

## Clearinghouse Rule 24-096

DATCP Docket No. 22-R-08

Preliminary Rule Draft  
November 19, 2024

### THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION'S PROPOSED ORDER TO ADOPT PERMANENT RULES

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#### PROPOSED ORDER

The Wisconsin Department of Agriculture, Trade and Consumer Protection proposes an order *to repeal* and *recreate* ATCP 72, *relating to* the regulation of hotels, motels, and tourist rooming houses.

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#### Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

The Wisconsin Department of Agriculture, Trade and Consumer Protection (department) proposes an order to repeal and recreate Wis. Admin. Code ch. ATCP 72 Hotels, Motels, and Tourist Rooming Houses, formerly Wis. Admin. Code ch. DHS 195. Wis. Admin. Code ch. DHS 195 had not been significantly modified by the Wisconsin Department of Health Services since 1985. Chapter ATCP 72 has also not been significantly modified since the program was brought to the Department on July 1, 2016. This new rule, if adopted, will bring Wisconsin into substantial accord with the current industry technology, innovations, and tourism experiences.

#### *Statutes Interpreted*

**Statutes Interpreted:** Sections 93.07(1) "Department of agriculture, trade and consumer protection;" 97.605 "Lodging and vending licenses;" 97.607 "Pre-licensing inspection;" 97.613 "Fees;" 97.615 "Agent status for local health departments;" 97.62 "Health and safety; standard;" 97.625 "Powers of the department and local health departments;" 97.638 "Hotel rates posted; rate charges; special rates;" 97.65 "Enforcement;" and 227.11 (2) (a) "Agency rule-making authority," Stats.

#### *Statutory Authority*

**Statutory Authority:** Sections 93.07 (1), 97.605, 97.607, 97.613, 97.615, 97.62, 97.625, 97.638, 97.65, and 227.11 (2) (a), Stats.

#### *Explanation of Statutory Authority*

The department has broad general authority, pursuant to s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. The department has specific authority for the requirements to issue lodging and vending licenses, pursuant to s. 97.605, Stats. The department and agent health department have specific authority to conduct pre-licensing inspections at lodging facilities, pursuant to s. 97.607, Stats. The department has specific authority to promulgate rules that establish fees, pursuant to s. 97.613, Stats. The department and agent health departments have specific authority to enter into a written agreement to inspect hotels and tourist rooming houses, pursuant to s. 97.615, Stats. The department has the authority to ensure that lodging facilities are operated and maintained with a strict regard to public health and safety, pursuant to 97.62, Stats. The department and agent health departments have the power to administer and enforce rules, pursuant to s. 97.625, Stats. The department may enforce the posting of hotel rates, pursuant to s. 97.638, Stats. The department has specific authority to enter any premises for which a license is required, pursuant to s. 97.65, Stats. The department has specific authority for rule making, pursuant to s. 227.11 (2) (a), Stats.

### ***Related Statutes and Rules***

The department has regulated hotels, motels, and tourist rooming houses since the transfer of several programs from the Wisconsin department of health services to the department on July 1, 2016. Lodging facilities are regulated, pursuant to ch. 97, Stats., as well as, interwoven with other Wisconsin department administrative rules.

Wisconsin Admin. Code chs. NR 140, 149, 809, 812 rules relating to water supply and drinking water standards as enforced by the Wisconsin department of natural resources are referenced in Wis. Admin. Code ch. ATP 72.

References to the Wisconsin department of safety and professional services rules are present in Wis. Admin. Code ch. ATP 72 for construction standards of buildings, plumbing, and private onsite wastewater treatment systems per ss. 101 and 145, Stats., and Wis. Admin. Code chs. SPS 300-399 as enforced by the Wisconsin department of safety and professional services.

Provisions for the installation and maintenance of carbon monoxide and smoke alarms are closely modeled after ss. 101.145 and 101.149, Stats., to ensure basic life safety protection in public buildings and structures with fuel-burning appliances.

### ***Plain Language Analysis***

The department and its agent health departments license approximately 12,500 hotels, motels, and tourist rooming houses throughout the state. According to the 2023 Wisconsin Department of Tourism Economics Report, the lodging industry generated an estimated \$3.4 billion in direct business sales and \$1.2 billion in labor income. The lodging options available to tourists has drastically expanded beyond the typical hotel or motel room and occasional lakeside cabin that was available 40 years ago. The advent of online home rental services has added to the lodging market with new and unique overnight accommodations options for visitors inspired to experience Wisconsin.

The department is proposing to modernize the antiquated Wis. Admin. Code ch. ATP 72 with a repeal and recreation that will significantly overhaul the definitions section, modernize smoke alarm, and carbon monoxide alarm placement, address slip, trip, and fall hazards, update the licensing and fee structure, and enhance existing provisions to ensure a safe lodging experience and environment. Modernization also

reflects gender inclusion considerations with the proposed revised language using the term “per person” in place of “male” or “female.”

The proposed updates to Wis. Admin. Code ch. ATP 72 contain an overhaul of definitions that includes amendments, modernization and expansion of terms used in the rule for clarification. Expansion of the definitions section includes over 80 newly defined terms. This expansion is beneficial because it creates clarity, efficiency, and an opportunity for both small business and authorized representatives conducting inspections to speak the same language used within the rule.

The proposed fees and licensing structure for lodging establishments will address several critical issues. As the lodging industry evolves with new business models and technologies, the existing framework has become increasingly misaligned with current practices and economic realities. The current fees do not accurately reflect the costs of regulatory oversight needed to inspect the growing industry which can create inefficiencies and delays, impacting both regulators and businesses. The licensing structure will include three license types: tourist rooming house, hotel or motel, and specialty lodging. Each lodging type will then have multiple fee options based on the number of individually keyed units being offered for overnight sleeping accommodations. A single tourist rooming house, or vacation rental, will take more time to inspect than a single hotel room which is reflected in the associated fee. In addition, the draft rule addresses facilities that expand after receiving their initial lodging license. The rule will allow for these expanded areas to be inspected for compliance and allow for the costs to complete the work to be recouped. Lastly, the rule has introduced the specialty lodging option to adapt to more primitive lodging experiences offered in other parts of the country. Updating these elements is essential to ensure a fair and effective regulatory environment, promote industry growth, and improve the overall quality of lodging services.

The proposed rule will add an annual sampling frequency for bacteriological testing of private wells which is consistent with public water systems found at other lodging facilities. The annual testing of private wells for bacteria, such as total coliform and *Escherichia coli*, is also consistent with other recreational programs regulated by the department. In addition to bacteria, the proposed rule is also intending to include an annual sampling frequency for nitrate testing of private wells which is also consistent with public water systems at other lodging facilities. According to the Wisconsin department of health services, nitrate is one of the most common groundwater contaminants in Wisconsin and studies estimate that at least 10% of private wells in Wisconsin have high levels of nitrate. The Wisconsin department of health services also indicates high nitrates in drinking water can affect infants, pregnant individuals, and may increase the risk of thyroid disease and may increase the risk of colon cancer in all individuals.

The proposed regulation includes the current installation and maintenance requirements for carbon monoxide alarms as reflected in s. 101.149, Stats., and most recently updated in 2017 Wisconsin Act 330. The updated statute language replaced the prior requirements for carbon monoxide alarms in residential buildings with standards which are similar to those in International Building Codes. The installation focus changed to put an emphasis on sleeping areas.

The proposed rule includes installation and maintenance requirements for smoke alarms consistent with s. 101.145, Stats. The areas of installation will include every floor, at the top of any stairway, outside of each sleeping area and within each sleeping room.

The department and its agent health departments have routinely observed potential slip, trip, and fall hazards at lodging facilities during pre-licensing inspections. Most often these hazards are observed at tourist rooming houses and the structures oftentimes predate any building code requirements. The proposed language will address very basic, but essential, safeguards to address the commonly observed slip, trip, and fall hazards. Items such as handrails for staircases, guards on elevated decks, balconies, lofts or other

elevated surfaces, and the addition of slip-resistant materials or bathmats in bathtubs or showers that have smooth basins would be addressed in the proposed language.

The rule has proposed language to address waterborne outbreaks and additional requirements for those outbreaks involving the bacteria *Legionella spp.* The department has been involved in 14 suspected outbreaks over the course of eight years at lodging facilities involving *Legionella* bacteria which has resulted in 33 illnesses and one death. According to the United States centers for disease control and prevention, *Legionella* bacteria cause Legionnaires' disease and Pontiac fever which are spread to people through building water systems. Legionnaires' disease is a severe type of pneumonia that can lead to lung failure and even death. If a lodging facility has a confirmed *Legionella* outbreak, then the operator will be required to develop a *Legionella* water management program to control and prevent future outbreaks. The United States centers for disease control and prevention has free online resources and a toolkit to assist operators in the development of a *Legionella* water management program.

The proposed rule text has incorporated similar language that is currently used in the Minnesota Lodging Code which may require a lodging operator to hire or consult with a licensed pest control operator in cases of an extensive infestation. The proposed rule still preserves current methods of allowing an operator to self-treat using non-restricted use pesticides for more manageable infestations.

The proposed language includes a new requirement for reporting death, injury, or food, waterborne or other communicable illnesses that requires an emergency medical service (EMS) response relating to the operation or maintenance of the lodging facility. For example, an EMS response for a guest that tripped and fell down the stairs would be reported to the department. However, an EMS response for a guest that suffers a heart attack would not be required to be reported. This data will assist in designing effective outreach and meaningful interventions and the data collected may help support future rule development. This data will be mutually beneficial to both small business and the department as they make continuous improvements in keeping guests safe and healthy.

