

## Chapter ATCP 72 HOTELS, MOTELS, AND TOURIST ROOMING HOUSE

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### 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 lodging facilities 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 lodging facility 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 lodging facility, the department may approve a variance from that provision requested by that lodging facility 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 business 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 lodging facility.

**(5) TRANSFERABILITY.** Except as specified under ATCP 72.07 (1) (c), an approved variance is not transferable to any other lodging facility, 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 calendar 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](mailto:datcpdfsrec@wisconsin.gov) or contact the bureau of food and recreational businesses at (608) 224-4700 or PO Box 8911, Madison, Wisconsin 53708-8911.

**ATCP 72.03 Definitions.** In this chapter:

(1) “Active managerial control” means the purposeful incorporation of systems in a lodging establishment that proactively reduce the risk of illness or hazards through monitoring and verification.

(2) “Administrative follow-up” means a type of reinspection to validate a corrective action of a violation without the need for a physical visit, through electronic or other effective means.

(3) “Agent” means a local health department as defined in s. 250.01 (4), Stats., that has entered into a contract with the department and is authorized under the terms of that contract to administer a retail food establishment, lodging, and recreational safety regulatory program, pursuant to ss. 97.41 and 97.615 (2), Stats., in the health department’s area of jurisdiction.

(4) “Air gap” means all of the following:

(a) In a wastewater system, air gap has the meaning given in s. SPS 381.01 (6).

(b) In a water supply system, air gap has the meaning given in s. SPS 381.01 (7)

(5) “Alarm signal” means a fire alarm control unit condition indicating that there is an immediate threat to life, property, or mission.

**Note:** Alarm conditions can result due to the presence of fire, chemicals, freezing temperatures or other circumstances.

(6) “Approved” means acceptable to the department, based on its determination of conformance with this chapter and good public health practices.

(7) “Basement” means the portion of the lodging facility below the first floor or ground floor with its entire floor below grade.

(8) “Bed” means a piece of furniture for sleep or rest including, a framework with a mattress and coverings, cot, bunk bed, futon, sleeper sofa, sleeping pad, or air mattress placed on the floor.

(9) “Boat” means every description of watercraft used or capable of being used as a means of transportation on water.

(10) “Boarding house” means a rooming house as defined in sub. (77).

(11) “Bunk bed” means a piece of furniture consisting of a platform-like bed in which the underside is elevated over 30-inches from the floor.

(12) “Camping cabin” has the meaning given in s. ATCP 79.03 (4).

(13) “Carbon monoxide alarm” means an electronic or battery-operated device or system that sounds an alarm when an unsafe level of carbon monoxide is in the air. Carbon monoxide alarms conform to Underwriters Laboratories standard 2034, Standard for Single and Multiple Station Carbon Monoxide Alarms.

(14) “Carbon monoxide detector” means an electronic device or sensor that monitors for carbon monoxide and is connected to a whole building fire alarm and detection system. Carbon monoxide detectors conform to Underwriters Laboratories standard 2075, Gas and Vapor Detectors and Sensors.

(15) “Ceiling height” means the clear vertical distance from the finished floor to the finished ceiling.

(16) “Certified laboratory” means:

(a) For coliform and *E. coli*, a lab certified under ch. ATCP 77.

(b) For nitrates, a lab certified under ch. NR 149.

(17) “Clean” means the absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

(18) “Communicable disease” means a disease or condition listed in s. DHS 145 Appendix A.

(19) “Communicating opening” means a door, window, or any other opening, which allows air to be exchanged between a fuel-burning appliance or garage and an individually keyed unit.

(20) “Contiguous” means a property sharing a common border with another property, excluding private roadways.

(21) “Core item” means all of the following:

(a) A provision in this chapter that is not designated as a priority item or a priority foundation item.

(b) An item that relates to general sanitation, operational controls, sanitation standard operating procedures, facilities or structures, equipment design, or general maintenance.

(22) “Death, injury or illness report” means the written record of all facts regarding an incident resulting in bodily harm that requires assistance from emergency medical personnel for a lodging facility or its associated buildings and structures.

(23) “Deck” means an unenclosed exterior structure, attached or adjacent to the exterior wall of a building, which has a floor, but no roof.

(24) “Department” means the Wisconsin department of agriculture, trade and consumer protection.

(25) “Easily cleanable” means a material or finish of a surface that allows effective removal of soil by manual or mechanical cleaning methods.

