

Chapter 35 – TOURIST ROOMING HOUSE

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35.01 Purpose

The purpose of this Chapter is to ensure that the quality of tourist rooming houses operating within the County is adequate for protecting public health, safety and general welfare, including establishing minimum standards of space for human occupancy and for an adequate level of maintenance; determining the responsibilities of owners, operators and resident agents offering these properties for tourists, for the proper collection of taxes, to protect the character and stability of persons occupying or using buildings, structures or premises; and provisions for administration and enforcement thereof.

35.02 Exemptions

The following operations are exempt from complying with the requirements of this Chapter:

- A. A private boarding or rooming house, ordinarily conducted as such, not accommodating tourist or transients.
- B. A hotel, motel or resort license issued by the State of Wisconsin Department of Agriculture, Trade and Consumer Protection pursuant to §97.605, Wis. Stats., or a designated local health department pursuant to §97.615, Wis. Stats., directly or through its agent.
- C. Bed and Breakfast establishments.

35.03 Definitions

- A. For the purposes of administering and enforcing this chapter, the terms or words used herein shall be interpreted as follows:
 - 1. Words used in the present tense include the future.
 - 2. Words in the singular number include the plural number.
 - 3. Words in the plural number include the singular number.
- B. The following definitions and conditions apply unless specifically modified:
 - 1. **Bathroom** means full bath
 - 2. **Corporate Entity** means a corporation, partnership, limited liability company, or sole proprietorship licensed to conduct business in the state.

3. **Dwelling Unit** means one (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities and a bathroom arranged for exclusive use by one (1) person or one (1) family. Dwelling units include tourist rooming houses, seasonal employ housing and dormitory units.
4. **Habitable Room** means any room used for sleeping, living, or dining purposes, excluding such enclosed places as kitchens, closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms, and similar spaces.
5. **Health License** means the license described in Section 35.02(B).
6. **License** means Property Management License issued under Section 35.02(B)(2) and an individual Tourist Rooming House License issued under Section 35.04.
7. **Owner** means the natural persons, firms or corporate entity holding legal title of a tourist rooming house property.
8. **Resident Agent** means an owner meeting the qualifications under Section 35.08 or a person appointed by the owner of a tourist rooming house to act as agent on behalf of the owner.
9. **Residential Dwelling** means any building, structure, or part of the building or structure, that is used or intended to be used as a home, residence, or sleeping place by one (1) person or by two (2) or more persons maintaining a common household, to the exclusion of all others.
10. **Short Term Rental** means a residential dwelling that is offered for rent for a fee and for fewer than thirty (30) consecutive days.
11. **State** means the State of Wisconsin Department of Agriculture, Trade and Consumer Protection (ATCP), or its designee.
12. **Tourist or Transient** means a person who travels to a location away from his or her permanent address for a short period of time for vacation, pleasure, recreation, culture, business, or employment.
13. **Tourist Rooming House** means all lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients for fewer than thirty (30) consecutive days. It does not include private boarding or rooming houses not accommodating tourist or transients, or bed and breakfast establishments regulated under ATCP 73.

35.04 License Requirements

- A. No person may operate a tourist rooming house without a tourist rooming house license.
- B. Every tourist rooming house shall be operated by a resident agent.
- C. Each tourist rooming house shall comply with all other County Chapters.
- D. Each tourist rooming house shall comply with the following minimum requirements:
 1. One (1) bathroom for every six (6) occupants.
 2. Not less than one hundred fifty (150) square feet of floor space for the first occupant thereof and at least an additional one hundred (100) square feet of floor space for every additional occupant thereof; the floor space shall be calculated based on total habitable room area and is determined using interior measurements of each room. For purposes of this Section, floor space does not include kitchens, bathrooms, closets, garages, or rooms not meeting Wisconsin Uniform Dwelling Code (Chapters SPS 320-325 of the Wisconsin Administrative Code) requirements for habitable rooms and occupancy. The maximum occupancy for any dwelling without a separate enclosed bedroom is two (2) people.
 3. If occupancy calculated under 35.04(D)(2) exceeds the design occupancy for the septic system serving the tourist rooming house the following shall apply:
 - a. The applicant may choose to limit occupancy to the septic system design.
 - b. If the applicant seeks to exceed the septic system design occupancy a water meter shall be installed by the property owner on the water service entering the tourist rooming house subject to the following:
 - i. An inspection of the water meter shall be done by the Marquette County Planning, Zoning and Land Information Department (Department) prior to the tourist rooming house being offered for rental.

