



Legislation Text

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Fiscal Note

The proposed ordinance clarifies regulations regarding Tourist Rooming House license applicants. It does not change any application fees for Tourist Rooming House licenses. No City appropriation required.

Title

Amending Sections 9.29 and 28.151 of the Madison General Ordinances to update regulations for Tourist Rooming Houses.

Body

DRAFTER'S ANALYSIS: This proposed ordinance amends MGO Secs. 9.29 "Regulation of Tourist Rooming Houses" and 28.151 "Supplemental Regulations for Tourist Rooming Houses." The proposed changes for Tourist Rooming Houses ("TRH") clarify and fine-tune the regulations already in place but do not substantively change the TRH license and enforcement process. First, the change states that TRH operators must submit their mailing address and phone number in their applications. TRH operators, as well as the property owner, must also submit a valid photo identification alongside their application. Second, the proposed amendment requires that if the TRH is also the operator's primary residence, it must have been their primary residence for twelve (12) consecutive months prior to operation. Finally, the change clarifies what is required for compliance with existing TRH Reports and Guest Registries so operators better understand their responsibilities.

The Common Council of the City of Madison do hereby ordain as follows:

1. Paragraph 1. of Subdivision (a) of Subsection (3) entitled "Application" of Section 9.29 entitled "Regulation of Tourist Rooming Houses" of the Madison General Ordinances is amended as follows:
 - (1) It shall be unlawful for any person to operate a tourist rooming house (TRH) in the City of Madison without a permit issued by the Zoning Administrator.
 - (2) Definitions. For the purposes of this section:
 - (a) A "tourist rooming house" is defined in Section 28.211, MGO.
 - (b) An "operator" is a person who is the owner or lessee of property being used as a TRH and who is conducting the TRH business by, among other things, interacting digitally and in person with guests and is identified in TRH listings and advertisements as the TRH "host." An operator may not be a LLC, Trust, Nonprofit, or other corporate entity.
 - (c) A "primary residence" is defined in Section 28.211.
 - (3) Application. Any person wishing to operate a TRH shall submit an application in writing to the City Zoning Administrator along with a non-refundable application fee of one hundred (\$100) dollars. Any submitted application that is not completed and still pending within one (1) year of the date the application is filed and the application fee is paid shall be administratively closed and the applicant must begin the licensing process anew.
 - (a) All applications shall state each of the following:
 1. The name, ~~and~~ address and phone number of the TRH operator.
 2. The address of the proposed TRH.
 3. Whether the TRH operator is the owner or lessee of the property.
 4. Whether the TRH operator proposes to use the TRH solely for stays of more than six (6) but fewer than twenty-nine (29) consecutive days.