(26) “Emergency medical service (EMS)” means an emergency medical service that provides ambulance service response in a geographic area and is staffed by certified rescue professionals such as an emergency medical technician or emergency medical responder.

(27) “Employee” means any person working in a lodging facility.

(28) “Equipment” means an article used in a lodging facility other than land and building structures, including furnishings, decorative materials, fireplaces, heating units, and appliances.

(29) “Exclude” means to prevent a person from working or entering a lodging facility as an employee.

(30) “Existing hotel, motel or tourist rooming house,” means a lodging facility operating with a license first issued by the department or its agent on or before effective date of the rule.

(31) “Exit” means a direct, continuous, unobstructed means of egress to the exterior of the building.

(32) “Failing private on-site wastewater treatment system” has the meaning given in s. 145.01 (4m), Stats.

(33) “Fire alarm control panel” means a unit that monitors all inputs and controls all outputs of the fire alarm system.

**Note:** The different types of conditions that can be seen at the fire alarm control panel are “alarm”, “supervisory”, and “trouble”.

(34) “First floor” means the first floor level above any basement or in the absence of a basement means the lowest floor level in the lodging facility.

(35) “Food-contact surface” has the meaning given in s. ATCP 75 Appendix 1-201.19 (B).

(36) “Fuel-burning appliance” means a device that burns fossil fuel or carbon-based fuel and produces carbon monoxide as a combustion by-product.

(37) “Furnishings” means in connection with the operation of a lodging facility all of the following: linens, beds, bedding, chairs, tables, shelves, drapes, carpeting, curtains, decorations, fixtures, and similar items provided in the sleeping rooms and common areas of the facility.

(38) “Good repair” means free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

(39) “Guard” a. With regards to a lodging facility, means a building component or system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

b. With regards to a bunk bed in a lodging facility, means a barrier erected on the top bunk to prevent a person from falling or rolling off the sleeping surface.

(40) “Handrail” means a horizontal or sloping rail intended for grasping by a hand, for guidance or support or preventing a fall down a stair or ramp.

(41) “Hostel” means a type of lodging facility that offers dormitory style sleeping arrangements with shared living spaces and amenities.

(42) “Hotel” means all places wherein sleeping accommodations are offered for pay to transients, in 5 or more rooms, and all places used within the building or structure.

(43) “Imminent health hazard” means a condition that presents a substantial likelihood to cause severe adverse health consequences or death.

(44) “Individually keyed unit” means a lodging unit that is accessed by the use of a key or other electronic device that is occupied by a tourist, transient or rental group for sleeping accommodations.

**Note:** Examples include a motel or hotel room, hotel suite, or a tourist rooming house.

(45) “Ladder” means a structure for climbing up or down that consists of two long sidepieces joined at intervals by crosspieces on which one may step.

(46) “*Legionella*” means a common aquatic bacteria found in natural waterways, building water systems, and in some soils. This genus of bacteria can cause a pneumonia called Legionnaires' disease or a flu-like illness called Pontiac fever when inhaled, aspirated, or directly introduced into the lungs of a susceptible individual.

(47) “Legionellosis” means the term used to describe Legionnaires' disease, Pontiac fever and any illness caused by exposure to *Legionella* bacteria.

(48) “License holder” means the entity that is legally responsible for the operation of a lodging facility.

(49) “Lodging facility” means a hotel, motel, tourist rooming house, or specialty lodging unit that provides sleeping accommodations offered for pay to tourist or transients.

(50) “Lodging place” means a lodging facility as defined in sub. (48).

(51) “Loft” means an upper room or floor that has at least 50 percent of the common wall open to the floor below.

(52) “Motel” means a hotel that furnishes on premises parking for motor vehicles of guests as part of the room charge, without extra cost, and that is identified as a “motel” rather than a “hotel” at the request of the operator.

(53) “New hotel, motel or tourist rooming house,” means a lodging facility under new ownership operating with a license first issued by the department or its agent on or after the effective date of the rule.

(54) “Operator” means the owner of a lodging facility or the person responsible to the owner for the operation of the lodging facility.

(55) “Person” means an individual, partnership, association, firm, company, corporation, municipality, county, town or state agency, whether tenant, owner, lessee, licensee, or the agent, heir, or assignee of any of these.

(56) “Person in charge” means the individual present at a lodging facility who is responsible for the operation at the time of inspection.

(57) “Pest” means an animal or insect of public health significance that is a nuisance and may or may not transmit disease to the general public. Pest in this definition includes cockroaches, bed bugs, flies, mosquitos, bats, rodents, and ticks.