The proposed language incorporates criticality methodology initially developed by the United States food and drug administration for their model food code to create a risk-based inspection system. This risk-based methodology seeks to identify those provisions that are more critical for protecting public health and to designate a risk level of hazards. Each code provision will be assigned as a core item, priority foundation item or priority item. Core items are typically designated for cleanliness or maintenance procedures. Priority foundation items, if left uncorrected over time, or in conjunction with other priority foundation items, may lead to illness or injury. Lastly, priority items, if uncorrected or are missing at the time of inspection, could significantly contribute to an increased risk for injury or illness; a nonfunctional or absent smoke alarm as an example. The criticality method provides clarity to industry by identifying those provisions which are more likely to cause illness or injury and supports a risk-based inspection approach. The criticality method has been adopted and is used in Wis. Admin. Code ch. ATP 75, Wisconsin food code, Wis. Admin. Code ch. ATP 76, Wisconsin pool code, and Wis. Admin. Code ch. ATP 78 Wisconsin recreational education camp code.

The above-mentioned rule adjustments are needed to address outdated regulatory practices, adapt to evolving industry standards, overall growth, and to ensure a continued fair and efficient oversight of the lodging industry. Current regulations do not fully reflect modern business models or accurately cover the costs for enforcement of the rule. The updated proposed rule will streamline processes, enhance compliance, and support industry growth by aligning regulations with current needs and practices.

### ***Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations***

There are no existing or proposed federal regulations that address the sanitation and maintenance of operational activities at lodging facilities to be regulated by this proposed rule.

### ***Summary of Comments Received during Preliminary Comment Period and at Public Hearing on Statement of Scope***

The department held a preliminary hearing on the statement of scope (SS 010-23) on March 29, 2023 in Eau Claire, March 30, 2023 in Stevens Point, and April 4, 2023 in Madison, with an online comment period open until April 18, 2023. The department received two oral comments during the preliminary hearings and one written comment.

The oral comments requested the department to address occupancy at tourist rooming houses.

The written comment identified areas of concern in regards to the following proposals: expanding the definitions of terms used in rule; an alternative inspection frequency for tourist rooming houses; department specific language for health and safety features related to slip, trip and fall hazards; addressing emerging communicable diseases; addressing pests of public health significance; and adding requirements of reporting illnesses, injuries, and accidents that require emergency medical service response.

### ***Comparison with Rules in Adjacent States***

#### **Illinois**

The State of Illinois does not have a standardized state sanitation code for regulating lodging facilities.

Local municipalities may regulate lodging facilities within their jurisdiction through their locally adopted ordinances. The ordinances vary from one municipality to the next.

#### **Indiana**

The State of Indiana does not have a standardized state sanitation code for regulating lodging facilities.

Local municipalities may regulate lodging facilities within their jurisdiction through their locally adopted ordinances. The ordinances vary from one municipality to the next.

#### **Iowa**

The State of Iowa standardized state sanitation code for regulating lodging facilities is Iowa Code Title IV, Public Health, Chapter 137C - Hotel Sanitation Code.

The Iowa Hotel Sanitation Code Subchapter III Health and Safety requirements only address four sections: plumbing, toilet and lavatory facilities, fire safety, and the prohibition of employment of persons with communicable diseases.

#### **Michigan**

The State of Michigan does not have a standardized state sanitation code for regulating lodging facilities.

Local municipalities may regulate lodging facilities within their jurisdiction through their locally adopted ordinances. The ordinances vary from one municipality to the next.

## **Minnesota**

The State of Minnesota standardized state sanitation code for regulating lodging facilities is Minnesota Rules ch. 4625, Lodging Establishments, promulgated pursuant to Minnesota Statutes, ch. 157.

Of the five neighboring states, the Minnesota lodging sanitation rule most closely resembles the Wis. Admin. Code ch. ATPC 72. The Minnesota department of health has recently begun the process to revise the Minnesota Lodging Code.

Chapter 4625 applies to all establishments that provide overnight sleeping accommodations, such as hotels, motels, lodging establishments and resorts as defined in Minnesota Statutes.

The proposed Minnesota Lodging Code similarly addresses maintenance and cleanliness of equipment, furnishings, buildings and premises, fall hazard prevention with handrails and guardrails, safe water supplies, sanitization of reusable dishware and utensils, waste disposal, pest control, and fire protection and safety.

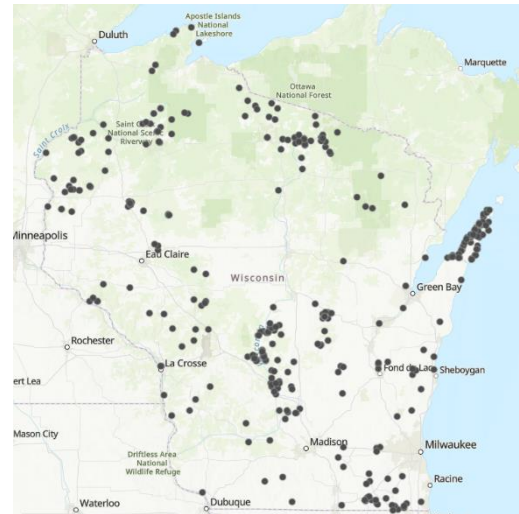
### ***Summary of Factual Data and Analytical Methodologies***

The ATPC 72 Rule Revision Advisory Committee was created to assist the department in the repeal and recreation process of Wis. Admin. Code. ch. ATPC 72. The committee was tasked with vetting the objectives outlined in the SS 010-23 Scope Statement and for developing a revised rule from those discussions. The committee was comprised of a diverse group of individuals that represented various facets of the lodging industry. Membership included individuals from the Wisconsin Hotel and Lodging Association, Wisconsin Association of Campground Owners, Wisconsin Realtors Association, Wisconsin County Code Administrators, Wisconsin Association of Local Health Departments and Boards – Environmental Health, tourist rooming house owners and department staff. Public meetings were held on the last Tuesday of the month from September 2023 until the rule language drafting process completed in July 2024.

## ***Analysis and Supporting Documents used to Determine Effect on Small Business Or in Preparation of an Economic Impact Analysis.***

### **Annual Private Well Water Testing**

As of early 2024, data available to the department suggests approximately 388 private wells located at licensed lodging facilities in the state. The Wisconsin department of natural resources matched the physical addresses of licensed lodging establishments against the physical addresses of registered private wells. This is an underestimate of the total number of statewide private wells serving lodging facilities, as Dane, Milwaukee, and Taylor counties were not included. Nonetheless, the financial burden of annual water testing of private wells is a fractional impact on the industry. The Wisconsin department of natural resources lists 143 laboratories certified for coliform bacteria testing and 123 laboratories certified for nitrate testing. The current water testing prices for bacteria and nitrate water tests are \$35 each at the Wisconsin state laboratory of hygiene. This would result in an annual financial burden of \$70 for this small subset of licensed lodging facilities.



*Private Wells at Licensed Lodging Facilities.*

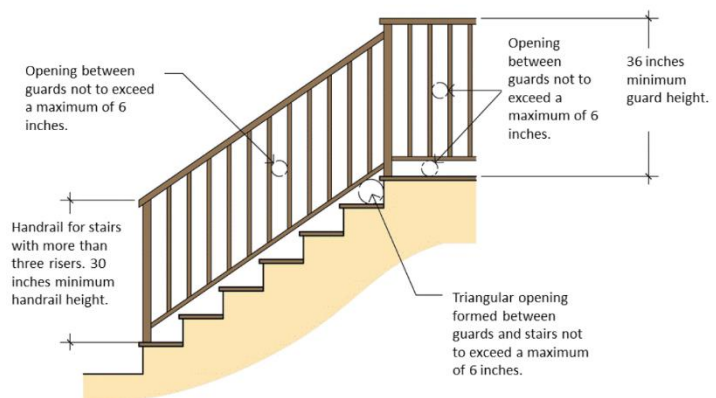
### **Legionella Outbreak Response and Remediation**

The cost to remediate a lodging facility for a *Legionella* contamination can vary widely depending on several factors, including the size and location of the facility, the extent of the contamination, and the specific measures required for remediation. The costs can range from a few thousand dollars to tens of thousands of dollars or more and include an assessment, cleaning, disinfection, and any necessary modifications to the building or plumbing systems. The overall financial impact on the industry is minimal with less than two suspected outbreaks per year.

### **Slip, Trip, and Fall Hazards**

The cost to modify a stair handrail, or to protect an elevated surface, will vary based on factors such as the type or materials used, the quantity of materials needed for modification, and the location of the repair. Estimates can range from a few hundred dollars to thousands of dollars or more depending on materials and complexity.

The methods chosen to address a slip hazard in a bathtub or shower will vary greatly in costs. A roll of slip resistant tape designed for indoor bathtub and shower use costs around \$12 for 15 feet compared to bathtub refinishing which has an estimated cost of around \$480.



*Pictorial Summary of Proposed Requirements for Stairs and Elevated Surfaces*

## **Smoke Alarm Installation**

The cost of a 10-year “worry-free” smoke alarm is approximately \$20 per alarm and can be installed by the lodging operator without any special equipment. A 3-bedroom vacation home with 2 sleeping rooms on the first floor and 1 sleeping room in the basement may require 6 smoke alarms in the proposed language. The hypothetical vacation home would equate to \$120 to protect, or \$12 per year. Oftentimes, smoke alarms can be purchased in bundled quantities which will reduce the individual estimated cost per alarm.