- ii. Water meter readings shall be provided to the Department on the 1st of every month.
 - iii. If the water meter calculated daily flow average exceeds the daily design flow of the septic system occupancy shall be reduced or the septic system shall be upgraded to meet the increased flow.
 - iv. At the request of the Zoning Administrator a visual inspection of the water meter may be done by the Department.
- 4. Sleeping rooms that meet the requirements set forth in ATCP 72.14.
- 5. Outdoor parking for overnight and day guests shall be limited to designated parking areas on the short-term rental property. In no event shall parking for short term rental occupants include spaces in any public street right-of-way or on any lawns or vegetated areas.
- 6. A safe, unobstructed means of egress leading to safe, open space at ground level.
- 7. Each area and room designated or used for sleeping shall have at least one (1) means of exit to the exterior, by door or egress window. If a room does not meet these qualifications, a sign shall be posted notifying occupants that the room shall not be used for sleeping due to lack of safe egress.
- 8. Basement areas designated or used for sleeping shall have at least two (2) exits to the exterior, by door or egress window. If a basement does not meet these qualifications, a sign shall be posted notifying occupants that the basement area shall not be used for sleeping due to lack of safe egress.
- 9. Functional smoke detectors and carbon monoxide detectors in accordance with the requirements of Chapter SPS 362 of the Wisconsin Administrative Code.
- 10. Shall not have a wood or solid fuel burning stove or fireplace unless the owner provides a certificate from a licensed commercial building inspector, fire inspector, or a verified statement from a reputable stove or fireplace sales/installer entity, dated not more than thirty (30) days prior to submission, certifying that the fireplace and chimney has been inspected and are in compliance with the National Fire Prevention Association Fire Code Chapter 211 Standard for Chimneys, Fireplaces, Vents, and Solid Fuel Burning Appliances; OR the applicant demonstrates that appropriate measures have been taken to block access to the woodstove or fireplace by any tourists or transients.
- 11. Shall not have a hibachi, gas-fired grill, charcoal grill, or any other similar devices used for cooking, heating, or any other purpose on any balcony, deck, or any overhanging structure or within ten (10) feet of any structure.
- 12. Shall have insurance against claims of personal injury and property damage for tourist rooming house rentals.
- 13. Has obtained a health license from the State of Wisconsin or its designee for operation as a tourist rooming house.
- 14. Has received the appropriate zoning designation, if required, under the County or other local zoning chapter.
- 15. Must pass a Lodging Establishment Health Inspection by the State of Wisconsin's designee before issuance of a license under this Chapter.
- 16. A visible and accessible fire extinguisher that has passed a fire inspection dated not more than one (1) year before the date of issuance or renewal by the local fire department or equivalent inspector.
- 17. Has an available Resident Agent as required under this Chapter.
- 18. Neither the applicant, the property that is the subject of the application, nor any property owned by the applicant within the county, has outstanding taxes, fees, penalties, or forfeitures owed to the County or room tax due and owing to any local government entity.
- 19. If the property is not served by a public sanitary sewer, a private onsite wastewater treatment system (POWTS) in full compliance with Chapter 74 of the Marquette County code must serve the property.
- 20. The property shall remain in compliance with all other Marquette County ordinances.
- E. A tourist rooming house shall not:
 - 1. Endanger, or threaten to endanger, the public health, safety, comfort, or general welfare.
 - 2. Have an adverse environmental impact.
 - 3. Have excessive noise complaints.
 - 4. Have an excessive response required from law enforcement.

