

## **Board of Health Regulation: Chapter 2**

### **Lodging Regulation**

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#### **2-0.010 Authority and Purpose.**

The Board of Health of the Eau Claire City-County Health Department holds the authority to adopt regulations to protect and improve public health under ss. 251.04(3) and 97.615(2)(g) Stats. Under s. 97.615(2)(am) Stats. The Department of Agriculture, Trade, and Consumer Protection (DATCP) designated the Eau Claire City-County Health Department as an agent of the state for issuing licenses to; and making investigations or inspections of hotels, motels, tourist rooming houses, bed and breakfast establishments. Under ss. 97.615(2)(g) Stats., the Board of Health may adopt and impose regulations on licenses and premises for which the local health department is the designated agent, which are stricter than these chapters or rules adopted by the state.

#### **2-0.020 Applicability.**

The provisions of this regulation shall apply to the operator of any hotel, motel, tourist rooming house or bed and breakfast establishment in the City or County of Eau Claire including all municipalities within in Eau Claire County.

#### **2-0.030 Definitions.**

The following definitions shall apply in the interpretation and enforcement of this regulation.

- A. "Health Department" means the Eau Claire City-County Health Department.
- B. "Health Officer" means the director of Eau Claire City-County Health Department or that person's authorized representative.
- C. "Other definitions" as enumerated in the Wisconsin State Administrative Code and Wisconsin Statutes adopted by reference in this regulation.

#### **2-0.040 Enforcement.**

The provisions of this regulation shall be administered by or under the direction of the Health Officer, who in person or by duly authorized representatives shall have the right to enter, at reasonable hours, upon premises affected by this regulation to inspect the premises, secure samples, examine and copy relevant documents and records or obtain photographic or other evidence needed to enforce this regulation.

**2-0.050 License.**

- A. *License Required.* No person shall operate a bed and breakfast, hotel, motel or tourist rooming house without first obtaining a license from the Health Department. Such licenses shall expire on June 30 following their issuance except that licenses initially issued during the period beginning on April 1 and ending June 30 shall expire June 30 of the following year.
- B. *Transferability.* A license shall not be transferable to a location other than the one for which it was issued, nor shall a license be transferred from one operator to another.
- C. *Conditional License.* The issuance of a license may be conditioned upon the licensee correcting a violation of this regulation within a specified period of time. If the condition is not met within the specified period of time, the license shall be voided.
- D. *Certified Food Manager Required.* Prior to the granting or renewal of a bed and breakfast license where more than a continental breakfast (beverage and toast, pastry, or cereal) is served, the operator or a manager shall meet the requirements of the Wisconsin Food Code Chapter 12 – Certified Food Manager.
- E. *Preinspection Required.* A license shall not be granted to a person intending to operate a new hotel, motel, tourist rooming house or bed and breakfast establishment or existing establishment for which a person intends to be a new operator without a preinspection.
- F. *License Suspension and Revocation.* Such permits may be temporarily suspended by the Health Department for a violation of any provision of this regulation, or rules adopted by reference by this regulation, which creates an immediate danger to health. Such permits may be revoked after repeated violations. The permittee shall have an opportunity for a hearing by the Board of Health as provided for in Section 2-0.090 of this regulation.
- G. *Application.* Application for permits shall be made in writing to the Health Department or such other office as designated by the Health Department, on forms provided by the Health Department or other offices as designated by the Health Department. Applications shall state the name and address of the applicant, and the address and location of the proposed bed and breakfast establishment, hotel, motel or tourist rooming house, together with such other information as may be required.

**2-0.060 Fees.**

s. 66.0628, Stats., provides the authority to set and impose fees for services.

- A. *License Fees.* The fees for the licenses shall be established by the Board of Health to cover part or all of the cost of issuing licenses, making investigations, inspections, sampling, providing education, training and technical assistance to the establishments, plus the cost required to be paid to the state for each license issued.
  - 1. The fees for licenses shall be established separately for each type of hotel/motel, bed and breakfast, or tourist rooming house. Fees may be based on the number of rooms.
  - 2. If the annual renewal fee is not received on or before the license expiration date, late fees shall be issued pursuant to 2-0.060 B.1. Additionally, establishments operating 15 calendar days after the expiration will be closed by order of the Health Officer.
- B. *Late and Penalty Fees.*

1. Late fees shall be required, as established by the Board of Health, for each license if the renewal fee is not paid before the license expires. The license fee must be paid or post-marked by June 30 each year.
  2. Fees/payments received and returned by the financial institution for insufficient funds are subject to a fee, as established by the Board of Health.
  3. Operators found to be operating without a valid license shall be subject to an initial license fee as well as a penalty fee equal to that of the license fee.
  4. Operators found to be operating without a certified food manager, as required by the Wisconsin Food Code, shall be subject to a penalty fee equal to that of the reinspection fee as established by the Board of Health (2-0.050D).
- C. *Preinspection Fees.* Separate fees will be required for preinspections of new establishments or existing establishments for which a person intends to be a new operator. Such fees shall be established by the Board of Health.
- D. *Reinspection Fees.* Reinspection fees shall be established by the Board of Health.
1. A reinspection will be performed when an imminent hazard is identified during an inspection or onsite visit and is not correct before the inspector leaves.
    - a. An imminent hazard shall be defined by the Wisconsin Department of Health Service's publication titled, "Reinspection Criteria for Hotel, Motel, Tourist Rooming Houses and Bed & Breakfast Establishments."
    - b. A reinspection fee will be assessed for a second and each successive reinspection stemming from the same complaint or routine inspection.
  2. A reinspection fee will be immediately assessed when any violation is repeated on three consecutive inspections or onsite visits.
  3. A reinspection fee will be immediately assessed when an inspection is unable to be completed due to an establishment refusing entry to a properly identified Environmental Health Specialist.
  4. Reinspection fees will be assessed for every required reinspection completed until such time as the inspection is able to be fully completed or the violation ceases to exist.
  5. The Health Department will generate an invoice for a reinspection fee after the billable reinspection is completed.
  6. The Health Department may not issue or renew an establishment license until all fees due under this regulation are paid in full.

