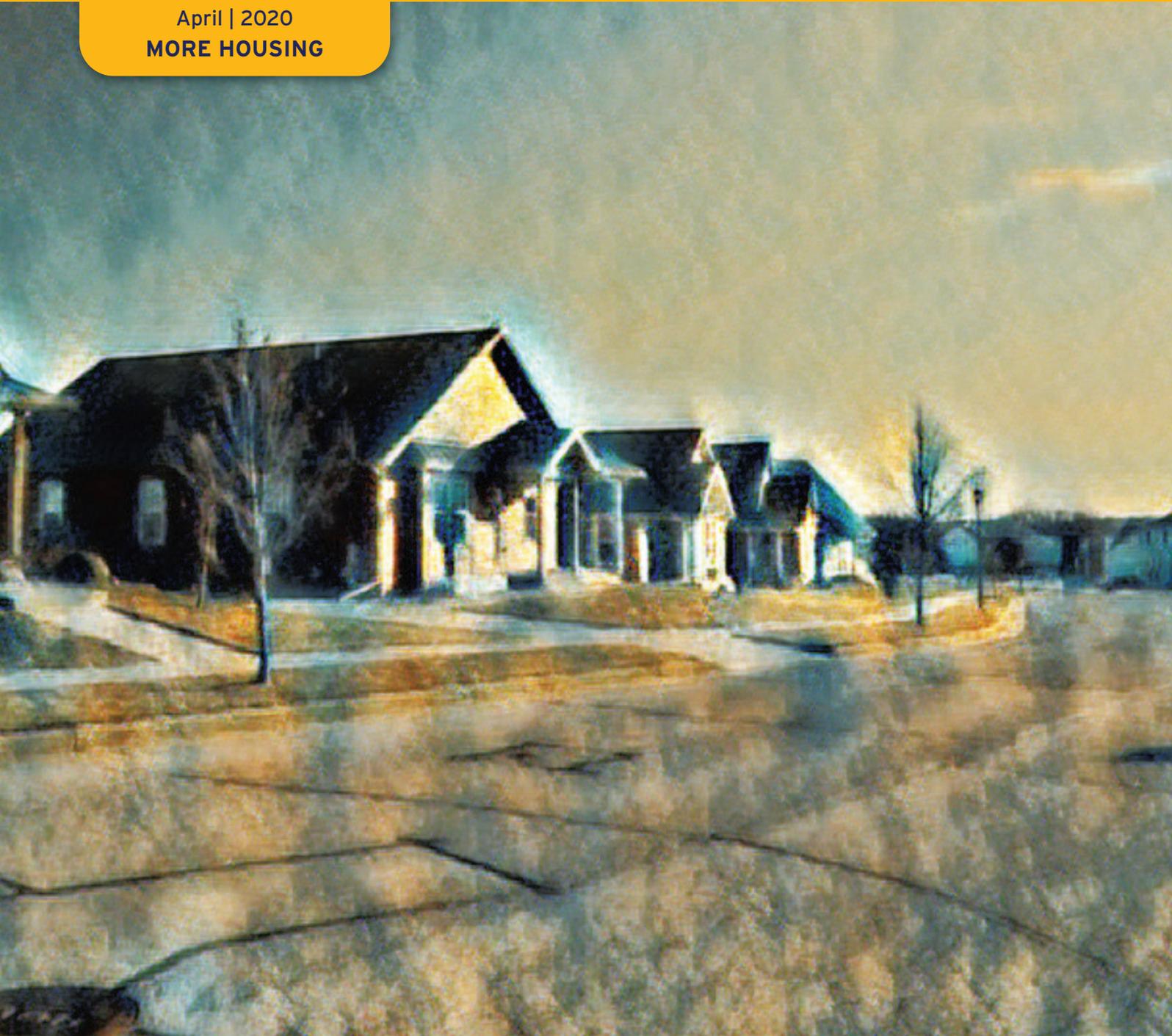


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On the Cover

In the Village of Belgium, the New Luxembourg Development showcases the history and culture of the European country of Luxembourg. This region of Wisconsin has one of the largest populations of Luxembourg immigrants and their descendants in the U.S. The town hall in the Village of Belgium has been created with the intentions of replicating a typical village square in Luxembourg. The square features a beautiful plaza and gardens where local events and activities are often held throughout the year. This is a very popular spot in the summer months when visitors of all ages can enjoy the splash pad fountains. These energy efficient, single-family homes are part of the development. Photo thanks to Vickie Boehnlein, Treasurer/Deputy Clerk, Village of Belgium.



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COVID-19

Jerry Deschane, Executive Director, League of Wisconsin Municipalities



It's 12:51 p.m. on Monday, March 16, and all the decisions that I thought we had made Friday afternoon are now up in the air. Can you relate? Welcome to COVID Spring 2020.

