

LEGISTAR # 58895 – Version 1

DRAFTER'S ANALYSIS: This ordinance creates a new requirement that individuals operating a tourist rooming house (TRH) obtain an annual TRH permit from the City. In the years since the City permitted tourist rooming houses the tourist rooming house agency has expanded and changed. With this expansion, staff has experienced challenges enforcing TRH regulations, including specifically the requirement that TRH operators obtain a public health license, pay room tax, and comply with applicable zoning regulations. Moreover, prospective TRH operators have expressed confusion over what regulations apply and who is responsible for enforcing them. By creating an annual permit requirement, this ordinance centralizes TRH requirements in one ordinance. Moreover, it requires TRH operators to submit documentation confirming compliance with applicable regulations and requires TRH operators to update this information on an annual basis. Under the ordinance, failing to do either of these things can result in permit denial or revocation. Further, this ordinance specifically provides for TRH inspections so that the Zoning Department can ensure that a TRH is being operated in a manner that is consistent with the documentation the operator has provided. In the event that the operator violates any of the requirements in this permitting ordinance, the ordinance contains a process for revoking the TRH operator's TRH permit.

This ordinance also makes several changes to existing TRH supplemental regulations contained in Sec. 28.151, of the Zoning Code. These amendments are necessary because as the TRH industry in Madison has expanded, it has become increasingly difficult for staff to enforce certain key provisions of the TRH regulations. For example, two critical provisions of the current TRH ordinance are that 1) the TRH must be the operator's primary residence, and 2) a TRH operator may only rent the TRH for 30 days per calendar year if they are not present at the time of the rental. The combined purpose of these two provisions is to ensure that the TRH operator is on premises the majority of the time a dwelling unit is being rented as a TRH and to prevent investors from purchasing properties for the sole purpose of renting out the entire unit as a TRH. However, increasingly, staff is encountering situations where TRH operators either do not understand or purposely mislead staff with regard to whether a specific dwelling unit being used as a TRH is their primary residence. Other TRH operators have either failed to keep a guest registry or have been reluctant to share the required guest registry, making it difficult or impossible for staff to determine if TRH operators are exceeding the 30 days of rental days per year when the TRH operator may be absent from premises. Finally, other TRH operators appear to be purchasing or leasing properties in Madison for the sole purpose of renting it as TRH.

Staff believes that the combination of the permitting ordinance and changes to existing zoning ordinances will lead to more effective enforcement of TRH regulations.

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

1. Section 9.29 entitled "Regulation of Tourist Rooming Houses" of the Madison General Ordinances is created to read as follows:

"9.29 REGULATION OF TOURIST ROOMING HOUSES.

- (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 both a TRH and their primary residence 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 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. That the proposed TRH is the primary residence of the operator.
 - 5. 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, as required by Wis. Admin. Code ch. DHS 195;
 - 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 the TRH operation, acknowledgement from property owner that they have been notified of the TRH operation; and
 - 4. 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. A listing of all websites and places where the TRH operator has advertised and intends to advertise the TRH.
 - 5. A signed and notarized affidavit stipulating that the TRH is the operator's primary residence.
 - 6. 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 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 verify that the TRH is the operator's primary residence and to verify that the bedrooms to be rented meet the building code requirements for sleeping rooms. 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) Transferability. Permits issued under this Section shall not be transferrable.
- (9) 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.

- (10) 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 conduct a reinspection as provided in sub. (5) above.
- (11) Enforcement and Violations. The Director of Building Inspection or designee and the Director of Public Health Madison Dane County 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) below.
- (12) 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."

2. Subsection entitled "Tourist Rooming House" of Section 28.151 entitled "Applicability" of the Madison General Ordinances is amended to read as follows:

"Tourist Rooming House.

- (a) The establishment shall have a valid Tourist Rooming House Permit from the City of Madison Zoning Administrator, as required by Sec. 9.29, MGO.
- (~~a~~b) The establishment shall have a ~~current~~ a valid license from Public Health Madison and Dane County, as required by Wis. Admin. Code ch. DHS 195.
- (c) The ~~Owner or operator~~ shall register with Treasurer's office and shall pay room tax as required under Sec. 4.21, MGO.
- (~~b~~d) The tourist rooming house shall be the operator's primary residence.
- (~~d~~e) 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 TRH operator may not be a LLC, Trust, Nonprofit, or other corporate entity.
- (~~e~~f) If the operator does not occupy the residence at the time of rental, the tourist rooming house may operate no more than thirty (30) days per licensing year; July 1 to June 30th. This regulation does not apply to individual stays of seven (7) consecutive days or longer.
- (~~f~~g) If the operator occupies the residence at the time of rental, there is no limit to the number of days the Tourist Rooming House may operate.
- (~~g~~h) Maximum tourist occupancy shall ~~comply with maximum family occupancy rules in the underlying zoning district regulations~~ not exceed the lesser of two times the number of legal bedrooms in the dwelling unit not to exceed twelve (12). Children under the age of 12 shall not count toward the maximum tourist occupancy.
- (i) 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.
- (~~h~~j) Each establishment shall have a registry available on-site for inspection, indicating the identity of all guests, dates of stay, ~~acknowledgement of operator presence or absence~~ length of stay, guest license plate number if traveling by motor vehicle, and whether the operator was present or absent during each date of the stay and length of stay. The registry shall include all information from the current registry year and the year immediately prior.
- (k) In addition to the requirement in sub. (j) 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 the identity of all guests, dates of stay, length of stay, guest

license plate number if traveling by motor vehicle, 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 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.

- (l) All advertisements of the tourist rooming house must contain a clearly displayed valid TRH permit number issued under Sec. 9.29."

3. Section 28.211 entitled "Definitions" of the Madison General Ordinances is amended by amending and creating therein the following:

"Bedroom. Any room of a dwelling unit in excess of kitchens, bathrooms and one (1) living room, which meets the standards for habitability habitable space in a Dwelling Unit other than a kitchen or living room that is intended for or capable of being used for sleeping with a door that closes the room off from other common space such as living and kitchen areas, is within the dwelling unit thermal envelope, that is at least seventy (70) square feet in area, exclusive of closets and other appurtenant space, and meets Building Code standards for egress, light and ventilation according to the Uniform Dwelling Code, Wis. Admin. Code chs. SPS 320-325, or the Uniform Multifamily Dwelling Code, Wis. Admin. Code ch. SPS 366. A room identified as a den, library, study, office, dining room, or other extra room that satisfies this definition will be considered a bedroom.

Primary Residence. A dwelling unit that serves as an individual's true, fixed and permanent home for at least 183 days in a calendar year and to which, whenever absent therefrom, that individual intends to return. Additional characteristics of a primary residence include, but are not limited to, where an individual receives mail, claims residence for purposes of voter registration, pays for utilities, and lists as their address on state issued identification cards. An individual can have only one primary residence.

Tourist Rooming House. A building or portion thereof dwelling unit, other than a Hotel, Motel, Bed and Breakfast Establishment or Hostel, in which sleeping accommodations are offered for pay to tourists or transients. The definition does not include private boarding, lodging or rooming houses not accommodating tourists or transients."