(58) “Plumbing” has the meaning given in s. 145.01 (10) Stats.

(59) “Pool or water attraction” has the meaning given in s. ATCP 76.03 (61).

(60) “Porch” means an exterior structure at or near grade, attached or adjacent to the exterior wall of a lodging facility and having a roof and floor and is not used for overnight sleeping accommodations.

(61) “Potable” has the meaning given in s. NR 812.07 (75).

(62) “Preinspection” means an inspection of a lodging facility, prior to the issuance of a license to operate, to determine compliance with the requirements of this chapter.

(63) “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. A premises in this chapter includes one or more county or municipal tax parcels of land or property that share a common border.

(64) “Priority foundation item” means all of the following: (a) A provision in this rule whose application supports, facilitates, or enables one or more priority items.

(b) An item that requires the purposeful incorporation of specific actions, equipment or procedures by the operator such as personnel training, infrastructure, documentation or record keeping.

(c) An item that is denoted in this rule with a superscript Pf<sup>-Pf</sup>.

(65) “Priority item” means all of the following: (a) A provision in this rule directly related to health and safety that if not met or is missing could significantly contribute to an increased risk for injury or illness.

(b) An item that is denoted in this rule with a superscript P<sup>-P</sup>.

(66) “Private on-site wastewater treatment system” or “POWTS” has the meaning given in s. 145.01 (12), Stats.

(67) “Private water system” has the meaning given in s. NR 812.07 (78).

(68) “Public sewer” has the meaning given in s. SPS 381.01 (198).

(69) “Public water system” has the meaning given in s. NR 809.04 (67).

(70) “Recreational vehicle” has the meaning given in s. ATCP 79.03 (32).

(71) “Reinspection” means a mandatory or administrative follow-up inspection to ensure that a priority or recurring violation has been corrected.

(72) “Remediation plan” means a specific plan on details to identify the potential source, location and removal of a waterborne pathogen.

(73) “Rental group” means two or more tourist or transients occupying an individually keyed unit that is

inaccessible to all others at the time of rental.

(74) “Restrict” means to limit the activities of an employee to minimize the risk of transmitting a communicable disease and the employee does not work with exposed food, clean equipment, utensils, linens; or unwrapped single-service or single-use articles.

(75) “Retail food establishment” has the meaning given in s. ATCP 75.04 (33).

(76) “Riser” means the vertical surface of a stair to include the vertical surface from the ground or landing to the adjacent tread.

(77) “Room” means an individually keyed unit as defined in sub. (43).

(78) “Rooming house” means a one- and two-family dwelling that offers overnight sleeping accommodation to an individual that is not a tourist or transient.

(79) “Sanitize” means to apply cumulative heat or chemicals on a cleaned food-contact surface that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999 percent reduction, of representative disease microorganisms of public health importance.

(80) “Sealed combustion appliance” means a fuel-burning appliance with a pipe used to supply outdoor air to the appliance for the combustion process and a second pipe is used to return exhaust products to the outdoors.

(81) “Single-service articles” has the meaning given in s. ATCP 75 Appendix 1-201.10 (B).

(82) “Sleeping accommodations offered for pay” means all rooms on the premises offered for pay to a tourist or transient, excluding areas occupied by a tenant for more than 60 days or by the operator, owner or their immediate family.

(83) “Sleeping area” means any area of an individually keyed unit in which a sleeping room is located. Sleeping rooms separated by another area such as a kitchen or living room are considered separate sleeping areas but sleeping rooms only separated by a bathroom are not considered separate sleeping areas.

(84) “Sleeping room” means a room where beds are located.

(85) “Smoke alarm” means an electronic or battery-operated device or system that sounds an alarm when particles or products of combustion, other than heat, are detected. Smoke alarms conform to Underwriters Laboratories standard 217 Smoke Alarms.

(86) “Smoke detector” means an electronic device or sensor that monitors for smoke and is connected to a whole building fire alarm and detection system. Smoke detectors conform to Underwriters Laboratories standard 268 Smoke Detectors for Fire Alarm Systems.

(87) “Specialty lodging” means a unique type of structure, greater than 400 square feet in area but less than 25,000 cubic feet in volume, typically located in rural or natural settings, and provides an unconventional lodging experience.

Note: Treehouses, yurts greater than 400 square feet, eco-lodges and primitive cabins are some examples of specialty lodging.

(88) “Stair or stairway” means one or more risers that form a continuous passage from one elevation to another.