First things first, the League has decided to postpone the Building Inspectors Institute, currently scheduled for April 15-17. We're planning to reschedule that important workshop later this year.

Second things second, the spring Local Government 101 workshops are still on the schedule, but that may have changed by the time this magazine goes to print. We are re-evaluating our event schedule every day. Please see the League website for the most up-to-date information.

For all other things: please stay in touch. We know you have dozens of questions about open meetings law, elections, facilities, and employment law. We're scrambling to get answers back to you as quickly as we can (and we're updating those answers as frequently as new information becomes available). The League is implementing a policy of "Constant Communication," to be there for you during this hectic period. Constant Communication is a two-way policy. It means we are listening with all of our ears, real and electronic, for your questions and concerns. And then it means we are getting the best information to you as soon as it is available, using every means of communication at our disposal. We will be giving you updated event schedules, legal comments, and examples

of best practices from your peers. We will be hosting webinars, teleconferences, and more. We are in touch with the governor's office and the department of Health Services. We have a Covid-19 web page where we are putting all things COVID and Municipal. Check it regularly.

The strength of the League is still what it was in 1898 when a half-dozen mayors met in Madison in Mid-December. The League is your information exchange on all things municipal. It may be 2020, we may be practicing "Social Distancing," but that doesn't mean we have disconnected from our mission. You're there for your citizens. We're here for you.

Stay in touch. And stay well.

Jerry

Because of the increased risk of contracting coronavirus (COVID-19) in a large-group setting of more than 50 people, and following the recommendations of the CDC and the Wisconsin Department of Health Services, we are evaluating the status of upcoming League of Wisconsin Municipalities events. Please check our website for updates. <https://lwm-info.org/>

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Local Governments Can Address Wisconsin's Workforce Housing Shortage

Kurt Paulsen, Professor of Urban Planning, University of Wisconsin-Madison

When families can't find decent, safe, and affordable homes near where they work or near good transportation, they either spend too much of their income on housing or they drive long distances every day. When the supply of housing for the workforce in an area is inadequate, businesses find it harder to recruit and retain workers. My research report for the Realtors Association, "Falling Behind" documents this workforce housing shortage across the state: rural and urban; north and south; big cities, growing suburbs, and small towns. As I've traveled around the state presenting this research and listening to local government officials, it's clear that housing is on everyone's radar and there is growing interest in bold and innovative solutions to this long-simmering problem. Economic development officials around the state tell us that they have open jobs to fill, but no housing for the potential workers. Housing is economic development because a house is where a job goes to sleep at night.

In this article, I will outline how local governments in Wisconsin can begin to address the workforce housing shortage in their communities, based on practices around the state.

But before I outline those steps, we need to wrestle with a tension or struggle most local officials feel, the tension between awareness of the needs for more workforce housing but the reality that existing residents in your city or village are not enthusiastic about any increased supply of housing, particularly the type of housing that is affordable for workers with modest incomes. Before we can even get to innovative local solutions to the workforce housing shortage, we need to engage in broader community conversations about workforce housing, taxes, and community growth.

Two Conversations, Same Result

As a local official (plan commission), I have had some version of this first conversation at least 40 times in the past year. I suspect most elected officials have had a similar conversation or two. It goes something like this, either in private or at a public meeting: "Please stop approving all this new housing development because my property taxes are already too high and are going up too fast."

This conversation is not the garden-variety NIMBY (not-in-my-backyard) where a person opposes a project in their specific neighborhood. It is a more general critique of development and property tax burdens in Wisconsin. And, at first glance, it is not an unreasonable claim, even if only half of the story.

When existing residents see new housing, they see more kids in the public schools (and possible school expansion or new construction) and an increased service demand for services such as police, libraries, parks, etc. They likely see increased traffic, and perhaps worsening road quality. What they don't see, of course, is the state structure of municipal levy caps, school district aid formulas, and the significant decline in shared revenue from the state to local governments and school districts.

The second conversation is similar, and it's one I've had with multiple local elected officials after I give talks about solutions to Wisconsin's workforce housing shortage. It goes something like this: "Privately, I agree with you. More housing, more flexible and innovative types of housing such as smaller houses on smaller lots, townhomes, duplexes, granny flats, multifamily, reduced lot sizes, frontage requirements, and parking requirements. Yes, yes, yes. But publicly, I can't go there or I'd be run out of office. My businesses are telling me they need more workers and more housing for those workers, but there's no way to get that through City Council or the Village Board because of the opposition of existing homeowners in my municipality."