## **Pest Control**

The cost to rid a lodging facility of pests can vary widely depending on several factors, including the size and location of the facility, the extent of the infestation, and the specific treatment methods used. The costs can range from a few hundred dollars to thousands of dollars or more and include an assessment, treatment, and any necessary modifications to the building to prevent further infestations.

## **Fees**

The department presented three various fee models to the ATCP 72 Rule Revision Advisory Committee. All three models generated nearly the same targeted revenue. Model 1 had higher fees for preinspections compared to the other models. Model 2 had higher fees for annual licenses compared to the other models. Lastly, model 3 was a blend between the other models. The committee ultimately selected model 1 as the desired fee structure.

The proposed fee structure has been expanded to offer more license options which will assist in capturing the costs of the inspection services more accurately and will distribute fees more fairly. The licenses will increase from five license options to 22 license options across the tourist rooming house, hotel and motel, and specialty lodging licensing fee categories.

The department believes the fee changes proposed will have minimal effect on small businesses. The current fees have not been modified in 14 years and the proposed fees are calculated to have a three percent increase per year for hotel and motel licenses and a six percent increase per year for tourist rooming house licenses during that timeframe. The higher fee increase for tourist rooming houses reflects the increased inspection complexity, and increased time demand for scheduling and traveling compared to a traditional hotel room.

The financial impact of the modernized license and fee model is low and maintains the current association between an increased fee based on the number of individually keyed units offered, through a tiered model. A lodging facility would be placed into one of three license types: tourist rooming house, hotel and motel, or specialty lodging unit. Within each license type is a range of individually keyed units with an associated fee that increases as the number of units increases. The ranges of individually keyed units have also been increased to an upper limit of 1,000 or more hotel rooms compared to the current maximum of 200 or more hotel rooms. In addition, first reinspection fees and second reinspection fees have been reduced to a flat rate fee for all 22 license options.

## ***Fiscal Estimate and Economic Impact Analysis***

The Fiscal Estimate and Economic Impact Analysis is attached.

## ***Effect on Small Business***



See analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis section, above.

**The Department's Regulatory Review Coordinator may be contacted by:**

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***Where and When Comments May Be Submitted***

Questions and comments related to this rule may be directed to:

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Comments will be accepted up to two weeks after the last public hearing is held on this rule. Hearing dates will be scheduled after this hearing draft rule is approved by the board of agriculture, trade and consumer protection.

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**RULE TEXT**

SECTION 1. ATCP 72 is repealed and recreated to read:

2 **Chapter ATCP 72**  
3 **HOTELS, MOTELS, AND TOURIST ROOMING HOUSE**  
4

5 **Subchapter I**  
6

7 **Definitions, Authority and Purpose**

8 **ATCP 72.01 Authority and purpose.** This chapter is promulgated under the authority of ss. 97.605,  
9 97.607, 97.613, 97.615, 97.62, 97.625, 97.638, 97.65, and 227.11 (2) (a), Stats., for the department and its  
10 agents to prescribe rules for lodging facilities and to enforce these rules to protect public health and safety.

11 **ATCP 72.02 Scope. (1) APPLICABILITY.** This chapter applies to the license holder of any lodging  
12 facility and to the department and its agents.

13 **(2) VARIANCES.** When it appears to the department that strict adherence to a provision of this chapter  
14 is impractical for a particular lodging facility, the department may approve a variance from that provision  
15 requested by that operator if the operator provides the department with satisfactory proof that the approval  
16 of the variance will not jeopardize the public's health, safety, or welfare.

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

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

22 **(c) Department action on a variance.** On receipt of a complete variance request as specified in this  
23 section, the department shall review the request and grant or deny the request in writing within 30 business  
24 days. A variance approved by the department shall be for any of the following:

- 25 1. A defined period of time or shall expire a maximum of 5 years from the date of issuance.  
26 2. An experimental or trial purpose.

27 **(d) Records.** The department or its agent shall maintain a copy of the variance in the establishment's  
28 inspection history file.

(e) *Application contents*. Documentation requesting 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 section 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 s. ATCP 72.07 (1) (d), 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 written request with the department for reissuance of the variance at least 30 calendar days prior to its expiration, unless permission for a later expiration 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 facility that proactively reduce the risk of illness or a hazard 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 or its agent, 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) “Boarding house” means a rooming house as defined in sub. (79).

(10) “Boat” means every description of watercraft as defined pursuant to s. 30.01 (7), Stats., used or capable of being used as a means of transportation on water.

(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. ATP 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 for:

(a) Coliform and *Escherichia coli*, a lab certified under ch. ATCP 77.

(b) Nitrates, a lab accredited under ch. NR 149.

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

(18) “Communicable disease” means an infectious disease that is transmissible by contact with infected individuals or their bodily discharges or fluids, by contact with contaminated surfaces or objects, by ingestion of contaminated food or water, or by direct or indirect contact with disease vectors.

(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” 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 before the 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 1-201.10 (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 lodging facility.

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

(39) “Guard” means:

(a) 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) A barrier erected on the top bunk bed 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 toilet facilities.

(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) “Immediate family member” has the meaning given in s.97.605 (4) (a) 2., Stats.

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

(45) “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.

(46) “Ladder” means a structure for climbing up or down that consists of 2 long sidepieces joined at  
intervals by crosspieces on which one may step.

(47) “*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.

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

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

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

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

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

(53) “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.

(54) “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.

(55) “Operator” means the license holder of a lodging facility or the person in charge responsible to the owner for the operation of the lodging facility.

(56) “Person” means an individual, partnership, cooperative association, firm, limited liability company, corporation, trust, other legal organization or entity, municipality, county, town or state agency, whether tenant, owner, lessee, licensee, or the agent, heir, or assignee of any of these.

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



(58) “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, bats, rodents, and ticks.

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

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

(61) “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.

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

(63) “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.

(64) “Premises” means the contiguous land or property where the lodging facility is located and all associated buildings or structures under the control of the license holder. A premises in this chapter includes one or more county or municipal tax parcels of land or property that share a common border.

(65) “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>.

(66) “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>.

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

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

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

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

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

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

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

(74) “Rental group” means 2 or more tourist or transients occupying an individually keyed unit that is inaccessible to all others at the time of rental.

(75) “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.

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

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

(78) “Room” means an individually keyed unit as defined in sub. (45).

(79) “Rooming house” means a one- and 2-family dwelling that offers overnight sleeping accommodation to an individual that is not a tourist or transient.

(80) “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.

(81) “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.

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

(83) “Sleeping accommodations offered for pay” means all sleeping 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.

(84) “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.

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

(86) “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.

(87) “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.

(88) “Specialty lodging” or “SL” means a type of tourist rooming house with greater than 400 square feet in area but less than 1,500 square feet, typically located in rural or natural settings, and provides an unconventional lodging experience with no liquid or water carried waste plumbing fixtures.

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

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

(90) “Supervisory condition” 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.

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

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

(93) “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.

(94) “Tourist rooming house” or “TRH” (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 2-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. A specialty lodging facility defined in sub. (88).

**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 subs. (42) and (53).
2. A bed and breakfast establishments regulated under ch. ATCP 73.
3. A private boarding or rooming house as defined in subs. (9) and (79).
4. A boat used for overnight sleeping accommodation.

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

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

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

(97) “Waterborne outbreak” means 2 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.

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

(99) “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.

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

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

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

(103) “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 a license, an applicant shall do all of the following:

(1) LICENSE HOLDER. Be the person 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 or repair existing facilities and equipment that no longer comply with the criteria set forth in this chapter.

(6) CORRECTIVE ACTIONS. Comply with lawful 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 an operator that has submitted an application for a license or has made alterations to an existing lodging facility.

**Note:** In addition, an operator 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.* No person may provide sleeping accommodations offered for pay to a tourist or transient or operate a hotel, tourist rooming house, or specialty 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 or yurt less than 400 square feet in area located in a licensed campground.

4. A recreational vehicle.

(b) *Change of operator.* Except as provided under par. (d), 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.

(c) *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 lodging facility identified in subdpar. b. is under control of the license holder.

**Note:** For questions regarding tax parcels contact the 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 par. (a).

3. 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 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.

(d) *Transferability of a license.* A licensee 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.

(e) *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, or contact the department’s agent.

(f) *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 fee that corresponds to the number of units added shall be paid to the department or its agent pursuant to s. ATCP 72.08 Table A or B.

**Note:** For example, hotel A is licensed for 100 rooms and expands to add 50 rooms. Hotel A would be subject to the preinspection fee for 31 to 99 rooms.

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

**Note:** To arrange a preinspection from the department contact the bureau of food and recreational businesses at (608) 224–4700, or send an email to [datcpdfslicensing@wi.gov](mailto:datcpdfslicensing@wi.gov), 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 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 Table A or B and any fees previously due to the department or its agent under this chapter.

2. Information, as determined by the department or its agent, that indicates the lodging facility will be maintained and operated in compliance with this chapter, and 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. To obtain 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) (f), 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 filed on or 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 or agent action on a license renewal.* 1. The department or its agent may refuse to renew a license pursuant to ss. 93.06 (7) and 97.71, Stats., and under sub. (5) (a).

2. The department or its agent shall refuse to renew a license as provided pursuant to ss. 93.06 (7) and 97.71, Stats., and under sub. (5) (b).

(5) DEPARTMENT OR AGENT ACTION ON A LICENSE APPLICATION. (a) *Department or agent 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 operator is not in compliance with s. 93.135 (3) – (5), Stats.

3. The department or its agent has not conducted the preinspection required pursuant to s. ATCP 72.07 (1) (f).

4. 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.

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

6. The operator has modified, repaired, or maintained the lodging facility in a manner that is not in accordance with this chapter.