(89) “Supervisory signal” means a fire alarm control unit condition indicating there is an issue with a system, process, or equipment that is monitored by the fire alarm control unit.

**Note:** Common causes of supervisory conditions include sprinkler system issues, suppression system problems, water flow alarms, low battery voltage, fire pumps, or system malfunctions.

(90) “Temperature measuring device” has the meaning given in s. ATCP 75 Appendix 1-201.10 (B).

(91) “Time and temperature control for safety (TCS)” has the meaning given in s. ATCP 75 Appendix 1-201.10 (B).

(92) “Tourist or transient” means a person who travels to a location away from their permanent address for vacation, pleasure, recreation, culture, business, or employment and occupies an individually keyed unit for less than 60 consecutive days.

(93) “Tourist rooming house” (a) means any lodging place where sleeping accommodations are offered for pay to tourists or transients and includes:

1. A lodging place with 4 or less individually keyed units.

2. A one or two family dwelling or condominium unit where the entire residence is rented to a tourist or transient, family or rental group.

3. A tourist cabin or cottage.
4. An individually keyed unit defined as specialty lodging.

**Note:** A short-term rental and vacation home rental are examples of a tourist rooming house.

(b) A tourist rooming house does not include:

1. A hotel or motel as defined in sub. (43).
2. A bed and breakfast establishments regulated under ch. ATCP 73.
3. A private boarding or rooming house as defined in subs. (10) and (77).
4. A boat used for overnight sleeping accommodations.

(94) “Trouble signal” means a fire alarm control unit condition indicating there is an issue or fault with the fire alarm system.

**Note:** Common causes of trouble conditions include: power issues, communication errors, faulty wiring, faulty devices, tampering or vandalism, system programming errors, or components nearing end-of-life.

(95) “Utensil” has the meaning given in s. ATCP 75 Appendix 1-201.10 (B).

(96) “Waterborne outbreak” means two or more people that experience a similar illness after exposure, ingestion or inhalation of water that epidemiologic evidence implicates as the probable source of the illness or meets other exposure criteria for that specific disease.

(97) “Water distribution system” has the meaning given in s. SPS 381.01 (280).

(98) “Water management program” means the risk management plan for the prevention and control of legionellosis associated with building water systems, including documentation of the plan’s implementation and operation.

(99) “Water service” has the meaning given in s. SPS 381.01 (282).

(100) “Water service disruption” means a planned or unplanned event that reduces the water delivery pressure below 20 pounds per square inch (psi), to include new construction tie-ins; replacement of valves, hydrants, or meters; pumping failures; pipeline breaks; and other system repairs or emergency conditions.

(101) “Water system” has the meaning given in s. NR 812.07 (118).

(102) “Water-use end point” means the point at which water exits from all potable and nonpotable building water systems, fixtures, and equipment.

## 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.

**Note:** A person should consult with other local governmental authorities that may also require a license or permit to operate a lodging facility before submitting an application to the department or its agent.

**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 lodging facility 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 lodging facility 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 require 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 local government authorities before commencing construction or modification of a lodging facility.

**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 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.
2. Overnight sleeping accommodations on a frozen waterway.
3. A camping cabin less than 400 square feet located in a licensed campground pursuant to As defined in s. ATCP 79.03 (4) and located in a licensed campground pursuant to ch. ATCP 79.
4. A recreational vehicle as defined in s. ATCP 79.03 (32).

(b) *Licensing determination* 1. A single premises includes 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 that 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 parcel contact your local land information 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.

(c) *Transferability of a license.* A lodging facility operator can transfer ownership of the lodging facility under any of the following:

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

2. Pursuant to s. 97.605 (4) (e), Stats., 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 lodging facility 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.

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

(d) *Notification.* A person who wishes to transfer a license shall notify the department or its agent prior to operation of the lodging facility.

**Note:** To notify the department of a transfer of ownership, call (608) 224-4923 or send an email to [datcpdfslicensing@wi.gov](mailto:datcpdfslicensing@wi.gov). or mail request to PO Box 8911, Madison, Wisconsin 53708–8911.

(e) *Preinspection required.* 1. Before the department or its agent may issue a license to operate a lodging facility pursuant to par. (a) and s. 97.607 (1) Stats., the department or agent shall conduct a preinspection.

2. If an individually keyed unit is added to a premises of a lodging facility after the initial issuance of a license, an additional preinspection shall be conducted and a preinspection fee pursuant to s. ATCP 72.08 Table A or B shall be paid to the department or its agent.