This often leads to an impasse, which we see play out in communities across the state. There is a clear need for more housing of all styles and types, and particularly the type of less-expensive housing for younger families, seniors, and the workforce in an area. But most builders and developers aren't proposing this type of housing because the zoning won't allow it and the re-zoning process is time consuming, expensive, and uncertain. Even if developers and builders could respond to market demand with a more flexible and innovative housing product, the high cost of construction labor and materials, along with municipal fees and infrastructure expenses make new construction very expensive.

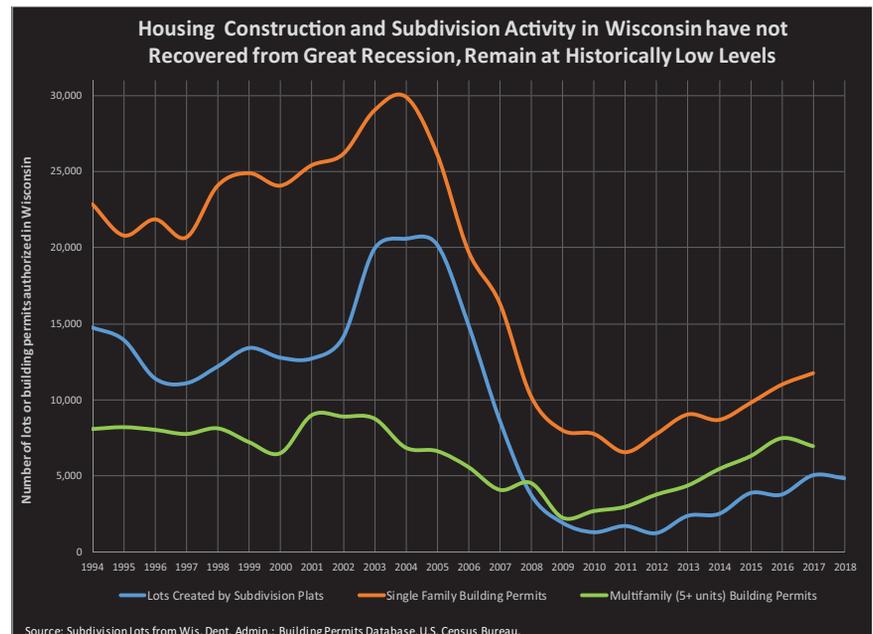
We seem to be stuck, and local officials feel squeezed from all directions. The research shows a significant shortage of workforce housing in the state which constrains our economic and employment growth. And yet, housing production is way down. As a state, we are adding population and jobs, but not enough housing. The 2019 numbers have just been published, and the trend line is in the wrong direction!

My report included data on housing lots created by subdivision plat from the Dept. of Administration and building permit data from the Census only through 2018. The number of building lots created in 2018 was just over 5,000 lots in the state, but for 2019 that number is down to 4,500. Total building permits in the state for 2018 were 19,113 but for 2019, the preliminary estimates show that number dropping to 17,589. That's a 10 percent drop in building lots and an 8 percent drop in building permits.

I think it's fair to say that most local elected officials recognize this as a problem and want to do their part to address the problem. But I've also heard clearly that these local officials are looking to the state government for leadership and resources, not imposing the burden only on local governments alone.

Starting the Conversation in Your Community

From my experience, communities that are successful in expanding workforce housing usually establish a committee or task force or something similar to scan the community's housing situation and provide a forum for housing stakeholders to discuss solutions and devise programs of education and outreach to the elected officials and community members. These groups tend to work best when they are meeting regularly (sometimes established by ordinance) and involve a wide range of groups and stakeholders: elected officials, builders, neighborhood associations, churches, community groups, Chambers of Commerce, Realtors, bankers, employers, nonprofits, and school districts. If your community does not have a housing-related committee, you can start one with just two or three people and then strategize whom else to invite. I've seen these groups form when a local elected official takes an interest in housing or when two or three local residents start organizing. If you want to make progress, there has to be an organized group to educate and advocate.



Some examples from around the state give us a flavor of what these committees can do. The city of Fitchburg created an ad-hoc committee to develop a housing study and housing plan, and then regularized this as a city committee, the Housing Advisory Committee. My own city, Middleton, has had a Workforce Housing Committee for over 10 years, which includes alderpersons and citizens. The city of Eau Claire just recently established a Housing Opportunities Commission, which is a great name because of the focus on opportunities.

Depending on the level of capacity and interest in the community, this housing committee or task force could ask some diagnostic questions of their community, including consulting local planners and reading the housing element of the local comprehensive plan. I propose the following diagnostic questions as a start:

1. Who are the interested community members and/or stakeholders that I can bring together to talk about housing and develop strategies?
2. Can people who work in our community afford to live in our community?
3. What is the forecasted housing demand in our comprehensive plan? Does our comprehensive plan clearly show that we intend to provide an adequate developable land supply to meet forecasted housing demand?
4. Do we provide a variety of lot sizes and housing types in our zoning ordinance?

