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Wisconsin Lodging Sanitation Laws Questions and Answers

GENERAL REQUIREMENTS

What kind of things do I have to consider if I want to rent my home, condo, summer home, cabin or cottage to friends, family or the public for a day, week, month, or season?

The Wisconsin Department of Health Services receives this question frequently. When you take payment for the rental of sleeping accommodations (excluding camping) to anyone who is away from their permanent address for vacation, pleasure, recreation, culture, business or employment, the activity becomes a business that is subject to regulations. Providing lodging for payment is the same no matter if you operate a convention center, a lodge, a row house motel, rooms above a bar, a home or a cottage/cabin. It is the activity and all the public safety concerns associated with providing sleeping accommodations that make it subject to governmental oversight.

Does it matter who I am? No. Whether you do this as an individual, partnership or corporation, public/private entity, tenant, owner, lessee, licensee, or the agent, heir or assignee of any of these, there really are no exceptions. Not-for-profit groups are subject to the regulations, just as a private homeowner, or condo association, etc.

Does it matter how often I do this? No. Whether you rent out a sleeping room to a tourist or transient for an hour, a day, a week, a weekend, a month, a season, or a year, you are subject to the regulations described here and always to those contained in the state regulations of the Wisconsin Department of Health Services.

So what does this entail? First, check with your municipal or county local Zoning Administrator. "Residential" zoned areas that are used as properties with businesses as these are considered, may have to be rezoned or are otherwise prohibited from operating and are subject to local fines. Local zoning regulations are the first and last word! There may be situations where there are no restrictions from the municipality or county regarding zoning restrictions for this activity at a particular location, but get written confirmation. Plan ahead so needless fines do not occur. You'll need to maintain the verification documents for DHS and other agencies/entities. A Living Unit affected by condominium association by-laws requires the unit owner to provide documentation of *approval for transient rental* that is specifically stated in the by-laws and is approved by the association.

THE REGULATIONS

To do this, is a business. ***You, as a business operator, are required to comply with all regulations that apply to your business.***

Wisconsin Department of Revenue. Make sure you file all the necessary forms with the Wisconsin Department of Revenue (DOR). Tax exemptions allowable by DOR do not affect licensure requirements from DHS. This simply means that despite an allowance for non-reportable income for a time or duration, DHS would still require a license. Keep in mind that sales tax filing and the reporting of this business income, when required, is the LAW. There is no statute of limitations for paying delinquent taxes and the additional penalties can be substantive. DOR can be contacted at: DOR, Division of Income, Sales and Excise Tax, 2135 Rimrock Road, Madison, WI 53713. Phone is 608-266-2772. Fax: 608-267-0834. Check out their publication: Pub 219 Hotels, Motels, and Other Lodging Providers: How Do Wisconsin Sales and Use Taxes Affect Your Operation? It is available off their website at <http://www.dor.state.wi.us>; go to "publications", then "tax publications". Also, e-mail tax questions: Income@dor.state.wi.us.

LICENSING: *Wisconsin Department of Health Services.*

Find out about the rules on lodging, available from the Department of Health Services and any of their multiple Agent Local Public Health Departments. Ss Chapter 254, subchapter VII, particularly Chapter 254.72 to 254.88, stats. should also be reviewed. The statute discusses the permits necessary and the penalties. WI Administrative Code Chapter DHS 195 Hotels, Motels, Tourist Rooming Houses describes the fees, penalties, building standards, fire safety provisions (smoke detectors, fire extinguishers, combustion air, exits, fire escapes, etc.), private well water sampling, minimum sleeping room size, cleanliness, etc. *A structure must comply with the rules applicable to its use on the date of initial licensure.* This rule is available at <http://www.legis.state.wi.us/rsb/code/hfs/hfs195.pdf>

BUILDING CODE CONFORMANCE: *Wisconsin Department of Commerce.*

Considerable information can be found on the Department of Commerce website in the Safety and Building's section that discusses construction and fire safety provisions: <http://commerce.wi.gov/SB/SB-Divprogramslisted.html>

The commercial or (as permitted by the State Department of Commerce) one and two family dwelling building code applies (COMM Chapters 20-25). See all chapters. <http://www.legis.state.wi.us/rsb/code/comm/comm020.html>. Consult with your certified state or local building inspector for other building requirements. COMM Chapters 60-65. <http://www.legis.state.wi.us/rsb/code/comm/comm060.html>
DHS requires inspections and written confirmation of conformance by certified building inspectors before permits are issued.

POOLS.