3. A preinspection is not required for a transfer of a license under par. (c).

**Note:** To arrange a preinspection from the department contact the bureau of food and recreational businesses at (608) 224–4700 or mail request to PO Box 8911, Madison, Wisconsin 53708–8911 or contact the department’s agent.

(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 lodging facility 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 granted agent status can establish and collect fees for licenses. If you need a license application for an agent licensed lodging facility, contact the local health department.

**Note:** To obtain a copy of the department’s lodging license application form, call (608) 224-4923 or send an email to [datcpdfslicensing@wi.gov](mailto:datcpdfslicensing@wi.gov). or mail request to PO Box 8911, Madison, Wisconsin 53708–8911.

**Note:** An operator should consult with local government authorities that may also require a license or permit to operate a lodging facility including, the local building and zoning agency.

(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) (e), before operating a lodging facility.

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

2. The department shall refuse to 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 lodging facility 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 lodging facility 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 lodging facility 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 72.07 (1) (e).
3. The department or its agent has not approved the plan for the lodging facility pursuant to s. ATCP 72.06, 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 lodging facility 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 lodging facility 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 lodging facility within 30 calendar 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 calendar 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., 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 lodging facility 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 lodging facility 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 s. ATCP 72.08 Table A or B to the department before a new license is issued pursuant to s. ATCP 72.07 (3).

(b) *License fee.* The operator of a lodging facility shall pay the applicable license fee listed in s. ATCP 72.08 Table A or B to the department for each lodging facility 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 lodging facility 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 lodging facility pursuant to s. ATCP 72.09 (1) (b) 1., 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 lodging facility 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 lodging facility 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 calendar 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.

**ATCP 72.08 Table A**  
**For licenses issued April 1, XXXX through March 31, XXXX**

<u>Hotel, Motel And Tourist Rooming House License Fee Category</u>	<u>License Fee</u>	<u>Preinspection Fee</u>	<u>First Reinspection or Administrative Follow-Up Fee</u>	<u>Second and Subsequent Reinspection or Administrative Follow-Up Fee</u>	<u>Late Fee</u>
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**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

**ATCP 72.08 Table B**  
**For licenses issued on or after April 1, XXXX**

<u>Hotel, Motel</u> <u>And</u> <u>Tourist</u> <u>Rooming House</u> <u>License Fee</u> <u>Category</u>	<u>License</u> <u>Fee</u>	<u>Preinspection</u> <u>Fee</u>	<u>First</u> <u>Reinspection</u> <u>or</u> <u>Administrative</u> <u>Follow-Up Fee</u>	<u>Second and</u> <u>Subsequent</u> <u>Reinspection or</u> <u>Administrative</u> <u>Follow-Up Fee</u>	<u>Late</u> <u>Fee</u>
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**Tourist Rooming House (TRH) (Lodging unit is based on each individually keyed unit)**

- 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 each individually keyed unit)**

- 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), 93.08, and 97.65, 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 shall 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 to 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 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 operator 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 s. 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 license.** 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, ATCP 72 Rule Revision Advisory Committee | Reviewed Draft Language 9.26.23 – 2.27.24

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 [datapappeals@wisconsin.gov](mailto:datapappeals@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 Lodging Facilities.**

**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 or administrative rule 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 or statute.

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, for the license holder to correct violations of a priority item as defined in this chapter. The additional time shall not exceed 3 calendar days after the inspection,

- 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 an action plan pursuant to s. ATCP 72.09 (4) and no health hazard will result from allowing an extended schedule for compliance.

**(5) ISSUING A REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT.** (a) *Signature.* At the conclusion of the inspection, an authorized representative of the department or its agent shall sign the completed inspection report. Except as provided in par. (b), 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 or representative.

(b) *Availability.* If the license holder's designated person in charge or representative is not available to sign the completed inspection report, the department or its agent shall document the unavailability of a person in charge or representative in the inspection report.

(c) *Receipt.* A copy of the inspection report shall be provided to the person in charge or representative at the completion of the inspection, emailed or otherwise delivered 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.

## Subchapter V. General Provisions

**ATCP 72.15 Health and safety standard.** Pursuant to s. 97.62, Stats., every lodging facility shall be operated and maintained with a strict regard to the public health and safety.

### ATCP 72.16 Water supply; water systems and plumbing.

**(1) WATER SYSTEMS.** (a) *General.* The water source used to supply a lodging facility shall be a public or a private water system.