5. Are we providing housing that is affordable for all income levels?
6. In which zoning districts (and how much of our land area) is “missing middle” housing allowed by right?
7. In which zoning districts (and how much of our land area) is multifamily housing allowed by right?
8. Are “accessory dwelling units” (ADUs) permitted in any residential districts?
9. Does our community provide reasonable and economically realistic opportunities for the development of workforce housing? (Invite local builders to spec-out a housing product to show the costs of housing development.)
10. Are our businesses having difficulty recruiting/retaining workers because of housing problems?
11. How are we meeting the housing needs of seniors, disabled, or those with special needs?

12. How can we change our zoning and other land use regulations to expand housing choice, meet forecasted demand, and reduce the cost of housing?

Many of these questions are based on best practice in other states or on Wisconsin’s comprehensive plan housing element law.

Housing committees around the state have also partnered with other communities or counties to organize housing studies, housing summits, housing tours, or presentations by local experts or planners on a variety of housing topics.

Employers and businesses within a community can also organize themselves to promote a greater supply of workforce housing. I’ve seen a number of local chambers organize housing committees or presentations. I also want to encourage a great idea I’ve seen in my own community: a group of concerned citizens created a group called “Voices in Favor” to support affordable and workforce housing in our city. They regularly show up to plan commission or City Council when housing developments are proposed to be the voices in favor of the project.

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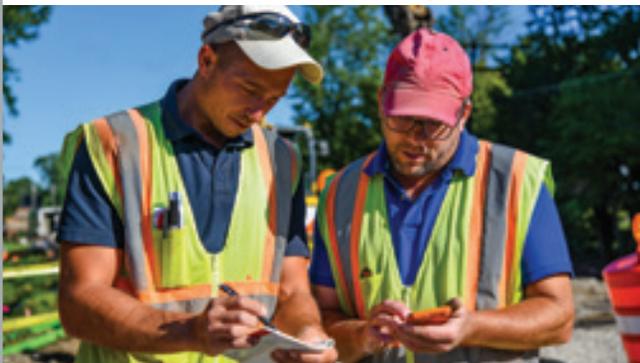
There are lots of creative organizing and educational activities happening around the state with regards to housing, too numerous to mention here. Building a network of community support and educating your community about housing needs is the most important long-term strategy to address the workforce housing shortage. Elected officials, appointed members of boards and commissions, and municipal staff can lead the community conversation by educating their community on the workforce housing shortage and the need for innovative and bold solutions. And, of course, we can all continue to educate and communicate with our state elected officials of the need for additional tools and resources.

About the Author:

Kurt Paulsen is a professor of urban planning at UW-Madison. He serves on the city of Middleton plan commission and is former chair of its Workforce Housing Committee. He wrote the housing needs assessments for Dane County and the publication *Falling Behind* for the Wisconsin Realtors Association. All remarks are his own and do not reflect the views of any city, county, or state agency or organization. Contact Kurt at kpaulsen@wisc.edu

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Removing Local Barriers to Workforce Housing

Tom Larson, Senior Vice President of Legal and Public Affairs,
Wisconsin REALTORS® Association

Under the basic laws of supply and demand, when housing demand exceeds housing supply, housing prices increase. In a perfect market, housing supply would increase in response to the housing demand and housing prices would stabilize.

Unfortunately, the Wisconsin housing market has not reacted in this manner – statewide housing inventories and vacancy rates are at historic lows, median home prices and rents continue to rise, and the supply of housing, both owner-occupied and rental, has not increased accordingly. In short, Wisconsin has a significant housing shortage, especially moderate-priced housing that working families can afford.

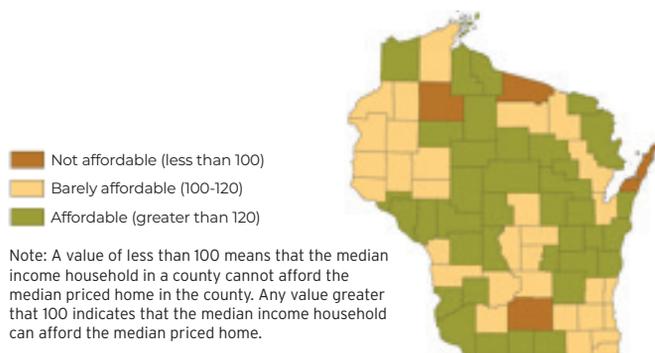
Wisconsin’s housing shortage is also taking a toll on employers, as well as our economy. Wisconsin employers are finding it increasingly difficult to recruit workers unless the nearby area has attractive and affordable housing options. Unless this workforce housing problem is fixed, Wisconsin will be unable to keep and attract the skilled workers necessary for our state and local economies to thrive.