434 (c) *Conditional license.* Except as provided in s. 93.135, Stats., the initial issuance, renewal, or  
435 continued validity of a license may be conditioned pursuant to ss. 93.06(8) and 97.605 (1p), Stats., upon  
436 the requirement that the license holder correct a violation of this chapter, s. 97.625, Stats., within a  
437 specified period of time. If the condition is not satisfied within the specified time or after an extension of  
438 time approved by the department or its agent, the license is void. No person may operate a lodging  
439 facility after a license has been voided. Any person who does so shall be subject to the penalties  
440 pursuant to s. 97.72, Stats., an injunction pursuant to 97.73, Stats., and payment of fees pursuant to s.  
441 ATCP 72.08 (2) (e). An operator whose license is voided under this paragraph may appeal the decision  
442 pursuant to s. ATCP 72.11. If the decision was made by the department's agent, the applicant may  
443 appeal the decision pursuant to s. ATCP 72.12.

444 (d) *Granting or denial of a license.* 1. The department or its agent shall issue or deny a new license  
445 or shall renew an existing license for a lodging facility within 30 calendar days after the applicant meets  
446 all of the requirements pursuant to subs. (3) or (4), as applicable.

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

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

454 (b) *Appeal rights.* An operator whose license is voided by the department under this subsection may  
455 appeal the decision as provided pursuant to s. ATCP 72.11 or if the license is voided by the department's  
456 agent, the operator may appeal the decision pursuant to s. ATCP 72.12. Pursuant to s. 97.605 (1) (c),  
457 Stats., in an appeal concerning voiding of a license under this subsection, the burden is on the license  
458 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 the 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.* 1. For a new license, the operator shall, pay the applicable preinspection fee listed in s. ATCP 72.08 Table A or B to the department before the license is issued pursuant to s. ATCP 72.07 (3).

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 fee that corresponds to the number of units added shall be paid to the department pursuant to s. ATCP 72.08 Table A or B.

**Note:** For example, hotel A is licensed for 100 rooms. They later expand to add 50 rooms, the operator of the hotel would pay a preinspection fee for the corresponding category at 31 to 99 rooms.

(b) *License fee.* The operator shall pay the applicable license fee listed in s. ATCP 72.08 Table A or B to the department for each lodging facility type 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 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:** A person operating a lodging facility without a license is also subject to the penalties in ss. 97.72 and 97.73, Stats.

(f) *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**

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

517	1 TRH	\$296.00	\$592.00	\$150.00	\$200.00	\$85.00
518	2 to 4 TRH's	\$450.00	\$900.00	\$150.00	\$200.00	\$85.00
519	5 to 9 TRH's	\$550.00	\$1,100.00	\$150.00	\$200.00	\$85.00
520	10 to 19 TRH's	\$600.00	\$1,200.00	\$150.00	\$200.00	\$85.00
521	20 to 39 TRH's	\$700.00	\$1,400.00	\$150.00	\$200.00	\$85.00
522	40 to 99 TRH's	\$800.00	\$1,600.00	\$150.00	\$200.00	\$85.00
523	100 to 299 TRH's	\$900.00	\$1,800.00	\$150.00	\$200.00	\$85.00
524	300 to 599 TRH's	\$1,000.00	\$2,000.00	\$150.00	\$200.00	\$85.00
525	600+ TRH's	\$1,100.00	\$2,200.00	\$150.00	\$200.00	\$85.00

526

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

528	5 to 30 Rooms	\$350.00	\$700.00	\$150.00	\$200.00	\$85.00
529	31 to 99 Rooms	\$450.00	\$900.00	\$150.00	\$200.00	\$85.00
530	100 to 249 Rooms	\$550.00	\$1,100.00	\$150.00	\$200.00	\$85.00
531	250 to 499 Rooms	\$650.00	\$1,300.00	\$150.00	\$200.00	\$85.00
532	500 to 749 Rooms	\$750.00	\$1,500.00	\$150.00	\$200.00	\$85.00
533	750 to 1000 Rooms	\$850.00	\$1,700.00	\$150.00	\$200.00	\$85.00
534	1000+ Rooms	\$950.00	\$1,900.00	\$150.00	\$200.00	\$85.00

535

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

537	1 SL	\$296.00	\$592.00	\$150.00	\$200.00	\$85.00
538	2 to 4 SL's	\$450.00	\$900.00	\$150.00	\$200.00	\$85.00
539	5 to 9 SL's	\$550.00	\$1,100.00	\$150.00	\$200.00	\$85.00
540	10 to 19 SL's	\$600.00	\$1,200.00	\$150.00	\$200.00	\$85.00
541	20 to 39 SL's	\$700.00	\$1,400.00	\$150.00	\$200.00	\$85.00
542	40 to 99 SL's	\$800.00	\$1,600.00	\$150.00	\$200.00	\$85.00

543

**ATCP 72.08 Table B**

**For licenses issued on or after April 1, XXXX**

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

555	1 TRH	\$311.00	\$621.50	\$150.00	\$200.00	\$85.00
556	2 to 4 TRH's	\$472.50	\$945.00	\$150.00	\$200.00	\$85.00
557	5 to 9 TRH's	\$577.50	\$1,155.00	\$150.00	\$200.00	\$85.00
558	10 to 19 TRH's	\$630.00	\$1,260.00	\$150.00	\$200.00	\$85.00
559	20 to 39 TRH's	\$735.00	\$1,470.00	\$150.00	\$200.00	\$85.00
560	40 to 99 TRH's	\$840.00	\$1,680.00	\$150.00	\$200.00	\$85.00
561	100 to 299 TRH's	\$945.00	\$1,890.00	\$150.00	\$200.00	\$85.00
562	300 to 599 TRH's	\$1,050.00	\$2,100.00	\$150.00	\$200.00	\$85.00
563	600+ TRH's	\$1,155.00	\$2,310.00	\$150.00	\$200.00	\$85.00

564

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

566	5 to 30 Rooms	\$367.50	\$735.00	\$150.00	\$200.00	\$85.00
567	31 to 99 Rooms	\$472.50	\$945.00	\$150.00	\$200.00	\$85.00

568	100 to 249 Rooms	\$577.50	\$1,155.00	\$150.00	\$200.00	\$85.00
569	250 to 499 Rooms	\$682.50	\$1,365.00	\$150.00	\$200.00	\$85.00
570	500 to 749 Rooms	\$787.50	\$1,575.00	\$150.00	\$200.00	\$85.00
571	750 to 1000 Rooms	\$892.50	\$1,785.00	\$150.00	\$200.00	\$85.00
572	1000+ Rooms	\$997.50	\$1,995.00	\$150.00	\$200.00	\$85.00
573						
574	<b>Specialty Lodging (SL) (Lodging unit is based on an individually keyed units)</b>					
575	1 SL	\$311.00	\$621.50	\$150.00	\$200.00	\$85.00
576	2 to 4 SL's	\$472.50	\$945.00	\$150.00	\$200.00	\$85.00
577	5 to 9 SL's	\$577.50	\$1,155.00	\$150.00	\$200.00	\$85.00
578	10 to 19 SL's	\$630.00	\$1,260.00	\$150.00	\$200.00	\$85.00
579	20 to 39 SL's	\$735.00	\$1,470.00	\$150.00	\$200.00	\$85.00
580	40 to 99 SL's	\$840.00	\$1,680.00	\$150.00	\$200.00	\$85.00

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### Subchapter III

584

### Enforcement and Appeals

585 **ATCP 72.09 Enforcement. (1) INSPECTIONS AND ACCESS TO THE PREMISES. (a)**

586 *Inspections.* Pursuant to ss. 93.07 (24) (e), 93.08, and 97.65, Stats., an authorized employee or agent of the  
587 department, upon presenting proper identification, may enter any lodging facility or premises at any  
588 reasonable time, for any of the following purposes:

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

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

- 598 a. Presence of an imminent hazard that cannot be corrected during the inspection.
- 599 b. An inspection reveals 6 or more priority violations, regardless if they have been corrected during the  
600 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 in the amount listed in 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 ss. 97.12 (5), 97.65 (5), and 97.72, Stats., any person who fails to comply with an order of the department or its agent may be subject to a forfeiture or criminal penalties. A person may appeal a forfeiture pursuant to s. ATP 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 15 calendar days after issuance of the notice.

(d) *Failure to comply with temporary order; forfeitures and penalties.* 1. 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.

2. Pursuant to s. 97.72 (2), in lieu of any criminal penalty, a person who violates provisions in ATCP 72 may be required to forfeit not more than \$1,000 for each violation.

(4) ACTION PLANS. (a) *Required components.* When required by the department, its agent, or this chapter, the 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 ss. 97.12 (3) (b), 93.06 (7), and 97.71, 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 ch. 97, Stats., and 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. (1) APPEALS TO DEPARTMENT ACTIONS.** A request for a contested case hearing shall be filed with the DATCP Secretary pursuant to s. ATCP 1.06. A request for hearing on a department action does not automatically stay or modify that action.

(2) APPEALS TO DEPARTMENT ORDERS. If requested in writing within 15 calendar days after date of the service of an order, a hearing shall be conducted as pursuant to s. 227.42, Stats. and 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](mailto: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**

705 **Standards for Lodging Facilities.**

706

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

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

713 (a) *Access.* The license holder is required to allow access to the department or its agent as specified  
714 pursuant to ss. 93.08 and 97.65 (1), Stats.

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

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

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

724 **(3) FREQUENCY OF INSPECTION.** The department or its agent shall inspect a lodging facility at  
725 least once during the licensing period or an alternative inspection frequency approved in writing by the  
726 department.