5. Whether the proposed TRH is contained in a dwelling unit that is subject to rules, regulations, or bylaws of a condominium association.
6. Any other information the Zoning Administrator may reasonably require.
- (b) All applications shall be accompanied by documented proof that:
 1. The applicant has obtained a License from Public Health of Madison and Dane County;
 2. The applicant has registered with the City of Madison's Treasurer's office to pay room tax as required under Sec. 4.21, MGO;
 3. In the case of a renter/applicant, a signed lease explicitly allowing the renter to operate a TRH at the property, a copy of the form used to notify property owner of the TRH operation, acknowledgement from property owner that they have been notified of the TRH operation;
 4. In the case of an owner who proposes to operate a TRH in a dwelling unit that is subject to rules, regulations, or bylaws of a condominium association, a letter of permission from the condominium association which states that the operation of a TRH in the dwelling unit is allowed by the condominium association's rules, regulations, or bylaws; and
 5. Any other information the Zoning Administrator may reasonably require.
- (c) All applications shall be accompanied by the following documentation:
 1. Floor plans of the dwelling unit intended for use as tourist rooming house.
 2. A guest registry as required by the Zoning Code.
 3. Contact phone numbers and email addresses of both the property owner and TRH operator as required by the Zoning Code.
 4. Valid photo identification of both the property owner and the TRH operator. Valid identification may include: driver's license, non-driver's state issued identification card, government identification, military identification, passport or any form of identification that contains the owner and operator's name(s) if approved by the Zoning Administrator.
 - ~~4-5.~~ A listing of all websites and places where the TRH operator has advertised and intends to advertise the TRH.
 - ~~5-6.~~ A signed and notarized affidavit stipulating that the TRH is the operator's primary residence or that the TRH will be used solely for stays of more than six (6) but fewer than twenty-nine (29) days. If the TRH is the operator's primary residence, the affidavit shall also include the first date the operator began residing at the location.
 - ~~6-7.~~ Any other information the Zoning Administrator may reasonably require.
- (4) Notice. Prior to receiving a TRH permit, the operator shall provide notice to the property owner (unless the property owner is also the operator). The notice shall be on a form provided by the Zoning Administrator and provide a brief description of the proposed TRH, including the maximum number of occupants and how the operation will meet the zoning code regulations contained in Sec. 28.151, MGO.
- (5) Inspection. Prior to issuing a permit to operate a TRH or approving the renewal of an existing permit, the Zoning Administrator shall inspect the premises to ensure compliance with Chapter 28, MGO (Zoning Code). At all other times, a TRH shall be available for inspection by City staff with at least forty-eight (48) hours prior written notice. However, if the City has probable cause to believe that a violation of this ordinance has occurred or is occurring, an inspection may occur at other times.
- (6) Permit Issuance. The Zoning Administrator shall grant a TRH permit upon verification of a complete TRH application and compliance with Chapter 28, MGO (Zoning Code), including specifically the zoning regulations contained in Sec. 28.151 related to the operation of a TRH.
- (7) Compliance with Zoning Code. No permit shall be issued or maintained unless the proposed TRH is in full compliance with Chapter 28, MGO (Zoning Code), including specifically the zoning regulations

contained in Sec. 28.151 related to the operation of a TRH.

- (8) TRH Report and Registry. Operators must provide the Zoning Administrator with a complete and accurate TRH report and guest registry compliant with Chapter 28, MGO (Zoning Code) by February 1, May 1, August 1, and November 1 of each year.
- (89) Transferability. Permits issued under this Section shall not be transferrable.
- (910) Permit Fees. The fee for a TRH operator permit shall be one hundred dollars (\$100) per year. Annual permits shall expire on the thirtieth (30) day of June after the granting thereof. Renewal permits shall be obtained on or before June 30 of each year as provided in sub. (10) below or be subject to a late filing fee of one hundred dollars (\$100) in addition to the permit renewal fee. Payment of the late filing fee shall not relieve any person from any other penalties prescribed in this chapter for failure to possess or obtain a permit.
- (4011) Renewal. TRH operator permits shall be renewed by the thirtieth (30) day of June of each year. Prior to receiving a renewal permit, the TRH operator shall provide the Zoning Administrator with any updates or changes to any of the documentation required in sub. (3) above or submit a statement to the Zoning Administrator stating there have been no changes to the information contained in the documentation. Prior to issuing a renewal permit, the Zoning Administrator may conduct a reinspection as provided in sub. (5) above.
- (4412) Enforcement and Violations. The Director of Building Inspection or designee shall enforce this ordinance. Any person who operates a TRH without a permit or in violation of this ordinance, upon conviction thereof, shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1000). Each day or portion thereof such violation continues shall be considered a separate offense. Any fine imposed under this subsection shall be doubled if the violator's permit has been revoked under Sub. (12)(13) below.
- (4213) Revocation. The Director of Building Inspection or the Common Council may suspend, deny or revoke a permit issued hereunder for failure of a permittee to comply or maintain compliance with, and/or for violation of, any applicable provisions of this ordinance. Any such suspension or revocation is reviewable under Sec. 9.49, MGO. A revocation shall result in a 6-month prohibition on the issuance of a new permit at the property.
- (4314) Initial Compliance Date. This ordinance becomes effective on April 15, 2020. All TRH Operators in the City of Madison shall obtain a permit as required by this section no later than October 1, 2020.