Causes of Wisconsin’s Workforce Housing Shortage

While numerous factors play a role in Wisconsin’s workforce housing shortage, a recent study conducted by Professor Kurt Paulsen, UW-Madison Department of Urban and Regional Planning (commissioned by the Wisconsin REALTORS® Association), identifies the following reasons as primary contributors:

- 1. Wisconsin has not built enough homes to keep up with population and income growth.** Compared to pre-2009 recession levels, Wisconsin is creating 75 percent fewer lots and 55 percent fewer new housing units since 2012. (See graph above.) When adjusted for population, building permits per capita and new lots per capita are less than 50 percent of what they were in the '90s and early 2000s.
- 2. Construction costs are rising faster than inflation and incomes.** Since the Great Recession, construction costs have increased by 14.7 percent in Madison, 14.9 percent in Milwaukee, and 16.2 percent in Green Bay. Most builders will tell you that these estimates are extremely conservative and actual construction costs are actually two to three times higher. The increased construction costs are due to higher

Wisconsin Entry-Level Housing Affordability Index by County, 2017



material prices, but also due to a “severe labor shortage.” The report cites an Association of General Contractors survey saying 73 percent of Wisconsin construction firms reported labor shortages.

3. Outdated land-use regulations drive up the cost of housing.

Local land-use regulations such as large minimum lot sizes, prohibitions on non-single-family housing, excessive parking requirements, requirements for high-end building materials, and long approval processes raise the cost of housing.

Ways Municipalities Can Increase the Supply of Workforce Housing

The solutions to Wisconsin’s workforce housing shortage are both simple and complex. Increasing the supply of housing is the easy answer, but achieving this goal is more challenging, requiring, among other things, an increase in construction labor, lower building material costs, and better ways to finance infrastructure costs.

While most of these solutions must be addressed at the state or national level, local communities can play a significant role in increasing the supply of workforce housing in the following manner:

- 1. Expedite approval processes** – The approval process for new residential development often takes an excessive amount of time. Whether a new development requires rezoning, a conditional use permit, or planned unit development approval, the process takes time and often

requires considerable patience and a big checkbook to navigate through it.

In most cases, only large developers can afford to fight through this process. But, even in such cases, they generally will need to increase the size and scope of their project to recoup their costs. This will often prevent more modestly priced houses from being included in the development project.

Delays resulting from the permitting process add to the cost of housing either directly through higher prices, or indirectly through the loss of new construction projects which reduces supply. A housing project will not be built if the developer will lose money.

Streamlining permitting processes can be achieved with relatively little, if any, cost to municipalities. In fact, a municipality may actually save money by reducing administrative costs.

2. Increase densities and smaller lot sizes – Land costs are one of the biggest contributors to overall housing costs. Houses built on larger lots generally will be more expensive than houses built on smaller lots. While this seems obvious,

many local zoning regulations and platting requirements ignore this fact.

Similarly, zoning regulations that require only single-family homes to be built on each lot will increase housing costs. More housing units built on individual lots will spread the lot costs over multiple units, thus lowering the per-unit housing costs.

Increasing densities by integrating smaller-scale, multifamily dwellings with single-family houses has been a popular trend. The city of Minneapolis, for example, has banned single-family zoning to encourage more accessory-dwelling units, duplexes, and other multi-unit buildings. Seattle relaxed zoning regulations in 27 transit-oriented neighborhoods. The state of Oregon enacted a law to eliminate single-family zoning across the state.

While the approach taken by each of these jurisdictions is slightly different, they all share in common the recognition that increasing housing densities is the correct path for lowering the costs and increasing the supply of housing.

3. Reduce development-related fees – Despite claims to the contrary, impact fees increase the cost of housing. It's

► p.10

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a common misperception that impact fees are paid by the developer, not the homebuyer, and increasing fees will simply result in less profit for developers, rather than make housing less affordable. This false belief is further reinforced by the notion that housing prices are set by the free market and increasing development costs cannot increase the price of housing beyond what the free market is willing to pay.

Impact fees are passed onto the homebuyer in the form of higher home prices. When fees are so high that home prices are no longer affordable and cannot be built for a reasonable profit, the homes are not built. New housing that most workers and young families can afford are currently not being built because they are too expensive to build, and impact fees are partly to blame.