(b) *Well construction.* The operation, construction, installation, materials, and maintenance of the water system used to supply water to the lodging facility shall comply with well construction standards, as enforced by the Wisconsin department of natural resources.

**Note:** For more information regarding well construction standards, see ch. NR 812.

(c) *Location.* Except as provided under par. (d), the private well shall be located on the premises.

(d) *Shared private wells.* If the operator of a lodging facility shares a well that is not located on the premises, the operator shall provide a signed written agreement detailing the physical location of the well and the parties responsible for maintaining the system.

**(2) POTABLE WATER SUPPLY.** (a) *Drinking water standards.* A lodging facility's potable water supply shall: 1. For a public water system, meet the groundwater quality standards in ch. NR 809, as enforced by the Wisconsin department of natural resources.

2. For a private water system, meet the groundwater quality standards in subs. (e) and (f).

**Note:** For public drinking water well data visit, <https://dnr.wisconsin.gov/topic/Groundwater/GRN.html>.

(b) *Availability.* Except as specified under par. (d), each lodging facility shall be provide with a potable water supply under pressure.

(c) *Water temperature.* Handwashing sinks and fixtures used for bathing shall be equipped to provide

water at a temperature of at least 85°F through a mixing valve or combination faucet.

(d) *Temporary water service disruptions.* The operator shall inform guests of any water service disruptions to the water supply and shall provide potable water using any one of the following methods:

1. Commercially bottled drinking water.
2. An enclosed vehicular water tank;
3. Other methods approved by the department or its agent.

(e) *Private well water testing; bacteriological.* 1. The operator shall have bacteriological analysis performed for total coliform and *Escherichia coli* (*E.coli*) consistent with approved testing methods pursuant to s. ATCP 77.02 (3).

2. Total coliform and *E. coli* analysis shall not exceed zero colony forming units (CFU) pursuant to s. NR 140.10.

(f) *Private well water testing; nitrates.* 1. The operator shall conduct nitrate analysis consistent with approved testing methods pursuant to s. NR 149.41.

2. The analysis of the nitrate concentration in the well water shall not exceed 10 milligrams per liter (mg/L) pursuant to s. NR 140.10.

3. If the analysis of the nitrate concentration in the well water is between 10 and 20 mg/L, the operator shall post:

- a. Drinking water advisory signage, as provided by the department or its agent.
- b. In all areas where drinking water can normally be obtained.

4. If the analysis of the nitrate concentration in the well water exceeds 20 mg/L, it is considered an unsafe potable water source and shall follow the requirements under par. (h) 3.

(g) *Private well water testing; frequency, location, approved methods, and notification.*

1. The operator shall test the water from a private well at least once every 12 months.

2. The water sample shall be obtained from a faucet regularly used by tourists or transients.

3. Private well water testing shall be performed by a Wisconsin department of natural resources drinking water certified laboratory.

4. The department or its agent shall be notified when:

- a. The bacteriological test results for *E. coli* or total coliform exceeds zero CFU as specified in par. (e) 2.
- b. The nitrate test results exceeds 10 mg/L as specified in par. (f) 2.

**Note:** Bottles for collection of water samples may be obtained by writing to the Wisconsin state laboratory of hygiene, 2601 Agriculture Drive, Madison, WI 53708 or by calling (800) 442-4618.

**Note:** To find a list of Wisconsin department of natural resources drinking water certified laboratories visit <https://dnr.wisconsin.gov/topic/labCert/certified-lab-lists>.

(h) *Unsafe potable water.* The operator shall:

1. Discontinue the use of a private water system when bacteriological analysis under par. (e) 2. confirms the presence of *E.coli*.

2. Restrict the use of a private water system for drinking and warewashing when bacteriological analysis under par. (e) 2, is total coliform is positive on 3 consecutive well water samples.

3. Restrict the use of a private water system for drinking water when nitrate levels exceed the requirements under par. (f) 4.

(3) **WATERBORNE DISEASES.** (a) *Health department notification.* The operator shall contact the department or its agent for operational and testing guidance when notified of a suspected waterborne illness.

(b) *Suspected waterborne outbreak investigation.* Pursuant to s. ATCP 72.09 (1) (a), as part of the investigation or inspection, the department or its agent may secure water samples for analysis.

(c) *Confirmed waterborne outbreak.* A lodging facility that has waterborne illness outbreak, as confirmed through laboratory analysis, shall complete all of the following:

1. Prevent continued exposure by implementing any of the following methods:
  - a. Immediately discontinue public access to affected fixtures, equipment, and areas.
  - b. Install point of use water treatment filters.
  - c. Other safeguards approved by the department.
  - d. A combination of subdpar a., b., or c.