727 **(4) INSPECTION DOCUMENTATION.** The department or its agent shall document all of the  
728 following on an inspection report form: (a) *Facility information.* Administrative information about the  
729 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 or applicable chapters shall be documented to include the required corrective action by the license holder. 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) if 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.

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

(c) *Receipt*. A copy of the inspection report shall be provided to the designated person in charge 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 or representative 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 public health and safety. <sup>P</sup>

### **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 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. <sup>Pf</sup>

(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. <sup>P</sup>

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

**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 provided 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. <sup>Pf</sup>

(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 <sup>P</sup>:

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* consistent with approved testing methods pursuant to s. ATCP 77.02 (3). <sup>Pf</sup>

2. Total coliform and *Escherichia coli* analysis shall not exceed zero colony forming units pursuant to s. NR 140.10. <sup>P</sup>

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

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. <sup>P</sup>

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

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. <sup>P</sup>

(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. <sup>Pf</sup>

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 *Escherichia coli* or total coliform exceed zero colony forming units as specified in par. (e) 2. <sup>P</sup>

b. The nitrate test results exceed 10 mg/L as specified in par. (f) 2. <sup>P</sup>

**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 *Escherichia coli*.<sup>P</sup>

2. Restrict the use of a private water system for drinking water when bacteriological analysis under par. (e) 2., is total coliform is positive on 3 consecutive well water samples and provide an approved water source as required under par. (i).<sup>P</sup>

3. Restrict the use of a private water system for drinking water and food preparation when nitrate levels exceed the requirements under par. (f) 4. and provide an approved water source as required under par. (i).<sup>P</sup>

4. If required to restrict the use of the private water system under subd 2. or 3., the operator shall post signage indicating the water is unsafe for human consumption.<sup>Pf</sup>

(i) *Alternatives to a restricted-use water supply*. As required under subd. 2. and 3., potable drinking water shall be provided from any of the following sources:

1. Commercially sealed water jugs or commercially sealed bottled water provided to the guest upon check-in.<sup>P</sup>

2. Obtained from or contracted with a licensed water distribution service pursuant to ch. ATCP 70.<sup>P</sup>

**(3) WATERBORNE DISEASES.** (a) *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.<sup>P</sup>

b. Install point of use water treatment filters.<sup>P</sup>

c. Other safeguards approved by the department.<sup>P</sup>

d. A combination of subdpar a., b., or c. <sup>P</sup>

2. Develop a written remediation plan that includes all of the following <sup>P</sup>:

a. Identify the source of the waterborne pathogen. <sup>Pf</sup>

b. Identify the locations affected by the waterborne pathogen. <sup>Pf</sup>

c. The method that will be used to remove the pathogen from locations identified in subdpar. a. and

b. <sup>Pf</sup>

3. Execute the remediation plan. <sup>P</sup>

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. <sup>P</sup>

5. Obtain approval from the department or its agent to resume normal operations in affected areas. <sup>P</sup>

6. If the confirmed waterborne outbreak is associated with *Legionella spp.*, the 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 legionellosis until the operator has received approval from the department or its agent to resume normal operations. <sup>Pf</sup>

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 legionellosis. <sup>Pf</sup>

c. Develop and implement a water management program as approved by the department. <sup>P</sup>

**Note:** Resources for developing a water management plan include ANSI/ASHRAE standard 188 Legionellosis: Risk Management for Building Water Systems or the United States centers for disease control and prevention toolkit: Developing a *Legionella* Water Management Program.

d. Sampling validation shall be conducted at an Environmental *Legionella* Isolation Techniques Evaluation certified laboratory in accordance with the frequency established for sampling under subdpar.

c. <sup>Pf</sup>

**Note:** Laboratories can test their *Legionella* isolation techniques against standardized samples through the Environmental *Legionella* Isolation Techniques Evaluation 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 2 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. <sup>P</sup>

**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. <sup>P</sup>

**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.** 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) DISCHARGE.** Sewage, including all liquid and water-carried wastes from plumbing fixtures shall discharge into a public sewer or POWTS. <sup>P</sup>

**(3) 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 cover.* The operator shall ensure that an access opening cover to a POWTS is locked or secured to prevent general access by the public, except for inspection, evaluation, maintenance, or servicing purposes. <sup>P</sup>

(4) 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. <sup>P</sup>

(5) 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 a 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 ch. 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. <sup>Pf</sup>

(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. <sup>P</sup>

**Note:** Examples of 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 the 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 specific 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) refers 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 facilities 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. <sup>Pf</sup>
2. The height of the handrail shall be between 30 to 38 inches measured vertically from the nose of the tread to the top of the handrail. <sup>Pf</sup>

(b) *Guards*.

1. Guards shall be provided on all open sides of stairs consisting of more than 3 risers. <sup>Pf</sup>
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 attached to the lodging facility. <sup>Pf</sup>
3. The space between guards shall be equal to or less than 6 inches. <sup>Pf</sup>
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. <sup>Pf</sup>

(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 attached to 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 a ceiling height 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. <sup>Pf</sup>

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. <sup>Pf</sup>

b. No more than 2 occupants for a mattress width of more than 50 inches. <sup>Pf</sup>

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. <sup>Pf</sup>

(c) *Bed placement.* Bed placement shall afford the occupant with maximum ceiling height clearance for emergency egress. <sup>Pf</sup>

(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 bunk bed. <sup>Pf</sup>

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

4. The upper bunk bed 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 upper bunk 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>

**(4) EXITS FROM SLEEPING ROOMS IN TOURIST ROOMING HOUSES.** (a) *Basements used for sleeping.*

1. Basements used for sleeping shall be provided with at least 2 separate exits. <sup>P</sup>

a. At least one of the exits shall be a door to the exterior of the dwelling or a stairway or ramp that leads to the floor above. <sup>Pf</sup>

b. The second exit shall be a door to the exterior of the dwelling, a stairway or ramp that leads to the floor above, a stairway that leads to a garage provided the garage has an exit door other than the overhead door, or an egress window located in each sleeping room that complies with par. (g). <sup>Pf</sup>

*(b) Exits from the first floor.* 1. First floors shall be provided with at least 2 exit doors. <sup>P</sup>

a. At least one of the exits shall discharge to grade and may not go through a garage. This exit may include interior or exterior stairs. <sup>Pf</sup>

b. The second exit may discharge into an attached garage provided the garage has an exit door other than the overhead door that discharges to grade. <sup>Pf</sup>

c. Any exit that does not comply with sub. (b) 1. a. may discharge to an outside balcony that complies with par. (f). <sup>Pf</sup>

d. One of the exit doors required in sub. (b) 1. may be omitted for a tourist rooming house that has one or more egress windows on the first floor. If there are first floor sleeping rooms, each must have a window that complies with par. (g). <sup>Pf</sup>

*(c) Exits from the second floor.* 1. At least 2 exits shall be provided from the second floor. <sup>P</sup>

a. At least one of the exits shall be a stairway or ramp and lead to the first floor or discharge to grade. <sup>Pf</sup>

b. The second exit may be via a stairway or ramp that discharges to grade, or to a balcony which complies with par. (f), or to a deck that complies with sub. 2 (a) and (b) and that is no more than 15 feet above the grade below. <sup>Pf</sup>

2. Windows that comply with par. (g) may be provided in each second floor sleeping room or in another location on the second floor if there are no sleeping rooms on that floor in lieu of the second exit. <sup>Pf</sup>

(d) *Exits above the second floor.* 1. At least 2 exits shall be provided for sleeping rooms above the second floor. <sup>P</sup> Sleeping areas above the second floor shall be provided with all of the following:

a. The exits shall be stairways or ramps that lead to the second floor or discharge to grade. <sup>Pf</sup>

b. The exits shall be located such that an exit is accessible to the second floor if another exit is blocked.

<sup>Pf</sup>

(e) *Exits from lofts.* 1. At least one stairway exit shall be provided, to the floor below, for a loft exceeding 400 square feet in area. <sup>P</sup>

2. At least one stairway or ladder exit shall be provided to the floor below for a loft, 400 square feet or less, in area. <sup>P</sup>

(f) *Balconies.* 1. Shall be provided with guards in accordance with sub. (2) (b). <sup>Pf</sup>

2. Located no more than 15 feet above grade. <sup>Pf</sup>

(g) *Windows used for exiting.* 1. The window shall be openable from the inside without the use of tools or the removal of a sash. If equipped with a storm window or screen, it shall be openable from the inside.

<sup>Pf</sup>

2. The size of the window opening shall be at least 20 inches by 24 inches irrespective of height or width. <sup>P</sup>

3. No portion of the window, including stops, stools, meeting rails and operator arms, shall infringe on the required opening. <sup>Pf</sup>

4. For any window used for exiting, the lowest point of opening shall be no more than 60 inches above the floor. <sup>Pf</sup>

5. If the lowest point of opening is more than 46 inches above the floor, a permanent platform or fixture shall be installed such that a flat surface at least 20 inches wide and 9 inches deep is located no more than 46 inches directly below the clear opening. <sup>Pf</sup>



6. An egress window under a deck or porch shall discharge through a clear path of at least 36 inches in height and 36 inches in width, and no more than 15 feet in length, to a yard or open space. <sup>Pf</sup>

**(5) DOOR LOCKS.** (a) *General.* Except as specified in (b) doors to all individually keyed units shall be provided with a key or other electronic locking mechanism from the outside and a non-key locking mechanism from the inside. <sup>P</sup>

(b) *Sliding exterior door.* A sliding exterior door is not required to be provided with a key or other electronic locking mechanism from the outside but shall be provided with a non-key locking mechanism from the inside.

