911, or hand delivered to 2811 Agriculture Drive, Madison, Wisconsin 53718. The hearing may be conducted by the department secretary or designee.

ATCP 72.12 Appeals of actions by agent health departments. If an agent issues a license under this chapter, the operator shall appeal an enforcement action to the agent health department.

Subchapter IV – Standards for Hotels, Motels and Tourist Rooming Houses

ATCP 72.13 Qualifications of an authorized representative conducting inspections. An authorized representative of the department or its agent who inspects a lodging facility or conducts a plan review for compliance with ch. ATCP 72, shall meet the staffing qualification requirements set forth in s. ATCP 74.08 or as specified by the department.

ATCP 72.14 Inspections (1) REFUSED INSPECTION; PROCESS. If a person denies access to the department or its agent, the department or its agent shall inform the person of all the following:

(a) *Access.* The license holder is required to allow access to the department or its agent as specified pursuant to s. 97.65 (1), Stats.

(b) *License conditions.* Access is a condition of the acceptance and retention of a license to operate a lodging facility as specified pursuant to s. ATCP 72.05 (1).

(c) *Inspection warrant.* If the lodging facility license holder denies access to an authorized representative of the department or its agent, the department or its agent may apply for an inspection warrant to allow access pursuant to s. 66.0119, Stats.

(2) REPORTING OF REFUSED ACCESS. If the person in charge continues to refuse access after the department or its agent presents credentials, provides the explanation in sub. (1), and makes a final request for access, the department or its agent shall document details of the denial of access on an inspection report form.

(3) FREQUENCY OF INSPECTION. The department or its agent shall inspect a lodging facility at least once during the licensing period or as approved in writing by the department.

(4) INSPECTION DOCUMENTATION. The department or its agent shall document all of the following on an inspection report form: (a) *Facility information.* Administrative information about the lodging facility's legal identity, street and mailing addresses, type of establishment and operation, inspection date, and other information such as type of water supply, sewage disposal, and status of the license at the lodging facility.

(b) *Violation documentation.* The conditions or other violations from this chapter that require corrective action. An accompanying narrative shall contain all of the following:

1. A factual description of the violation observed, including location of the observed violation.

2. Citation and a brief description of the statute, administrative rule, or local ordinance that was observed to be violated.

3. A statement indicating what corrective action the license holder has taken, or shall take, to regain compliance with the administrative rule, statute, or local ordinance.

4. Unless otherwise indicated on the inspection report, each violation shall have a corrective action deadline. The corrective action deadline shall be based on the following criteria:

a. A priority violation shall be corrected immediately. Depending on the nature of the potential hazard involved and the complexity of the corrective action needed. The department or its agent may agree to or specify additional time, not to exceed 3 calendar days after the inspection, for the license holder to correct violations of a priority item as defined in this chapter.

b. The license holder has a maximum time of 10 calendar days after the inspection for the license holder to correct violations of a priority foundation item as defined in this chapter.

c. The license holder shall correct core items, as defined in this chapter, by a deadline agreed to or specified by the department or its agent, but no later than 90 calendar days after the inspection. The department or its agent may approve a written compliance schedule that extends beyond 90 calendar days, if the license holder submits a written schedule of compliance and no health hazard exists, or will result, from allowing an extended schedule for compliance.

(5) ISSUING A REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT. At the

conclusion of the inspection, an authorized representative of the department or its agent shall sign the completed inspection report. The department or its agent shall review the inspection findings with the person in charge and obtain a signature on the inspection report from the license holder's designated person in charge. A copy of the inspection report shall be left with the person in charge at the completion of the inspection, emailed or otherwise presented within 2 business days after completion of the inspection.

(6) REFUSAL TO SIGN INSPECTION REPORT. If the license holder's designated person in charge refuses to sign the inspection report, the department or its agent shall do all of the following:

(a) *Signature is not agreement with findings.* Inform the person who declines to sign the inspection report that a written acknowledgment of receipt is not an agreement with findings.

(b) *Obligation to correct violations.* Inform the person that refusal to sign the inspection report will not affect the license holder's obligation to correct the violations noted in the inspection report by the deadlines specified.

(c) *Documentation.* Document the refusal to sign in the inspection report.

(7) POSTING OF INSPECTION REPORTS. The department and its agents shall make inspection report information available to the public on the internet.