



Legislation Text

File #: 04162, Version: 4

**Fiscal Note**

The majority of enforcement activities related to this ordinance will be conducted by the Police Department as part of its normal activities. In the rare instance where the Department of Public Health-Madison and Dane County assists and incurs costs outside the scope of its regular activities associated with hotel/motel inspections, the Police Department has agreed to reimburse them for such expenses.

**Title**

AMENDED SECOND SUBSTITUTE - Creating Section 23.12 of the Madison General Ordinances to prohibit the operation of transient hotels & motels, amending Section 1.08(3)(a) of the Madison General Ordinances to establish bail amounts, and amending Section 1.08(4) of the Madison General Ordinances to establish enforcement authority for the section.

**Body**

DRAFTER'S ANALYSIS: This proposal prohibits the short-term rental of motel or hotel rooms for twice within 24 hours, prohibits a motel or hotel for being a disorderly house and allows the Office of the City Attorney to bring a nuisance action against a motel or hotel who violates this ordinance multiple times.

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

1. Section 23.12 entitled "Transient Hotels & Motels Prohibited" of the Madison General Ordinances is created to read as follows:

"(1) Transient Hotels.

- (a) Hourly Rentals Prohibited. No Hotel, Motel or Tourist Rooming House may rent a room designed for dwelling, lodging or sleeping purposes for hourly or other short-time rates or in any way advertise that any such room is available at hourly or other short-time rates. A room designed for dwelling, lodging or sleeping purposes shall not be rented more than once between 6:00 a.m. and 5:59 p.m. on any given day and no more than once between 6:00 p.m. and 5:59 a.m. of the following morning. For purposes of this section, renting hourly or other short-time rates shall be defined as the granting of the use or possession of a room for lodging or sleeping purposes for an amount less than the minimum daily rental rate.
- (b) Exception to Hourly Rental Prohibition. A hotel, motel or tourist rooming house may rent rooms designed for dwelling, lodging or sleeping purposes more than once between 6:00 a.m. and 5:59 p.m. on any given day and more than once between 6:00 p.m. and 5:59 a.m. of the following morning when such rental is for a specified legitimate and legal business purpose in which the persons occupying the room intend to be present within the City for a short period of time including but not limited to: traveling sports teams, performing artists, airlines, trucking/shipping companies and business meetings. Any hotel, motel or tourist rooming house renting rooms more than once during the specified hours in this subsection must maintain a registration record which indicates the nature of the room use, the name of the party or parties renting the room, and the time of check-in and check-out. Any room rented under this exception more than once during the specified hours must be thoroughly cleaned before being re-rented.

(2) Registration Required.

- (a) Every person who owns or operates a hotel, motel or tourist rooming house in the city shall keep and maintain a registration record for all guests renting a room or rooms at the hotel, motel or tourist rooming house. The registration record must indicate the room number rented, how many people will be in the room, the number of nights the

guest is staying or has stayed, the guest's name, and the guest's signature and the type of identification offered to validate the reservation. The registration record shall indicate the date and time a guest checks in and the date and time the room is surrendered. No guest shall be allowed to register without first presenting valid identification that is verified by the hotel, motel or tourist rooming house to match the person registering. 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 guest's **name**. The type of identification presented by the guest shall be noted in the register and shall include the document's identification number and the state or country of issuance.