**(6) BUILDING EVACUATION DIAGRAM.** (a) *Hotel, motel and condominium.* Except for an individually keyed unit that exits immediately to grade, an individually keyed unit in a hotel, motel, or condominium shall be provided with a building evacuation diagram and meet all of the following:

1. Be conspicuously posted. <sup>Pf</sup>
2. Indicate the viewer's location. <sup>Pf</sup>
3. Indicate a minimum of 2 evacuation routes to emergency exit doors. <sup>Pf</sup>

(b) *Tourist rooming house.* A tourist rooming house shall be provided with a building evacuation diagram and meet all of the following:

1. Be conspicuously posted in each sleeping room or provided in the check-in materials given to the guest. <sup>Pf</sup>
2. Indicate a minimum of 2 evacuation routes that lead to the exterior pursuant to sub. (4). <sup>Pf</sup>

**(7) EMERGENCY EGRESS.**

(a) *Emergency lights.* If provided, all emergency lights located in designated stairwells, aisles, corridors, and passageways leading to an exit shall be operational and maintained in good repair. <sup>Pf</sup>

(b) *Exit signs.* If provided, all exit signs shall be:

1. Illuminated and visible from any direction of exit access. <sup>Pf</sup>
2. Maintained in good repair. <sup>Pf</sup>

1061 3. Provided with a directional indicator showing the direction of travel when the nearest exit is not  
1062 apparent. <sup>Pf</sup>

1063 4. Displayed to read "EXIT." <sup>Pf</sup>

1064 (c) *Emergency exit doors*. Emergency exit doors shall:

1065 1. Not be blocked to prevent use. <sup>P</sup>

1066 2. Be provided with a knob, panic bar, or other simple type of releasing device having a method of  
1067 operation that is obvious under all lighting conditions. <sup>Pf</sup>

1068 3. Open in the direction of egress. <sup>Pf</sup>

1069 (8) EMERGENCY ASSISTANCE. Pursuant to s. 97.623, Stats., every hotel shall offer to every guest,  
1070 at the time of registration an opportunity to identify oneself as a person needing assistance in an emergency  
1071 and shall keep a record at the registration desk of where each person so identified is lodged. <sup>Pf</sup>

1072 (9) FIRE PREVENTION. (a) *Fire alarm and detection systems*. If provided, the operator shall maintain  
1073 the fire alarm system and shall meet all of the following:

1074 1. The fire alarm system shall be operational at all times that the building is occupied. <sup>P</sup>

1075 2. The operator shall immediately notify the fire alarm system service company or other qualified  
1076 personnel per national fire protection association 72 National Fire Alarm and Signaling Code, in response  
1077 to any illuminated indicator for alarm, trouble or supervisory signals on the fire alarm control panel. <sup>Pf</sup>

1078 3. The operator shall maintain documentation that verifies the fire alarm system, to include any smoke  
1079 detectors and carbon monoxide detectors, has been inspected and tested annually by a fire alarm system  
1080 service company or other qualified personnel per national fire protection association 72. <sup>Pf</sup>

1081 4. Documentation required in subd. 3. shall be provided to the department or its agent upon request. <sup>Pf</sup>

1082 **Note:** Documentation can include the fire alarm and emergency communication system inspection and  
1083 testing form provided by the fire alarm system service company, other qualified personnel per national fire  
1084 protection association 72, or the fire inspection report provided by the local fire department.

1085 (b) *Fire Extinguishers*.

1. If provided, fire extinguishers in a tourist rooming house that is a one- or 2-family dwelling, cabin, cottage or specialty lodging unit must be located in a readily accessible conspicuous area, and the extinguisher must be maintained according to the manufacturer's instructions.

**Note:** A fire extinguisher may need to comply with local fire code occupancy requirements; the local fire prevention authorities may require annual maintenance examinations. Contact the local fire department or fire marshal's office for requirements.

2. In a motel, hotel or condominium fire extinguishers shall be:

- a. Labeled to identify the class type of extinguisher. <sup>Pf</sup>
- b. Provided with label instructions on the use of the extinguisher. <sup>Pf</sup>
- c. Provided with a tag to identify last date of service. <sup>Pf</sup>
- d. Serviced or tested every 12 months. <sup>Pf</sup>
- e. Provided with a pressure gauge. <sup>Pf</sup>
- f. Maintained in working order and proper pressure. <sup>Pf</sup>

(c) *Fire rated doors*. If provided, fire rated doors shall be:

1. Labeled with a visible fire rating.
2. Self-closing.
3. Closed unless interconnected with fire alarm system. <sup>Pf</sup>

## **(10) VENTILATION**

(a) *Discharge of combustion pollutants*. 1. Fuel-burning appliances shall vent outdoors in accordance with the manufacturer's installation specifications. <sup>P</sup>

2. The piping used for ventilation shall be maintained in good repair. <sup>P</sup>

(b) *Unvented fuel-burning appliances*. 1. Except as provided under subd. 2., the use of unvented fuel-burning appliances, furnaces, and space heaters shall be prohibited. <sup>P</sup>

2. A fuel-burning range or oven is not required to vent to the outdoors unless specified by the manufacturer's installation specifications.

1111 (11) SMOKE ALARMS (a) *Smoke alarms required.* The operator shall provide smoke alarms within  
1112 each individually keyed unit at the locations specified in par. (b). <sup>P</sup>

1113 (b) *Locations.* A functional smoke alarm shall be located:

1114 1. On each floor level to include a basement and at the top of any stairway but excluding crawl spaces  
1115 and unfinished attics. <sup>Pf</sup>

1116 2. Outside of each separate sleeping area, within 21 feet of any door to a sleeping room, with the  
1117 distance measured along a path of travel. <sup>Pf</sup>

1118 3. Within each sleeping room. <sup>Pf</sup>

1119 (c) *Certification.* Smoke alarms shall conform to Underwriters Laboratories, Inc. standard 217 smoke  
1120 alarms and bear the UL listing mark or a similar mark from an independent product safety certification  
1121 organization.

1122 **Note:** The UL listing mark typically consists of 4 elements: UL in a circle symbol, the word “Listed”,  
1123 product name, and control number. <sup>P</sup>

1124 (d) *Manufacturer directions and specifications.* The operator shall install every smoke alarm required  
1125 by this subsection according to the directions and specifications of the manufacturer of the smoke alarm. <sup>Pf</sup>

1126 (e) *Maintenance requirements.* A smoke alarm shall be maintained in working order and replaced in  
1127 accordance with the manufacturer’s date of expiration. When notified by the department or its agent of a  
1128 non-functional or expired smoke alarm, the operator shall notify the department or its agent within 5  
1129 calendar days that a smoke alarm has been repaired or replaced. <sup>P</sup>

1130 (12) CARBON MONOXIDE ALARMS. (a) *Carbon monoxide alarms required.* Except as provided in  
1131 par. (i), the operator shall provide carbon monoxide alarms as required under pars. (b) to (d). <sup>P</sup>

1132 (b) *Fuel-burning appliances within an individually keyed unit.* A carbon monoxide alarm shall be  
1133 provided in the locations as specified under par. (e), for in each individually keyed unit that contains a fuel-  
1134 burning appliance. <sup>P</sup>

1135 (c) *Fuel-burning appliances outside of an individually keyed unit.* A carbon monoxide alarm shall be  
1136 provided in the locations as specified under par. (e), for each individually keyed unit located in a lodging  
1137 facility that contains a fuel-burning appliance, except as follows:

1138 1. A carbon monoxide alarm is not required in each individually keyed unit where there is not a  
1139 communicating opening between the fuel-burning appliance and the individually keyed unit. <sup>P</sup>

1140 2. A carbon monoxide alarm is not required in each individually keyed unit where a carbon monoxide  
1141 alarm is provided in one of the following locations:

1142 a. Between the fuel-burning appliance and the individually keyed unit. <sup>P</sup>

1143 b. On the ceiling of the room containing the fuel-burning appliance. <sup>P</sup>

1144 (d) *Private garages.* A carbon monoxide alarm shall be provided in the locations as specified under  
1145 par. (e), for each individually keyed unit with an attached private garage, except as follows:

1146 1. A carbon monoxide alarm is not required in each individually keyed unit where there is not a  
1147 communicating opening between the private garage and the individually keyed unit. <sup>P</sup>

1148 2. A carbon monoxide alarm is not required in each individually keyed unit located more than one story  
1149 above or below the private garage. <sup>P</sup>

1150 3. A carbon monoxide alarm is not required where the private garage connects to the building through  
1151 an open-ended corridor. <sup>P</sup>

1152 4. A carbon monoxide alarm is not required in each individually keyed unit when a carbon monoxide  
1153 alarm is provided between the opening to the private garage and an individually keyed unit. <sup>P</sup>

1154 5. A carbon monoxide alarm is not required where the private garage has an opening designed to  
1155 provide natural ventilation or is mechanically ventilated. <sup>P</sup>

1156 (e) *Locations.* If required under pars. (b) to (d), a carbon monoxide alarm shall be installed in the  
1157 following locations:

1158 1. In an individually keyed unit, outside of each separate sleeping area within 21 feet of any door to a  
1159 sleeping room, with the distance measured along a path of travel. <sup>Pf</sup>

2. In a sleeping room, if a fuel-burning appliance is located within the sleeping room or its attached bathroom. <sup>Pf</sup>

(f) *Certification*. A carbon monoxide alarm shall conform to Underwriters Laboratories, Inc. standard 2034 single and multiple station carbon monoxide alarms and bear the UL listing mark or a similar mark from an independent product safety certification organization.