5. Have poor property condition, such as garbage or refuse complaints, condition complaints, and general care and maintenance complaints.
6. Have traffic and parking complaints.
7. Have other issues that may impact the use, value, and enjoyment of other property in the neighborhood.
8. Have other issues that may be deemed a nuisance to neighboring properties.
9. Have any outside appearance indicating a change of use from surrounding residential uses.
10. Have overnight occupancy of recreational vehicles, camper trailers and tents at the property where the tourist rooming house is located. Outdoor overnight sleeping of occupants or guests of the tourist rooming house is prohibited.

35.05 License Process

- A.** All applications for a tourist room house license shall be filed with the Zoning Administrator or designee on forms provided. Applications must be submitted by the owner of the tourist rooming house. Each applicant shall certify that the tourist rooming house that is the subject of the application can meet the requirements set forth in Section 35.04(D).
- B.** An application for a tourist rooming house license shall include the following and shall not be considered complete until all the following has been submitted:
 1. A tourist rooming house license issued under §97.605, Wis. Stats. (A license under this chapter may be conditionally granted upon issuance of this license and shall not take effect unless this license is issued.)
 2. A copy of a completed Lodging Establishment Health Inspection form dated within two (2) years of the date of issuance or renewal.
 3. The Wisconsin Department of Revenue Seller's Permit Sales and Use Tax number.
 4. Proof of Personal Injury and Property Damage Insurance.
 5. Dwelling Unit floor plan with square footage identified.
 6. Property site plan including designated onsite parking.
 7. Property Management Agreement, if applicable.
 8. Designation of Resident Agent, if applicable.
 9. Applicant certification that the property meets the requirements of Section 35.04(D).
 10. The appropriate application fees.
 11. Signed certification from the local governmental entity that no room tax is due and owing.
- C. Terms and Filing Date**
 1. Each license shall run for two (2) years from July 1 through June 30th. Licenses issued within the two (2) year period will be effective until the next renewal period. The filing fee shall be paid upon filing of the application. Any application which does not include all the information and documentation shall be considered incomplete.
- D. Application Review Procedures**
 1. Within thirty (30) days of determining that an initial tourist rooming house license application is complete, the Zoning Administrator or designee shall arrange for inspection of the property and act on the application.
 2. If the Department determines that the application or the tourist rooming house does not meet all requirements of this Chapter, the application shall be denied, and the reasons therefore shall be set forth in writing to the applicant.
 3. A license shall be issued if the Department determines that the initial application and the tourist rooming house meets the requirements of this Chapter. The Department does not have the authority to enforce private covenants or homeowner associations restrictions when considering an application for a license.
- E. Hardship Exceptions**
 1. Any applicant asking to be relieved from the strict enforcement of this Chapter's provisions may apply for a Hardship Exception. The application shall be on a form provided by the Zoning Administrator or designee. The completed form and all supporting documents shall be filed with

the Zoning Administrator along with the filing fee. Within thirty (30) days of receiving the application for Hardship Exception, the Zoning Administrator shall issue a written report to the Planning and Zoning Committee, including their recommendation.

2. Following the review and issuance of a report by the Zoning Administrator, the application will be reviewed and voted on by the Planning and Zoning Committee. The Planning and Zoning Committee may require the applicant to furnish additional information it deems necessary in its review of the application.
3. When reviewing an application for a Hardship Exception, the Planning and Zoning Committee will take into consideration the following factors:
 - a. The Hardship Exception will not be unreasonably detrimental to or endanger the public health, safety, comfort, or general welfare.
 - b. The uses, values, and enjoyment of other properties in the neighborhood shall not be substantially impaired or diminished by the proposed Hardship Exception.
 - c. The Hardship Exception will not unduly create a danger to pedestrians or traffic.
 - d. The past experience with the applicant and previous violation of this Chapter.
 - e. The Hardship Exception must comply with all other local chapters and applicable state law.
 - f. Such other factors due to the specific circumstances that the Planning and Zoning Committee deems appropriate.

35.06 License

A. Contents of License.

1. The name, address, and telephone number of the owner of the tourist rooming house.
2. The name, address, telephone number and cell phone number for the Resident Agent.
3. The maximum overnight occupancy.
4. The license term.
5. The lodging license number.
6. The name, address, and telephone number of the Zoning Department's tourist rooming house inspector.
7. The name, address, and telephone number of the County's Health Inspector.