- (b) Every hotel, motel or tourist rooming house that does not offer its guests valet parking must record on the registration **record** the make, model, license plate number and State of issue for any motor vehicle brought to the hotel, motel or tourist rooming house by the guest registrant.
  - (c) No person shall write or cause to be written, or knowingly permit to be written **on any registration record** in any hotel, motel or tourist rooming house, any other or different name or designation than the true name of the guest registering therein, or the name by which such guest is generally known, unless registering under the guest's true name would compromise the guest's safety and/or peace and tranquility, i.e. a guest who has been placed at the hotel, motel or tourist rooming house through a victim/witness program, as a sequestered juror, or the guest is a well-known performing artist or athlete who regularly registers under an assumed name or a corporate name. The burden will be on the hotel, motel or tourist rooming house to show that the guest's safety and/or peace and tranquility would have been compromised had the guest registered under their true name.
  - (d) Erasures or alterations **to the registration record** required by this subsection shall not be permitted or made for any purpose, and it shall be unlawful to erase a name or names or address or addresses or to permit such an erasure.
  - (e) Every peace officer shall have access to and the right to inspect at any time any registration record kept by any hotel, motel or tourist rooming house.
- (3) Any Hotel, Motel or Tourist Rooming House that violates Subsec. (1) of this ordinance more than three (3) times in any one month, or more than six (6) times in any year shall constitute a public nuisance.
  - (4) No Hotel, Motel or Tourist Rooming House may operate as a bawdyhouse, disorderly house, drug house, gambling place or criminal gang house, as those terms are defined in Chapter 823, Wis. Stats.
  - (5) The Office of the City Attorney is hereby authorized to commence and maintain an action to recover damages or to abate a public nuisance under Chapter 823, Wis. Stats., against any Hotel, Motel or Tourist Rooming House that violates Subsection (2) or Subsection (3) of this Ordinance or that otherwise constitutes a public nuisance pursuant to Chapter 823, Wis. Stats.
  - (6) Hotel, Motel or Tourist Rooming House Operator May Refuse Accommodations.
    - (a) Any person who owns or operates a hotel, motel or tourist rooming house may refuse or deny the use of a room, accommodations, facilities or other privileges of the hotel to any of the following:
      - 1. An individual who is unwilling or unable to pay for the room, accommodations, facilities, or other privileges of the hotel, motel or tourist rooming house.
      - 2. An individual who is visibly intoxicated, under the influence of alcohol or other drug, and is disorderly so as to create a public nuisance;
      - 3. An individual who the hotel owner or operator reasonable believes is seeking to use a room, accommodations, facilities or other privileges of the hotel for an unlawful purpose;
      - 4. An individual who the hotel owner or operator reasonable believes is bringing in

anything which may create an unreasonable danger or risk to other persons, including but not limited to explosives or the unlawful use of firearms;

5. An individual whose use of the room, accommodations, facilities or other privileges of the hotel would result in a violation of the maximum capacity of such hotel.

6. **An individual who does not provide the registration information as required in Subdivision (2)(a).**

(7) Exception to 23.12(6). Any tourist or other person occupying a dwelling unit in a hotel, motel or tourist rooming house for more than sixty (60) days while traveling away from their permanent place of residence, **or any transient person without a permanent place of residence** may not be excluded, forcibly evicted or constructively evicted from a dwelling unit other than by an eviction procedure specified under ch. 799, Wis. Stats.

(8) Penalty. Any person who violates any of the provisions of this section may be subject to a forfeiture of not less than \$100 and nor more than \$1000. Each day of violation shall constitute a separate offense."

2. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance Of Citations For Violations Of Certain Ordinances And Providing A Schedule Of Cash Deposits" of the Madison General Ordinances is amended by amending therein the following:

<u>"Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
Violate transient hotel/motel regulations	23.12	\$400, 1st \$600, 2 <sup>nd</sup> "

3. Subsection (4) entitled "Issuance of Citations" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by amending therein the following:

<u>"Enforcement Official</u>	<u>Ordinance Chapter or Section and Title</u>
Director of Public Health or her/his designee, and City Health Inspector and <u>Police Department</u>	Chapter 7, Public Health; Section 9.05, Adult Entertainment Establishments; Section 23.05, Smoking Prohibited in Certain Public Areas; <u>Section 23.12, Transient Hotels and Motels Regulated</u> ; Section 23.38, Possession of Tobacco Products by Children; Section 23.385, Sale of Tobacco Products to Children Forbidden; Section 23.44, Consumers to Be Offered Selection of Containers."

EDITOR'S NOTE: New or amended bail deposits must be approved by Municipal Judge prior to adoption. These deposits have been so approved.