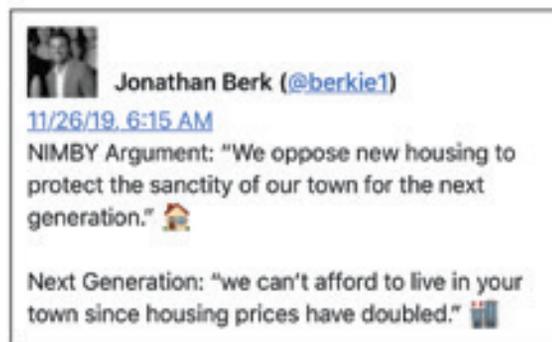
Every year, the National Association of Homebuilders (NAHB) calculates the impacts of increased housing costs on housing affordability. Specifically, NAHB calculates how many households are priced out of the home-buying market for every \$1,000 increase in home prices, based upon statewide median home prices and the income needed to qualify for a typical 30-year mortgage. According to NAHB's 2020 study, 3,561 households statewide are priced out of the home-buying market for every \$1,000 increase in home prices. https://www.nahbclassic.org/fileUpload_details

With impact fees being charged for such things as parks, fire protection, law enforcement, libraries, transportation services, and water management, it is easy for impact fees to add thousands of dollars to the price of a new home. While the amount of impact fees varies by municipality, the point is clear – as home prices increase, fewer people can afford them, resulting in fewer homes being built.

4. Quiet NIMBYs – One of the biggest barriers to new homebuilding in communities is the opposition from existing residents or NIMBYs (Not In My Back Yard). Regardless of what new development is being proposed, someone is bound to object.

Communities often spend years and thousands of dollars on outside consultants, public hearings, and staff time to help develop a comprehensive plan to guide future development in the community, only to ignore the plan due to public opposition when a developer actually tries to build the type of housing specified in the plan.

The list of reasons for NIMBY opposition is long and may include the loss of open space, increased density, traffic, overcrowding in schools, neighborhood character, property tax increases, or just change in general.



While developers are often the targets of NIMBYs, the victims of NIMBYism generally are those who would have occupied these new homes. Generally, they include fellow members of the community who are on fixed incomes, young families, teachers, police officers, and workers in the service industry who are looking to improve their lives by finding a better place to live.

By opposing the development of new housing, NIMBYs limit the supply of housing necessary to meet demand, causing prices to increase further. In addition, when people can't afford to live in the communities in which they work, they are forced to move farther away to find homes they can afford, putting more cars on the road for longer commutes and creating more wear and tear on our roads, among other things.

5. Plan Strategically for Workforce Housing – Numerous communities identify the shortage of housing as a major concern, but very few fully utilize the strategic planning tools necessary to help attract new housing. In fact, they often ignore or make half-hearted efforts to comply with state laws that direct them to provide workforce housing.

For example, under Wisconsin's comprehensive planning law, all municipalities are required to proactively plan for housing by providing, among other things, "an adequate supply of housing to meet existing and forecasted housing demand" and "a range of housing choices that meet the needs of persons of all income levels." See Wis. Stat. § 61.1001(2)(b). While many municipalities have created well-crafted housing elements that identify areas within the community for workforce housing, very few communities are actually willing to implement the plan and approve workforce housing proposals when faced with local opposition.

Moreover, cities and villages with a population of 10,000 and above are required to complete a housing affordability report by January 1, 2020. See 2017 Wis. Act 243. The housing affordability report is essentially a self-audit of the municipality's own development-approval process, building

codes, and development-related fees to assess their impact on the cost of housing. As part of this report, municipalities must identify ways to reduce housing costs by 20 percent within their community.

To date, many of the completed housing affordability reports lack sufficient detail to serve as an effective tool to promote more workforce housing.

Conclusion

Wisconsin’s workforce housing shortage is not going away anytime soon. Too few residential lots are being created and too few housing units are being built. Unless changes are made to local regulations, fees, and approval processes to reduce the cost of new housing, Wisconsin will continue to fall further behind in meeting the housing needs of our families, workers, and economy.

Editor’s Note: Nothing included herein is to be construed as having the endorsement of the League of Wisconsin Municipalities.

About the Author:

Tom Larson, Senior Vice President of Legal and Public Affairs, is the chief lobbyist for the Wisconsin REALTORS® Association. Mr. Larson began his career with the WRA in 1996, and oversees the WRA’s lobbying, political operations, and legal services.

Tom has been actively involved in the creation and enactment of numerous state laws and policies impacting property owners and the real estate industry. He is a member of the Wisconsin State Bar, admitted to practice before the U.S. Supreme Court, and often serves on various committees and task forces for the State of Wisconsin and the National Association of REALTORS®. Contact Tom at tlarson@wra.org

It’s Time to Create the Future of Housing

Housing is central to well-being; thus, our homes should support our lives, both today and into the future. By 2030, one in every five Americans will be over age 65, and the majority of older adults want to remain active and live independently in their homes and communities as they age. Yet our nation’s housing stock is not prepared for this trend and, consequently, many stand to be affected by a critical shortage in accessible and affordable housing.