**Note:** The UL listing mark typically consists of 4 elements: UL in a circle symbol, the word “Listed”, product name, and control number.

(g) *Manufacturer directions and specifications*. The operator shall install every carbon monoxide alarm required by this subsection according to the directions and specifications of the manufacturer of the carbon monoxide alarm. <sup>Pf</sup>

(h) *Maintenance requirements*. A carbon monoxide alarm shall be maintained in working order and replaced in accordance with the manufacturer’s date of expiration. When notified by the department or its agent of a non-functional or expired carbon monoxide alarm, the operator shall notify the department or its agent within 5 calendar days that a carbon monoxide alarm has been repaired or replaced. <sup>P</sup>

(i) *Exception*. Subsections (a) to (h) do not apply to the operator if all of the fuel-burning appliances in the lodging facility are a sealed combustion appliance that is covered by the manufacturer's warranty against defects.

**ATCP 72.19 Building and premises maintenance. (1) MAINTAINED CLEAN AND IN GOOD REPAIR.**

(a) *Sleeping rooms*. The floors, walls, and ceiling, in a sleeping room shall meet all of the following:

1. Maintained in a clean condition.

2. Maintained in good repair.

(b) *Common areas*. 1. The floors, walls, and ceilings in areas other than sleeping rooms shall meet all of the following:

1. Maintained in a clean condition.

2. Maintained in good repair.

(c) *Exterior premises.* 1. The roof, exterior walls, doors and windows shall be maintained in good repair.

2. Parking areas and roadways shall be properly graded, drained, and maintained.

(2) PEST CONTROL. Every lodging facility shall be maintained to prevent the entrance, harborage, or infestation of pests, vermin, or wildlife.

(a) *Effective measures.* 1. Effective measures to minimize the presence of pests shall be utilized. The department or its agent may order the operator to hire a licensed pest control operator to exterminate the pests under the following conditions:

a. The infestation is so extensive that it is unlikely that a nonprofessional can eradicate the pests effectively. <sup>P</sup>

b. Upon a reinspection from the department or its agent pursuant to s. ATCP 72.09 (1) (b), the establishment continues to be in noncompliance with a prior order to rid the establishment of pests. <sup>P</sup>

2. In the event the operator is unable to secure a licensed pest control operator, the temporary order issued pursuant to ATCP 72.26 (2) may be extended pursuant to ATCP 72.09 (3) (b).

3. a. Openings to the outside shall be protected from the entrance of pests. <sup>Pf</sup>

b. All windows that can be opened in each individually keyed unit shall be screened, using 16 mesh or finer material.

4. Pest control measures shall be used in a safe manner and applied according to label instructions. <sup>P</sup>

(b) *Restricted use pesticides.* A restricted use pesticide shall be applied only by an applicator certified and licensed in accordance with ss. 94.704 and 94.705, Stats., and ss. ATCP 29.25, 29.26 and 29.40. <sup>Pf</sup>

**Note:** For bed bugs, when the presence of live or dead bed bugs, eggs, skin casts, or fecal spotting are identified in an individually keyed unit, it is recommended to perform an investigation in the rooms adjacent to the identified room and the rooms above and below the identified room.

(4) HAZARDOUS SUBSTANCES. (a) *Use.* Chemicals, flammable materials, and other hazardous substances shall be used for their intended purpose and according to the manufacturer's directions stated on the container label. <sup>P</sup>

(b) *Storage*. 1. Chemicals, flammable materials, and other hazardous substances shall meet all of the following:

a. Except as specified under subdpar. d., stored in their original, covered and labeled containers following safety data sheet storage instructions. <sup>P</sup>

b. Stored in a separate, secure area accessible only to staff, except for chemicals used for utensil sanitization under s. ATP 72.20 (6). <sup>P</sup>

c. Stored in a secure location in an area that cannot contaminate food, utensils, linens, and single-service or single-use articles.

d. Working containers used for storing chemicals and other hazardous substances taken from bulk supplies shall be clearly and individually identified with the common name of the material. <sup>Pf</sup>

(c) *Disposal*. Hazardous substances shall be disposed of in a manner and location as directed on the manufacturer's label, the safety data sheet or the local agency having jurisdiction over handling hazardous substances and the applicable sections of chs. NR 660 to 670, as enforced by the Wisconsin department of natural resources. <sup>Pf</sup>

**ATP 72.20 Furnishings, equipment and utensils. (1) DESIGN.** All equipment and furnishings shall be designed, constructed, and made of a material that can be easily cleanable.

**(2) INSTALLATION.** All furnishings and equipment shall be installed in a way that facilitates the cleaning of the furnishings and equipment and all adjacent areas.

**(3) MAINTENANCE.** All furnishings, equipment, and utensils shall be maintained in good repair.

**(4) CLEAN CONDITION.** (a) *General*. All furnishings and equipment and shall be kept clean.

(b) *Jetted, fill and drain bathtubs*. If a lodging facility is equipped with a jetted, fill and drain bathtub, then the operator shall demonstrate knowledge regarding the cleaning and sanitization procedures used between guests. <sup>Pf</sup>

**(5) FOOD-CONTACT UTENSIL SURFACES.** Food-contact utensil surfaces shall be:

(a) Free of cracks or chips.

(b) Smooth and easily cleanable.



1238 (c) Nontoxic. <sup>P</sup>

1239 (d) Corrosion-resistant.

1240 (e) Durable.

1241 (f) Nonabsorbent.

1242 **(6) UTENSIL WASHING AND SANITIZATION.** (a) *Methods.* Except as provided under par. (e), all  
1243 utensils shall be washed, rinsed, and sanitized on the premises before being provided to a different guest.

1244 <sup>P</sup>

1245 (b) *Equipment.* Utensil washing and sanitization shall occur using any of the following:

1246 1. A 2 or 3 compartment sink.

1247 2. An NSF/ANSI 184 certified residential dishwashers.

1248 3. A non-certified residential dishwasher with a separate sanitization step performed in accordance with  
1249 subd. (c) 3.

1250 4. An NSF/ANSI 3 certified commercial dishwasher.

1251 (c) *Procedure.* Utensils shall be:

1252 1. Washed using a dish detergent. <sup>Pf</sup>

1253 2. Rinsed after washing and before sanitization. <sup>Pf</sup>

1254 3. Sanitized using any one of the following methods:

1255 a. Manual chemical sanitization using chlorine (bleach), iodine, quaternary ammonia or another United  
1256 States environmental protection agency approved sanitizer. <sup>P</sup>

1257 b. Mechanical hot water or chemical sanitization following the manufacturer's directions for use. <sup>P</sup>

1258 c. Any other method approved by the department. <sup>P</sup>

1259 4. Utensils shall be air-dried before storage.

1260 (d) *Operator-provided sanitization.* 1. Except as provided in par. (e) and (f), an individually keyed  
1261 unit shall be provided with clean and sanitized multi-use food and beverage utensils, including

1262 kitchenware, tableware, drinking containers, ice trays, ice buckets, or automatic ice making storage bin. <sup>P</sup>

1263 2. The person in charge shall be able to demonstrate full knowledge of their utensil washing, rinsing  
1264 and sanitizing procedures. <sup>Pf</sup>

1265 3. Testing devices for a chemical used under par. (c) 3. a. shall be used to monitor sanitizer  
1266 concentration. <sup>Pf</sup>

1267 4. Testing methods for mechanical hot water dishwashers for monitoring sanitization effectiveness are  
1268 as follows:

1269 a. NSF/ANSI 184 certified residential dishwasher shall follow the manufacturer's directions for  
1270 use for utensil sanitization. <sup>Pf</sup>

1271 b. NSF/ANSI 3 commercial dishwashers shall use a thermal label or other approved temperature  
1272 measuring device. <sup>Pf</sup>

1273 (e) *Guest-provided sanitization.* If an individually keyed unit is not supplied with sanitized  
1274 multiuse food and beverage utensils, the operator shall perform all of the following: <sup>Pf</sup>

1275 1. Any visibly soiled utensil shall be washed and rinsed pursuant to subd. (c) 1. and 2.

1276 2. a. The operator shall provide a sign with the following message: "Food and beverage utensils  
1277 have been provided in this lodging facility as a guest convenience. They have not been sanitized. It is  
1278 recommended that you wash with a detergent, rinse with clean water and sanitize utensils before their  
1279 use. <sup>Pf</sup>

1280 b. The signage shall also include the directions on proper utensil sanitization using an approved  
1281 sanitizer pursuant to par. (c) 3. <sup>Pf</sup>

1282 **Note:** For example, to sanitize using bleach, "after rinsing, add 1 teaspoon of unscented bleach per  
1283 gallon of clean water and immerse utensils for a minimum of 30 seconds, then air dry".

1284 3. The sign shall be legible and posted in a conspicuous location or provided with the check-in materials.

1285 4. The operator shall provide the means for sanitizing utensils on the premises. Chemical sanitizers  
1286 shall be stored along with other cleaning products in the original, labeled container and out of reach of  
1287 young children. Chemical sanitizers may be stored at the office or other central location but must be made  
1288 available to the guest upon request. <sup>Pf</sup>

(f) If an ice bucket is provided with single-use disposable liner, the ice bucket may be cleaned with a spray sanitizer.

(g) The reuse of unwrapped or unprotected single-service utensils is prohibited. <sup>P</sup>

(7) STORAGE. All clean food and beverage utensils shall be stored and handled in a manner that protects them from contamination.