B. Display of License.

1. Each license shall be displayed in a public location of each tourist rooming house.

35.07 Inspections

A. Inspection Intervals

1. Each tourist rooming house is required to be inspected every year by the State of Wisconsin, or its designee.

35.08 Resident Agent Designation

A. An approved Resident Agent is required for all tourist rooming houses.

B. The owner of a tourist rooming house shall designate a resident agent.

C. Resident Agents shall meet the following requirements:

1. Be an adult person residing in or within twenty-five (25) miles of the location of the tourist rooming house or a corporate entity with offices located within twenty-five (25) miles of the tourist rooming house that is the subject of the application.
2. Be authorized by the owner to act as the agent of the owner for the receipt of service of notice of violation of the chapter's provisions and for service of process pursuant to this chapter or other local zoning chapter and shall be authorized by the owner to allow County employees, officers, and their designees, to enter the owner's property for purposes of inspection and enforcement of this ordinance.

D. An owner that meets the qualifications for a Resident Agent is not required to pay a fee for a Resident Agent designation.

35.09 Nontransferable License

- A. Any license issued under this Chapter is nontransferable. The holder of any license shall notify the Zoning Administrator in writing of any transfer of the legal control of any property covered by the license.

35.10 Renewal

- A. Each application for a renewal of a license shall include updated information for the documentation on the file with the Zoning Office and payment of the applicable fees. All renewal applications shall be filed by June 1 of the year of renewal. The Zoning Administrator or designee may conditionally accept late applications, subject to payment of the late filing fee. The Zoning Administrator or designee shall verify that the information provided on the renewal application is complete, and in accordance with the requirements of this Chapter, and that local taxes, including room taxes, have been paid.
- B. The Zoning Administrator or designee shall issue renewal licenses within thirty (30) days of filing of the renewal application, unless the information provided is incomplete, or otherwise not in compliance with the requirements of this Chapter, reports from local law enforcement or the Health Department indicate that there are complaints or actions involving the property, taxes have not been paid, and/or there is a request for a public hearing.
- C. If the Zoning Administrator finds that the license should not be renewed, or that there has been a complaint, the Zoning Administrator shall forward the application to the Planning and Zoning Committee for action along with written explanation of the reason for referral. The Planning and Zoning Committee shall then determine if a renewal shall be denied. If a license is denied, the reasons therefore shall be set forth in writing.
- D. No license shall be renewed if the applicant or a property has outstanding fees, taxes or forfeitures owed to the County, or is under an order to bring the premises into compliance under applicable codes or other law.

35.11 Fees

- A. License fees shall be established by the Planning and Zoning Committee in a fee schedule and may, from time to time, be modified. The fees shall be related to costs involved in processing individual license applications, conducting inspections, ordinance compliance and documentation. Fees are nonrefundable and shall not be prorated. A schedule of the fees shall be available for review on request.
- B. Listed fees and penalties do not include those issued by other entities such as the State license issued by the State of Wisconsin, or its designee, or any rezoning fees.
- C. Any residential dwelling operating a tourist rooming house prior to the issuance of a license will be assessed double fees on all required fees listed in 35.11(D).
- D. License fees include:
 - 1. Initial License Application fee – four hundred dollars (\$400.00)
 - 2. Renewal License Application fee – two hundred dollars (\$200.00)
 - 3. Hardship Exception Application fee – two hundred fifty dollars (\$250.00)
 - 4. Late Renewal License Application fee – Double Fee of total
 - 5. Resident Agent – one hundred dollars (\$100.00)
 - 6. Public Hearing fee – five hundred dollars (\$500.00)

35.12 Marketing

- A. The marketing of a tourist rooming house in which the advertised occupancy exceeds the maximum occupancy requirements permitted by the Chapter, or which promotes any other activity which is prohibited by this Chapter, shall be a violation of this Chapter.
- B. Outdoor signage shall conform to applicable Marquette County ordinances.