Thinking about our future needs is of paramount importance today, for our communities and the people living in them face many issues:

- The risk of developing chronic health conditions or physical disabilities rises as we age.
- Today more people live alone than in decades past; these people may lack family caregiving support or be at greater risk of social isolation.
- Household income is not keeping pace with rising housing costs, forcing many to make tough choices between priorities such as food, medicine, transportation, and their housing.
- Natural disasters, which in recent years have devastated some communities, can exacerbate existing issues faced by vulnerable populations, and even create new challenges for them.

In light of such issues and the aging trend as a whole, as we look to the future we must expand housing options to meet the needs of people of all ages, incomes, and levels of physical ability, wherever they may live. Local officials and other community stakeholders can work to expand housing options through efforts such as:

- Building accessory dwelling units;
- Creating accessible, universally designed or visitable housing with features to make them easier for someone with limited physical mobility to navigate;
- Facilitating solutions that provide greater access to transportation, health care, or supportive services nearby, and
- Helping to build more resilient housing, especially in areas prone to natural disasters.

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In-Law Suites & Fonzie Flats: Survey Shows New Demand for a Time-Tested Housing Strategy

Susan Thering, Ph.D., Executive Director, Design Coalition Institute

Technically known as Accessory Dwelling Units, or “ADUs,” a recent survey of homeowners in Dane County and the city of Madison suggests there is a pent-up demand for this market-based, family-friendly, housing strategy. Granny flats, basement apartments, garage apartments, backyard cottages, and in-law suites are a few of the creative ways homeowners add ADUs to their homes.

For some homeowners ADUs are an income-generating investment. Some enjoy the benefits of multi-generational living. Others realize both the health and economic benefits of caring for loved ones at home, and others invest in an ADU to secure those benefits for themselves in the future.

The ADU survey, conducted in the spring of 2019 by Design Coalition Institute, a Madison-based nonprofit organization, in cooperation with Dane County Planning, the City of Madison Department of Planning and Development, and the Capital Area Regional Planning Commission (CARPC), identified steps local governments can take to meet that demand.

#1: Update local codes to make the application and approval processes for ADUs less costly, confusing, and time consuming for homeowners.

#2: Implement technical assistance programs for homeowners, including assistance with needs assessment; hiring architects and contractors; navigating the application and approval process; reducing or waiving development fees; and assessing the financial implications of adding an ADU.



#3: Implement a public education program to dispel the misperceptions about ADUs that foster “Not In My Back Yard” sentiments.

A recent report about ADUs from AARP notes “*This traditional home type is re-emerging as an affordable and flexible housing option that meets the needs of older adults and young families alike.*” AARP offers several ADU related resources, including *A Step by Step Guide to Design and Development for Homeowners*, and *The ABCs of ADUs: A Guide to Accessory Dwelling Units and How They Expand Housing Options for People of All Ages* <https://www.aarp.org/livable-communities/housing/info-2019/accessory-dwelling-units-adus.html>

For more information and links to additional resources, see www.DesignCoalitionInstitute.org. Contact Sue at susan@designcoalition.org

Editor’s Note: See the legal article on ADUs on page 18 of this magazine.

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Northern Wisconsin Communities Moving Forward On Housing Study

Local Leaders Seek Support for Efforts to Grow Affordable Housing

Danielle Kaeding, Reporter, Wisconsin Public Radio



This story aired on Wisconsin Public Radio (WPR) on February 12, 2020 and is reprinted with permission of the author.

Northern Wisconsin communities are joining forces on a study of housing needs in Ashland and Bayfield counties. Northern leaders met with state housing officials during the 35th annual Superior Days in Madison to seek support for efforts to grow affordable housing in rural areas.

The city of Bayfield was recently awarded a roughly \$84,000 grant from the state Department of Administration for a housing study of Ashland and Bayfield counties, which would likely begin April 1. The study is set for completion by January.

Bayfield Mayor Gordon Ringberg said there's a clear need for affordable workforce housing, especially for those working in the city's hotels and restaurants. He said Bayfield is losing rentals regularly to owners who would rather list properties for short-term rental.

"So, workers need to live outside of the city. They can't find a place in the city at all if they're going to work downtown," said Ringberg. "Normally, they're living in Ashland, which could be a 45-minute drive away."

Bayfield County Board member Jeff Silbert noted the region also has an aging population. According to state projections, more than half of the county's population is expected to be 55 and older by 2040.

"Most of those elderly people want to age in place, but some of them can't age in place," Silbert said.

Over the last nine months, local community leaders have been discussing some challenges facing the area. Sheldon Johnson, executive director of the Northwest Wisconsin Regional Planning Commission, said they often see nonresidents buying properties as they're looking to retire up north.

"Really what we're trying to identify is what are the housing needs currently present in the communities," Johnson said.

