

CITY OF MADISON, WISCONSIN

AMENDED 2ND SUBSTITUTE ORDINANCE _____

PRESENTED
REFERRED

FROM THE FLOOR 8/6/13
Plan Commission; Public
Hearings: PC 8/26/13;
CC 9/3/13

Amending Sections 28.032, 28.061, 28.072, 28.082, 28.091 28.151, and 28.211 of the Madison General Ordinances to add Tourist Rooming House to the Zoning Code and to eliminate spacing requirements between bed and breakfast establishments.

LEGISTAR 31136

Drafted by: Maureen O'Brien

Date: November 15, 2013

SPONSOR: Alds. Clear, Bidar-Sielaff, Phair, and Zellers

DRAFTER'S ANALYSIS: The City has become increasingly aware of websites such as VRBO and AirBnB that facilitate short-term rentals of private homes. The current zoning code does not specifically address these rentals. The code regulates bed and breakfast establishments; however many of these new rentals would not be eligible for a bed and breakfast license. A B&B license requires the owner to be present in the home at the time of rental.

Under state law, this other type of rental is defined as a "Tourist Rooming House (TRH)." Such establishments are required to be licensed by the health department and to pay room tax just as hotels and bed and breakfast establishments do. This amendment establishes a Tourist Rooming House as a permitted use in all districts, and requires that they be operated by an owner who uses the property as his or her primary residence. It requires that a TRH be licensed with Public Health of Madison and Dane County, registered with the Treasurer's office, and pay room tax. Additionally, this amendment limits operation of a TRH to the owner of the property, unless a lease agreement specifically allows a renter to operate, and sets a maximum limit for operation of a TRH at thirty days per licensing year.

This amendment also eliminates the 500-foot spacing requirement between bed and breakfast establishments, and clarifies that a bed and breakfast establishment must be the owner's personal residence, but not necessarily his or her primary residence. This distinction would allow a person who lives part of the year in another state to operate a bed and breakfast during the time they live in their Madison home. This is different from the rule for TRH, which requires that the residence be the owner's primary residence.

POST-ADOPTION EDITOR'S NOTE: In the final version of this amendment, the 30-day limit for Tourist Rooming Houses was changed. The final version limits operation of a tourist rooming house to 30 days when the operator is not present in the home during the time of rental, sometimes referred to as a "whole house rental." However, there is no limit to the number of days a TRH may operate if the operator is home during the rental. This is similar to the rule for Bed and Breakfasts, which has no maximum days per year.

In addition, the final version of the amendment added a requirement that the operator maintain a guest registry. This guest book must be available on-site for inspection, and will assist the City in ensuring compliance with these regulations.

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

Approved as to form:

for Michael P. May, City Attorney

1. Table 28C-1 of Subsection (1) of Section 28.032 entitled “Residential District Uses” of the Madison General Ordinances is amended by creating therein the following:

“Residential Districts																
	SR-C1	SR-C2	SR-C3	SR-V1	SR-V2	TR-C1	TR-C2	TR-C3	TR-C4	TR-V1	TR-V2	TR-U1	TR-U2	TR-R	TR-P	Supplemental Regulations
Retail, Service, Recreation and Other Uses																
Tourist rooming house	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Y”

2. Table 28D-2 of Section 28.061 entitled “Mixed-Use and Commercial Districts Uses” of the Madison General Ordinances is amended by creating therein the following:

“Mixed-Use and Commercial Districts							
	LMX	NMX	TSS	MXC	CC-T	CC	Supplemental Regulations
Commercial Recreation, Entertainment and Lodging							
Tourist rooming house	P	P	P	P	P	P	Y”

3. The Table 28E-2 of Subsection (1) of Section 28.072 entitled “Downtown District Uses” of the Madison General Ordinances is amended by amending therein the following:

“Downtown and Urban Districts						
	DC	UOR	UMX	DR1	DR2	Supplemental Regulations
Commercial Recreation, Entertainment and Lodging						
Tourist rooming house	P	P	P	P	P	Y”

4. The Table 28F-1 of Subsection (1) of Section 28.082 entitled “Employment District Uses” of the Madison General Ordinances is amended by amending therein the following:

“Employment Districts							
	TE	SE	SEC	EC	IL	IG	Supplemental Regulations
Commercial Recreation, Entertainment and Lodging							
Tourist rooming house	P	P	P	P			Y”

5. The Table 28G-1 of Subsection (1) of Section 28.091 entitled “Special District Uses” of the Madison General Ordinances is amended by amending therein the following:

“Special Districts						
	A	UA	CN	PR	AP	Supplemental Regulations
Commercial Recreation, Entertainment and Lodging						
Tourist rooming house	P				P	Y”

6. Section 28.151 entitled “Applicability” of the Madison General Ordinances is amended by amending and creating therein the following:

“Bed and Breakfast Establishment.

- (a) A maximum of eight (8) rooms shall be rented.
- (b) The establishment shall have a current license from Public Health of Madison and Dane County.
- (c) The only meal that may be served is breakfast to registered guests.
- (d) Fire protection shall be approved by the Fire Department, and may be more restrictive than State requirements.
- (e) Length of stay shall not exceed twenty-one (21) consecutive days for each registered guest.
- (f) No more than twenty (20) tourists or transients shall be allowed to rent at one time.
- (g) The owner of the residence shall occupy the residence at the time of rental.”

Tourist Rooming House.

- (a) The establishment shall have a current license from Public Health of Madison and Dane County, as required by Wis. Admin. Code ch. DHS 195.
- (b) The tourist rooming house shall be the operator’s primary residence.
- (c) Owner 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.
- (e) 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.
- (f) 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) Maximum tourist occupancy shall comply with maximum family occupancy rules in the underlying zoning district regulations.
- (h) 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 during stay, and length of stay. The registry shall include all information from the current registry year and the year immediately prior.”

7. Section 28.211 entitled “Definitions” of the Madison General Ordinances is amended by amending or creating therein the following:

“Bed and Breakfast Establishment. A private residence that rents rooms as temporary lodging and which is the personal residence of the operator.

Tourist or Transient. A person who travels to a location away from his or her permanent address for a short period of time, not to exceed thirty days for vacation, pleasure, recreation, culture, business or employment.

Tourist Rooming House. A building or portion thereof, 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.”