2. Develop a written remediation plan that includes all of the following:
  - a. Identify the source of the waterborne pathogen.
  - b. Identify the locations affected by the waterborne pathogen,
  - c. The method that will be used to remove the pathogen from locations identified in subdpar. a. and b.
3. Execute the remediation plan.
4. Collect post-remediation samples at least 48 hours after the execution of the remediation plan for locations identified under subd 2. a. and b.
5. Obtain approval from the department or its agent to resume normal operations in affected areas.
6. If the confirmed waterborne outbreak is associated with *Legionella spp.*, the lodging facility operator, in addition to the requirements in par. (c), shall complete all of the following:
  - a. Notify incoming guests and staff about possible exposure to *Legionella* and symptoms of Legionnaires' disease and Pontiac fever until the operator has received approval from the department or its agent to resume normal operations.
  - b. Notify guests from the previous 14 calendar days of the confirmed waterborne outbreak in writing as approved by the department about possible exposure to *Legionella* and symptoms of Legionnaires' disease and Pontiac fever.
  - c. Develop and implement a water management program in accordance with ANSI/ASHRAE standard 188 Legionellosis: Risk Management for Building Water Systems or as approved by the department.
  - d. Sampling validation shall be conducted at an ELITE-certified laboratory in accordance with the frequency established for sampling under subdpar. c.

**Note:** Laboratories can test their Legionella isolation techniques against standardized samples through the Environmental *Legionella* Isolation Techniques Evaluation (ELITE) Program. Participating labs receive a panel of lyophilized test samples twice each year from the Wisconsin State Laboratory of Hygiene. Some of the test samples are Legionella positive and some are Legionella negative. The test samples may also include other organisms commonly found in water. Participating labs process the test samples and report their results. Those labs that correctly identify *Legionella* in two consecutive panels receive documentation for passing the proficiency test.

**(4) PLUMBING.** (a) *General.* All lodging facilities shall meet Wisconsin building code pursuant to chs. 101 and 145, Stats., and chs. SPS 300-399 as enforced by the Wisconsin department of safety and professional services.

(b) *Backflow prevention.* A backflow or backsiphonage prevention device shall be installed on plumbing fixtures where the potential for contamination of the potable water supply exists.

Note: Examples include, mop sinks and chemical dispensing devices.

(c) *Air gap.* When an air gap is required, the distance of the air gap shall be at least twice the diameter of the water or waste piping.

**Note:** An example includes a hotel ice dispenser where the required air gap is between the ice making water drain line or ice bin drain line and the floor drain.

**ATCP 72.17 Sewage disposal system. (1) SEWAGE.** Sewage, including all liquid and water-carried wastes from plumbing fixtures shall discharge into a public sewer or private on-site wastewater treatment system (POWTS). All lodging facilities shall meet Wisconsin building code pursuant to chs. 101 and 145, Stats., and chs. SPS 300-399 as enforced by the Wisconsin department of safety and professional services.

**(2) POWTS DISPOSAL.** (a) *Designed, constructed and operated.* Any POWTS system used by a lodging facility under this chapter shall be located, designed, constructed and operated in accordance with state uniform plumbing code as enforced by the Wisconsin department of safety and professional services.

(b) *POWTS access covers.* The operator shall ensure that access opening covers to a POWTS are locked or secured to prevent general access by the public, except for inspection, evaluation, maintenance or servicing purposes.

**(3) FAILED SEWAGE DISPOSAL SYSTEM.** A non-functional public sewer or a failing POWTS, as

determined by the Wisconsin department of safety and professional services or the local government authority, shall be brought into compliance, replaced or its use discontinued.

**(4) TOILET FACILITIES.** (a) *Private fixtures.* Except as specified in par. (b), an individually keyed unit shall provide a minimum of one toilet, one sink located in or adjacent to the toilet room, and a shower or bathtub.

(b) *Shared fixtures.* 1. A hostel or an existing lodging facility that does not meet the requirements under par. (a) shall provide a minimum of one toilet, one sink located in or adjacent to the toilet room, and a shower or bathtub for every 10 tourist or transients or fraction thereof.

2. All toilet stalls or rooms shall be provided with a privacy lock.

3. In an owner-occupied lodging facility, the owner or operator shall have their own toilet facility separate from toilet facility provided to the tourist or transient.