35.13 Penalties

- A. Penalties shall be set forth in Chapter 100.

35.14 Enforcement

- A. The provisions of this Chapter shall be enforced by the Zoning Department and/or its designee. It shall be the duty of the Zoning Department to process applications, conduct inspections and investigate complaints of violations of this Chapter. Violation will be prosecuted by Corporation Counsel.

35.15 Public Hearing

- A. Any person may request a hearing regarding a license holder to determine whether the license holder has committed violations of this Chapter such that the license should be revoked. A person shall request a public hearing by submitting a written statement to the Zoning Administrator, setting forth in detail, complaints against the license holder. The Zoning Administrator shall investigate the allegations and determine whether an enforcement proceeding should be initiated under Section 35.14 and/or whether a hearing is warranted to determine if a license should be revoked. If the Zoning Administrator determines a hearing is warranted, it shall be held before the Planning and Zoning Committee pursuant to the procedure set forth in Section 35.15(C). There shall be no appeal from the Zoning Administrator's denial of a request for a hearing or to refer a matter for enforcement. The Zoning Administrator shall also have the authority to initiate enforcement or hearing under Section 35.04.
- B. Any person may request a public hearing under Section 35.15(A) by making a written request to the Zoning Administrator.
- C. The hearing procedure shall be as follows for public hearings and hearings under Section 35.15:
 - 1. The hearing shall be held before the Planning and Zoning Committee.
 - 2. Written notice of the date, time and place of the hearing shall be mailed by regular mail to the license holder at least ten (10) calendar days prior to the date of the hearing.
 - 3. The license holder shall have the right to be represented by the Resident Agent and/or legal counsel and need not be present at the hearing.
 - 4. If the hearing is for possible revocation of the license, a written summary of the alleged violations shall be provided with the written notice.
 - 5. At the public hearing, the license holder, or representative shall have the right to make a statement, question witnesses and the Zoning Administrator regarding the basis of any complaints or alleged violations of this chapter.
 - 6. Written statements may be submitted by any person regarding the license at issue prior to the start of the hearing. The Planning and Zoning Committee shall only consider written statements that set forth the identity of the individual(s) making the statement.
 - 7. The Planning and Zoning Committee shall hear, consider, and weigh all verbal and written statements prior to the making its decision.
 - 8. After the close of the hearing, the Planning and Zoning Committee may go into closed session to deliberate regarding the issue presented, at its discretion and upon proper notice.
 - 9. The Planning and Zoning Committee shall have the right to adjourn and reconvene as it deems necessary and need not decide immediately upon conclusion of the hearing.
 - 10. The Planning and Zoning Committee shall consider these factors when determining whether to revoke a license:
 - a. Past and present compliance with this Chapter.
 - b. Past and present compliance with room and sale tax requirements.
 - c. Past and present compliance with federal, state, and local laws.
 - d. Matters that endanger, or threaten to endanger, the public health, safety, comfort, or general welfare.
 - e. Adverse environmental impact.
 - f. Noise complaints.

- g. Excessive response required from law enforcement.
 - h. Property condition including garbage or refuse complaints, condition complaints, and general care and maintenance.
 - i. Traffic and parking complaints.
 - j. Matters that may impact the use, value, and enjoyment of other property in the neighborhood.
 - k. Other matters that may be deemed a nuisance to neighboring properties.
- 11. If the license is denied or revoked, the Planning and Zoning Committee shall set forth in writing the reason(s) for the denial or revocation. For a reason to form the basis for a denial or revocation, a majority of the Committee members present shall agree that the facts presented were sufficient to support that reason. The written decision shall set forth the Committee members who supported each reason.
- 12. The license holder shall be required to pay the public hearing fee if it is determined that a public hearing is required under this Chapter.

35.16 Application After Denial or Revocation

- A. No applicant may reapply for twenty-four (24) months from the date of denial or revocation.

35.17 Conditions on License

- A. The Planning and Zoning Committee shall have the authority to place reasonable conditions on a license when necessary to meet the requirements of this Chapter, Section 35.15(C)(10) or Section 35.05(E) regarding matters set forth in the Chapter.