2. Section 28.151 entitled "Applicability" of the Madison General Ordinances is amended by amending therein the following:

"Tourist Rooming House.

- (a) The Tourist Rooming House shall have a valid Tourist Rooming House Permit from the City of Madison Zoning Administrator, as required by Sec. 9.29, MGO.
- (b) The Tourist Rooming House shall have a valid license from Public Health Madison and Dane County.
- (c) The owner or operator of the Tourist Rooming House shall register with Treasurer's office and shall pay room tax as required under Sec. 4.21, MGO.
- (d) Only the owner of the property may operate a Tourist Rooming House, except that a renter may operate if explicitly allowed in the lease. A property owner proposing to operate a TRH in a dwelling unit that is subject to rules, regulations, or bylaws of a condominium association may only operate the dwelling unit as TRH if explicitly allowed by the condominium association.
- (e) If the tourist rooming house is operated for stays of more than six (6) but fewer than twenty-nine (29) consecutive days, the tourist rooming house may be operated for no more than 180 days in any consecutive 365-day period as provided in Wis. Stat. § 66.1014(2)(d). The 180 allowable

- days in any 365-day period must run consecutively and the TRH operator must give the Zoning Administrator notice of the first rental of any 365-day period.
- (f) If the tourist rooming house is operated for stays of one (1) to six (6) consecutive days, the tourist rooming house shall be the operator's primary residence and shall have been for twelve (12) consecutive months prior to beginning operation of the TRH.
 - (g) For the calculation under (e) or (f), all methods of advertising, including but not limited to, the online calendar booking availability of the advertised TRH, is evidence of consecutive days of operation.
 - (gh) If an operator who is operating a TRH pursuant to sub. (f) above occupies the residence at the time of rental, there is no limit to the number of days the Tourist Rooming House may operate.
 - (hi) If an operator who is operating a TRH pursuant to sub. (f) above does not occupy the residence at the time of rental, the tourist rooming house may operate no more than thirty (30) days per permitting year; July 1 to June 30th.
 - (ij) If an operator who is operating a TRH pursuant to sub. (f) above does not occupy the residence at the time of the rental, the TRH may not be rented to Multiple Unassociated Parties at the same time.
 - (jk) Maximum tourist occupancy shall not exceed the lesser of two times the number of legal bedrooms in the dwelling unit or twelve (12). Children under the age of 12 shall not count toward the maximum tourist occupancy.
 - (kl) A TRH shall be available for inspection by City staff with at least forty-eight (48) hours prior written notice. However, in the event the City has probable cause to believe that a violation of this ordinance has occurred or is occurring, an inspection may occur at other times.
 - (lm) Each establishment shall have a registry available on-site for inspection, indicating the true name of the individual making the TRH reservation; the telephone number, mailing address, or e-mail address for the individual making the TRH reservation; dates of stay and whether the operator was present or absent during the stay. The registry shall include all information from the current registry year and the year immediately prior.
 - (mn) In addition to the requirement in sub. (l) above, each establishment shall provide the Zoning Administrator with a TRH report by February 1, May 1, August 1, and November 1 of each year indicating for the previous quarter dates of stay and whether the operator was present or absent during each date of the stay, and a listing of all websites and places where the TRH operator has advertised. Failure of the TRH operator to submit two (2) such reports by required deadlines in any one year period shall be grounds for automatic revocation of a TRH permit issued under Sec. 9.29.
 - (no) All advertisements of the tourist rooming house, including advertisements on the website of a Lodging Marketplace, must contain a clearly displayed valid TRH permit number issued under Sec. 9.29."