**2-0.070 Food Service, Drinking Water, and Sanitation Requirements.**

All bed and breakfast establishments, hotels, motels and tourist rooming houses shall comply with the following requirements:

- A. *Food Service.* Except as provided in this regulation, all hotels/motels and tourist roominghouses shall comply with the requirements of the Wisconsin Food Code, ATCP 75, and the Board of Health Chapter 1: Food Establishment Regulation and meet all of the following requirements:
1. Breakfast shall be limited to a continental breakfast (beverage and pastry, toast or cereal) unless pre-packaged food obtained from a licensed restaurant and/or approved food processor, is served or the operator or a manager is certified as required in section 2-0.050D of this regulation.

2. Potentially hazardous foods shall be prepared the day it is served. Left over potentially hazardous food shall not be served to guests.
3. Once served to a guest, portions of leftover food may not be served again except that packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition, may be re-served.
4. A metal stem-type numerically scaled indicating thermometer accurate to +/- 2°F(1°C) shall be provided and used to ensure that the proper internal cooking and/or holding temperature is maintained.
5. Utensils used in the preparation and serving of meals to the guests must be properly washed and sanitized using the five step procedure as follows:
  - a. Prewash and scrape gross particles and soil from the utensils.
  - b. Wash in water having a minimum temperature of 110°F(43°C) and containing an adequate amount of an effective soap or detergent.
  - c. Rinse the utensils with clean water so that they are free of detergents and abrasives.
  - d. Sanitize the utensils by immersing in a hypochlorite solution for at least two minutes at a concentration of 100 parts per million or by another approved sanitizing solution which shall be used in accordance with the manufacturer's directions. A test kit or other device that accurately measures the parts per million concentration of the sanitizer solution shall be available and used.
  - e. After sanitizing, all equipment and utensils shall be air dried in a manner that will protect them from contamination.
6. To prevent cross contamination, utensils and food contact surfaces shall be washed, rinsed, and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

**B. *Drinking Water.***

1. Drinking water shall be safe and obtained from a public water system or a private water system that is located on premise and constructed, maintained, and operated in accordance with Chapter NR 809 and NR 812 of the Wisconsin Administrative Code as enforced by the Department of Natural Resources or their designated agent.
2. Common drinking cups shall not be provided or used. If ice is provided, it shall be handled, transported, stored, and dispensed in such a manner as to be protected against contamination.

**C. *Sanitation Requirements.*** The following regulations shall apply to bed and breakfast establishments only to the extent that they are not in conflict with state laws, rules or regulations.

1. Bed and breakfast establishments shall comply with the provisions as set forth in the City of Eau Claire Code of Ordinances Chapter 16.08, Housing Maintenance and Occupancy Code ss. 16.08.070, 16.08.080, 16.08.090, 16.08.100, 16.08.165, 16.08.170, which are incorporated in this regulation by reference and they shall be construed, read and interpreted as though fully set forth herein.
2. Beds, linen, furnishings – Sanitary condition.

- a. Clean bed linen in good repair shall be provided for each guest who is provided accommodations and shall be changed between guests and as often as necessary.
- b. Clean linen shall be stored and handled in a sanitary manner and separated from soiled linen.

**2-0.080 Regulations, Rules, and Laws Adopted Reference.**

The applicable laws, rules, regulations set forth in s. 97 Stats., Chapters ATCP 75, 72, and 73, of the Wisconsin Administrative Code and the City of Eau Claire Code of Ordinances Chapter 16.08, Housing Maintenance and Occupancy Code ss. 16.08.070, 16.08.080, 16.08.090, 16.08.100, 16.08.165, 16.08.170 are incorporated in this regulation by reference and they shall be construed, read and interpreted as though fully set forth herein. The express provisions of this regulation shall control where more restrictive.

**2-0.090 Appeals.**

Appeals of Health Department orders shall be pursuant to Health Department policy adopted in conformance with the procedures for conducting appeals enumerated in s. 68 Stats. Copies of the appeal procedures shall be available at the Health Department.

**2-0.100 Violation – Penalties.**

Any person who violates or refuses to comply with any provisions of this regulation shall be subject to a citation under s. 1.24.010 of the City of Eau Claire Code of Ordinances and s. 1.50.010 of the Eau Claire County Code. Each day a violation exists or continues shall be considered a separate offense. Citations shall be issued in the City of Eau Claire under Chapter 1.24 of the City of Eau Claire Code of Ordinances and in Eau Claire County under Chapter 1.50 in the Eau Claire County Code and the issuance shall follow the procedures therein. Injunctive relief may be sought by the Health Department against continuing violations.

**2-0.110 Effective Date.**

All regulations and parts of regulations in conflict with this regulation are hereby repealed; and this regulation shall be in full force and effect August 24th of 2016 after its adoption and publication as provided by law.

By order - Eau Claire City-County Board of Health

Dated this twenty-fourth day of August, 2016.

Effective on August 24, 2016.