-DESIGN AND CONSTRUCTION. Whirlpools, not jetted bathtubs, must comply with the *commercial* standards of Wisconsin Administrative Code Chapter COMM 90, Design and Construction of Public Pools in order to be used in lodging establishments. <http://www.legis.state.wi.us/rsb/code/comm/comm090.html>. Pool Plans and specifications are also required to be drawn up by licensed professionals and submitted to DCOMM for approval. DCOMM inspections are also required. Non-complying whirlpools intended to be used for the public must be removed.

-SAFETY AND OPERATION. Complying pools are required to be licensed and inspected by DHS per Wisconsin Administrative Code Chapter DHS 172. This code addresses the requirements of operation, pool water chemistry, safety and personnel. This code can be found at <http://www.legis.state.wi.us/rsb/code/hfs/hfs172.pdf>. Again, preinspections and permits with fees are required.

How do I find out if a property can even pass inspection? A person interested in managing or purchasing a property where the interested person has received permission from the owner to enter the property, can request a pre-inspection but must pay a preinspection fee from DHS or its Agent. This inspection is similar to but an expansion of an inspection that one requests and pays a private building inspection company to inspect a property when considering purchase. There is no obligation to become licensed. It is an informational inspection for a prospective new operator. Our objective is to inform that person as to what needs to be done to the property based on its intended use before it can be licensed by DHS. Depending upon the size of the structure, the building standards of the Uniform Dwelling Code or the State Building and Plumbing codes are used to assess materials, construction, stairs, number and kind of exits, heating equipment, and fire safety provisions. The prospective buyer needs to obtain an additional inspection from DCOMM or its agent regarding the codes applicable to the intended use. DHS needs the documentation of building code compliance before it can consider the building safe for public occupancy.

How do I apply for a permit? Once all the previously mentioned criteria (from DCOMM, Zoning and DOR) have been satisfied, and all items of the preinspection receive compliance with the lodging rules as determined by a DHS representative, the permit can be issued once the fee has been paid and an application has been filed. The cost of the permit to operate a lodging facility can vary depending on the number of sleeping rooms that can range from 1-4, 5-30, 31-99, 100-199, >200. Permits are renewed annually (June 30) and are not prorated. State application information can be obtained on The Food Safety and Recreational Licensing Section's website is <http://dhs.wisconsin.gov/fsrl/pubs/index.htm>.

Can I operate during the application-filing period? No. Operation and occupancy can not occur until *all items have been satisfied* per the regulatory agencies (DHS/Agent/DOR/Zoning).

How far in advance should I plan? The state Administrative Code Chapter DHS 195 allows the department 30 calendar days to make a decision about properly filed application materials and payment. This includes the inspection. Extra time should be allotted from May until September. Make contact with our department well in advance of your intended time of rental/occupancy. It is essential that private well water sample analysis results (for coliform and nitrates) are provided and the water service and heating system are operative at the time the preinspection is conducted.

What are the penalties for doing this without a permit? At the state level, in addition to the fines and penalties assessed by local Zoning and DOR, DHS makes referral to its legal council and the local district attorney. Penalties, based on public safety implications, can start at \$50/day, \$5,000 fine and/or one year jail term. Ss Chapter 254.85, stats. permits the department to enter at reasonable hours, any premises for which a permit is required under subchapter IV or VII, to inspect the premises, secure samples, or specimens, examine and copy relevant documents and records or obtain photographic or other evidence needed to enforce subchapter IV or VII. There is an additional 'Operating without a License' fee assessment of \$749.

Who do I contact regarding licensing or complaints? Contact our Central Office at the Food Safety and Recreational Licensing Section (FSRL) for names, phone numbers and e-mail addresses of the staff in your area or to request an application. Indicate the city and county of your property and as much detail about the address, including fire numbers.

Complaints can be phoned, faxed, e-mailed or mailed. Specific location, room/unit number, (fire number), date, time, detailed accounts of conditions are needed. Complainants may remain anonymous. Complaint response timeframes are based on assessed public health significance of the report of the complaint. Be aware that DHS has contracted with many county and municipal local Agent Public Health Departments to provide additional enforcement and licensing activities. These entities may charge fees based on their local ordinances.

The FSRL phone number is 608-266-2835. Fax: 608-267-3241. PlcESS@dhfs.state.wi.us. Our Central Office is located at DHFS, Rm 150, 1 W. Wilson Street, Madison, WI 53701-2659.

Regional WI DHS staff can be contacted at:

Your local/state Environmental Health Professional for:

_____ County is: _____, R.S.

Phone:

fx:

e-mail _____@wisconsin.gov

All of the Wisconsin Departments can be accessed via www.wisconsin.gov.