(8) CLEANLINESS OF LINENS. (a) *Cleaned between guests.* If provided, pillowslips, sheets, duvet covers, towels, washcloths, bathrobes or slippers shall be laundered as frequently as they are assigned to a different guest and at least once a week for extended guest stays.

(b) *General.* Blankets, bedspreads, comforters, mattresses, mattress coverings, pillows and decorative pillows shall be maintained clean.

(c) *Restrictions.* All bed coverings shall be washable.

(d) *Mattress coverings.* Mattresses shall be provided with a nonabsorbent mattress protector that covers the entire sleeping surface or have an easily cleanable nonabsorbent mattress surface.

(e) *Separation of clean and soiled linen.* Laundry carts, bins, or baskets shall be designated for either soiled or clean linen and shall only be used for that purpose.

(f) *Storage of clean linen.* Clean linen shall be stored in a clean, dry location, and not exposed to contamination.

**ATCP 72.21 Food. (1) LICENSE.** (a) *Retail food establishment activities.* Except as provided under par. (b), any operator who conducts food preparation activities or conducts retail food sales of TCS foods shall meet the requirements under ch. ATCP 75 and obtain a retail food establishment license.

(b) *Allowable food items offered to guests.* The operator may provide any of the following without obtaining a retail food establishment license: <sup>P</sup>

1. Non-TCS prepackaged food items including cookies, crackers, popcorn, pretzels, coffee and other food items that do not require hot or cold holding for food safety.

2. Dry bulk spices such as salt and pepper.

3. Grocery shopping as requested by the guest. a. All TCS food items shall be delivered and placed

under refrigeration in the individually keyed unit or stored in commercial refrigeration unit at the lodging facility within 2-hours after purchase. <sup>P</sup>

b. Before food is placed in a guest refrigerator, the temperature of the refrigerator shall be 41° F. or below and verified by using an approved temperature measuring device. <sup>P</sup>

4. TCS foods and opened non-TCS food items including ice, shall be removed from the individually keyed unit after guest check out and before assigned to another guest. <sup>Pf</sup>

**Note:** Contact the municipal clerk in regard to providing alcoholic beverages.

(2) ICE. (a) *Source*. All ice used in a lodging facility for cooling drinks or food by direct contact shall be made from a potable water supply pursuant to s. ATCP 72.16 (2). <sup>P</sup>

(b) *Self-service commercial ice makers*. All self-service commercial ice makers shall be of the mechanical dispensing type unless ice is dispensed by an employee.

(c) *Utensils used for ice*. Ice tongs or ice scoops used by employees shall be properly stored on a clean surface protected against contamination. If stored directly in ice, ice scoops and tongs shall be stored with their handles above the top of the ice.

**ATCP 72.22 Employee health. (1) PERSON IN CHARGE DUTIES.** The person in charge shall inform employees of their duty to report symptoms of vomiting, diarrhea, or diagnosis of a food or waterborne communicable disease to the person in charge. <sup>Pf</sup>

(2) EMPLOYEES. Employees shall report to the person in charge if they have symptoms of vomiting or diarrhea or have been diagnosed with a food or waterborne communicable disease. <sup>P</sup>

(3) EXCLUSION OR RESTRICTION. The person in charge shall exclude or restrict an employee from working in a lodging facility that has symptoms of vomiting or diarrhea or has been diagnosed with a food or waterborne communicable disease. <sup>P</sup>

**Note:** For guidance on exclusion or restriction of employees with a food or waterborne communicable disease, please contact the local health department.

(4) CLEAN-UP OF VOMITING AND DIARRHEAL EVENTS. The operator shall have procedures for responding to vomiting or diarrheal events. The procedures shall include clean-up methods and actions

employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter. <sup>Pf</sup>

**ATCP 72.23 Garbage and refuse. (1) GENERAL.** The operator shall provide a sufficient number of containers to hold garbage and refuse until disposal.

**(2) CONTAINER.** (a) *Design.* Garbage and refuse shall be kept in a durable, easily cleanable, pest resistant, leak-proof and nonabsorbent container.

(b) *Covered and emptied.* 1. A container shall be provided with a tight-fitting lid, door, or cover that is kept covered or closed when not in use.

2. A container for holding garbage and refuse shall be emptied at a frequency that minimizes the development of objectionable odors and other conditions that attract or harbor pests.

**ATCP 72.24 Registration of guests. (1) REGISTER.** The operator shall provide a written or electronic register and include all of the following:

(a) The full name of the registered guest.

(b) The registered guest's contact information including phone number, mailing address or email.

(c) Arrival and departure dates.

(d) Number of guests in the party.

**(2) RECORD RETENTION.** The register shall be kept intact and available for inspection by representatives of the department or its agent for at least 3 years.

**ATCP 72.25 Death, injury or illness reports.** The licensee or their designee shall report an incident that results in death, injury, or food, waterborne or other communicable illness where an emergency medical service response is initiated by or reported to the lodging operator relating to any provision in ch. ATCP 72. The report shall be filed with the department or its agent within 2 business days following the incident by phone or email.

**Note:** Report deaths, injuries, or illnesses to the bureau of food and recreational businesses by calling (608) 224-4682 or emailing [datcpdfrsrec@wisconsin.gov](mailto:datcpdfrsrec@wisconsin.gov); or if licensed by an agent, by contacting the agent health department.

**ATCP 72.26 Closing Criteria.**

(1) REASONS FOR CLOSURE. The operator shall close the applicable individually keyed unit, lodging facility, or affected areas of a lodging facility where an imminent health hazard is present, including:

(a) *Potable water*. Unsafe water supply as pursuant to s. ATCP 72.16 (2) (h) 1. <sup>P</sup>

(b) *Waterborne outbreak*. Confirmed waterborne outbreak pursuant to s. ATCP 72.16 (3) (c). <sup>P</sup>

(c) *Sewage disposal system*. Pursuant to s. ATCP 72.17 (3) a lodging facility with a sewage disposal system that is determined to be unusable by the Wisconsin department of safety and professional services, their agent, or local zoning authority. <sup>P</sup>

(d) *Fire alarm system*. A nonoperational fire alarm system pursuant to s. ATCP 72.18 (9) (a) 1., as determined by the fire department, building inspection personnel, State fire marshal, or the Wisconsin department of safety and professional services. <sup>P</sup>

(e) *Smoke alarm*. Absence of a required smoke alarm in designated areas pursuant to s. ATCP 72.18 (11) (a). <sup>P</sup>

(f) *Carbon monoxide alarm*. Absence of a required carbon monoxide alarm in designated areas pursuant to ATCP 72.18 (12) (a). <sup>P</sup>

(g) *Lack of pest control*. 1. Except as specified under subd 2., evidence of an infestation with an observation of numerous live pests. <sup>P</sup>

2. Evidence of a bed bug infestation to include, live or dead bed bugs, eggs, skin casts, or fecal spotting. <sup>P</sup>

(h) *Other hazards*. The existence of any condition creating any immediate danger to health or safety. <sup>P</sup>

(2) ACTIONS BY THE DEPARTMENT OR ITS AGENT. If the conditions in sub. (1) are present the department or its agent shall issue a temporary order pursuant to s. ATCP 72.09 (3).

**Subchapter VI**

**Specialty Lodging**

**ATCP 72.27. Exemptions.** In addition to the requirements under this subchapter, all the requirements

under ch. ATCP 72 apply to specialty lodging except as follows:

(1) WATER SYSTEMS. A specialty lodging facility with an outside water supply system approved pursuant to s. ACTP 72.16 (1) with no plumbing fixtures provided within the structure is exempt from s. ATCP 72.16 (2) (c).

(2) SEWAGE DISPOSAL SYSTEM. (a) *Liquid or water carried waste*. A specialty lodging facility with no liquid or water-carried waste plumbing fixtures is exempt from s. ATCP 72.17 (1) and (2).

(b) *Approved*. A specialty lodging facility with an outside toilet shall be approved pursuant to s. ATCP 72.17 (5) (c).

(c) *Outside toilet exemptions*. Outside toilet facilities are exempt from s. ATCP 72.17 (5) (a) (b), (d), and (e).

**ATCP 72.28 Prohibitions.** (1) FOOD EQUIPMENT AND SINKS. Specialty lodging facilities shall not be provided with food contact utensils, sinks for handwashing, utensil washing, and sanitization, or cooking equipment, except for a microwave oven. <sup>P</sup>

(2) SIZE. Specialty lodging facilities shall not exceed 1,500 square feet by measuring the exterior footprint formed by the exterior walls. The exterior footprint does not include porches or decks not used for overnight sleeping accommodations.

**ATCP 72.29. General provisions.** (1) WATER SUPPLY. An outdoor potable water supply shall be available within 400 walking distance feet. <sup>Pf</sup>

(2) TOILET FACILITIES. If the toilet facility is located outside the specialty lodging unit the toilet shall be available within 400 walking distance feet. <sup>Pf</sup>

(3) COMMUNICATION TO GUESTS. Guests shall be clearly informed during the reservation process what amenities are provided in the lodging facility including:

(a) Type and location of water supply.

(b) Type and location of toilet facility.

(c) No provision for cooking utensils or equipment, except for microwave oven.

(d) No sinks are provided.

1419 (e) Electricity.

1420 (f) Heating or air conditioning.

1421 (g) Bedding and linens.

1422 SECTION 2. EFFECTIVE DATE. This rule shall take effect 90 days following publication in

1423 the Wisconsin administrative register, as provided pursuant to s. 227.22 (2) (intro), Stats.

1424

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(END OF RULE TEXT)

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Dated this \_\_\_\_ day of \_\_\_\_\_, 2024

WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

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By: Randy Romanski, Secretary