(c) *Alternatives to water-carried waste.* Portable toilets, composting toilet systems, incinerating toilets, and privies, shall comply with the requirements for alternatives to water-carried waste plumbing fixtures as enforced by the Wisconsin department of safety and professional services or the local government authority.

**Note:** For more information regarding alternatives to water-carried waste plumbing fixtures, see s. SPS 391.

(d) *Soap and towels.* Each toilet room shall be provided with soap, hand towels, or other approved means of drying hands, and an adequate supply of toilet paper, upon guest arrival.

(e) *Waste receptacle.* Each toilet room shall be provided with a waste receptacle.

(f) *Slip-resistant flooring in showers and bathtubs.* Slip-resistant flooring or materials shall be provided in all shower and bathtub basins.

**Note:** Approved slip-resistant flooring or materials include, grouted tile, anti-slip tape, bathmat, or textured surface.

**ATCP 72.18 Building structure and safety. (1) GENERAL** a. *Wisconsin building code.* All lodging facilities shall meet Wisconsin building code pursuant to chs. 101 and 145, Stats., and chs. SPS 300-399 as enforced by the Wisconsin department of safety and professional services.

b. *Department health and safety standards for lodging facilities.* All lodging facilities shall meet the minimum health and safety standards in subs. (2) to (11).

**Note:** Sub. (b) refer to the minimum health and safety standards that need to be met to operate a lodging facility. Please consult with other local or State government agencies as additional or stricter requirements may apply.

**(2) SLIPS, TRIPS AND FALLS.** Except as specified under par. (c), lodging structures shall meet all of the following:

(a) *Handrails.*

1. At least one handrail shall be provided for a flight of stairs with more than 3 risers.

2. The height of the handrail shall be between 30 to 38 inches.

(b) *Guards.*

1. Guards shall be provided on all open sides of stairs consisting of more than 3 risers.

2. All elevated surfaces in interior and exterior areas of a lodging facility shall be provided with guards on all open sides that are elevated more than 30 inches above the floor or grade, including lofts, open sides of landings, platforms, decks, balconies or porches that are a part of or attached to the lodging facility.

3. Guard spacing must be equal to or less than 6 inches.

4. Guard height shall be equal to or greater than 36 inches, except that guards may be less than 36 inches when terminating at the underside of the stair handrail under par. (a) 2.

(c) *Exemptions.* Requirements under par. (a) and (b), do not apply to window wells, egress wells, retaining walls, other landscaping features or detached walkways or stairs, landings, platforms, decks, balconies or porches that are not part of the lodging facility.

**(3) SLEEPING ROOMS.** (a) *Ceiling height.* 1. Except as specified under subd. 2., every sleeping room shall have a minimum ceiling height of 7 feet (2.13 m).

2. Sleeping rooms may have ceiling heights of less than 7 feet provided at least 50 percent of the room's floor area has a ceiling height of at least 7 feet. Any area with a ceiling height of less than 5 feet may be ignored in this calculation.

(b) *Spacing and number of occupants in a sleeping room.* 1. Beds shall be arranged to provide an aisle at least 3 feet in width from one side of each bed to create a clear path for emergency egress.

2. The number of occupants per bed shall not exceed the following:

a. No more than one occupant for a mattress width of 50 inches or less.

b. No more than two occupants for a mattress width of more than 50 inches.

3. The number of individuals in a sleeping room shall not exceed the requirements established under subd. 1. and 2. or the posted occupancy limit established and enforced by a local government agency, whichever is less.

(c) *Bed placement.* Bed placement shall afford the occupant with maximum ceiling height clearance for emergency egress.

(d) *Bunk beds.* If a bunk bed is provided in a lodging facility, the operator shall ensure all of the following requirements are met:

1. No more than 2 beds may be stacked vertically. <sup>P</sup>

2. There shall be a vertical separation of at least 2.5 feet measured from the top of the lower mattress to the bottom of the frame of the upper bed. <sup>Pf</sup>

3. A free space of at least 2.5 feet shall be provided above the mattress of the upper bed. <sup>Pf</sup>

4. The upper bunk shall be provided with guards and shall meet all of the following: <sup>P</sup>

a. The top of the guard shall be at least 5 inches above the top of the mattress. <sup>Pf</sup>

b. The bottom of the guard shall be no more than 3.5 inches above the top of the bed frame. <sup>Pf</sup>

5. Bunk beds shall be located away from potential hazards, including heat sources, ceiling fans, or other ceiling protrusions. <sup>Pf</sup>