A survey of residents in Ashland and Bayfield counties will be conducted in the coming months to gather information for the



Bayfield Mayor Gordon Ringberg, center, talks about efforts by northern Wisconsin communities to address housing needs with Joaquin Altoro, second from right, chief executive officer of the Wisconsin Housing and Economic Development Authority.

study about the age of homes, mortgage costs, necessary home improvements and residents' desire to stay in place or seek other housing.

Ringberg said the goal of communities who are working together is to pursue a "scattered" housing development spanning multiple sites rather than one large project. Rural officials have said that developers are often wary of pursuing smaller developments where they may be unable to recover costs. He hopes the study will demonstrate the need.

"Perhaps it'll still bring a developer in because he can see a way to make money at it," Ringberg said.

The chief executive officer of the Wisconsin Housing and Economic Development Authority (WHEDA), Joaquin Altoro, said other small communities are facing similar issues statewide.

"If a community comes in, it's only 20 units, so I like to see the fact that you're aggregating (communities) or finding developers," Altoro said.

Altoro said WHEDA is trying to shift the way it conducts business by working more closely with municipalities in addition to developers and property managers on housing projects.

He also highlighted amended legislation recently approved by the Assembly that WHEDA is supporting that would establish a pilot program and supplemental financing of \$10 million for workforce housing in counties where more than 25 percent of residents reside in a rural area.

The independent authority has heard from participants of its statewide listening sessions that rising construction costs and limited interest from developers with smaller projects has hindered development in rural areas.

The Republican-backed proposal is making its way through the Legislature. If passed, WHEDA would move forward on at least three pilot sites, Kim Plache, WHEDA's deputy executive director, said.

"There will be an effort to make sure that everybody in the state is aware that there will be a competitive process for being selected as a pilot community," Plache said.

A companion bill is awaiting a public hearing and action in the Senate.

About the Author:

Danielle Kaeding is a reporter at the Superior Bureau of Wisconsin Public Radio.

Prior to that, Kaeding served as the station manager of WRNC-LPFM (97.7) at Northland College in Ashland. Kaeding studied mass communications at the University of Wisconsin-Superior. She won her first Wisconsin Associated Press Award in the Division One category at the age of 21 for a radio documentary on methamphetamine abuse called "I Can Handle My Drugs." Kaeding also received a Wisconsin AP Award for her series reporting on sudden infant death syndrome. She has written and reported stories for National Public Radio, *National Native News*, *Aspen Daily News*, *Business North*, *Ashland Daily Press*, *Superior Telegram*, and KQDS-TV. Contact Danielle at daniellekaeding@wpr.org



WHEDA Affordable Workforce Housing Proposal Would Boost Rural Communities

Wisconsin's rural communities face unique challenges in addressing an acute shortage of affordable workforce housing.

In a first-of-its-kind effort to respond to these evolving housing challenges, Wisconsin Housing and Economic Development Authority leadership, staff and partners have developed an affordable workforce housing pilot as well as additional financing tools designed for rural communities.

The \$10 million effort is now reflected in amended versions of Assembly Bill 544 and Senate Bill 484. The package has been endorsed by WHEDA's board of directors and gained bipartisan support in the Wisconsin Legislature.

The proposal reflects the input of municipal and other stakeholders and responds to an affordable housing gap that has emerged for reasons including:

- rising construction costs;
- fewer developers in rural areas;
- aging housing stock;
- few affordable rental options; and
- zoning, infrastructure, and financing challenges.

The rural workforce housing pilot would select at least three communities for a participatory process with WHEDA and other partners to understand local needs, develop solutions, and implement action by WHEDA and other stakeholders. Applications would be reviewed and scored on a competitive basis.

In addition, WHEDA would support rural workforce housing through expanded access to single-family home improvement and renovation loans and a loan pool targeting rural housing tax credit projects.

The initiatives would be funded in part through an amended Dividends for Wisconsin Plan that also requires legislative action. WHEDA is an independent authority and no state tax dollars are to be used.

Progress on statewide housing challenges requires adaptation and collaboration to leverage resources and drive results. While the proposed rural workforce housing pilot and new financing tools represent a significant investment by WHEDA, it will take the commitment of other public, private, and nonprofit partners to turn the tide on these issues.

Editor's Note: As the magazine goes to print, the amended version of Senate Bill 484 is pending in the Wisconsin State Senate. Please see the April E-Muni for an update on the legislation.

DID YOU KNOW?



Housing In Wisconsin

According to the U.S. Department of Housing and Urban Development (HUD), housing affordability is determined based on the percentage of the household income spent on housing. If housing costs are more than 30% of monthly income it is considered “not affordable.” However, given high occupancy rates and the lack of available units, many people are spending more than 30% of their monthly income on housing, especially in high growth areas.

The U.S. Census Bureau shows the following facts for Wisconsin (July 1, 2019):

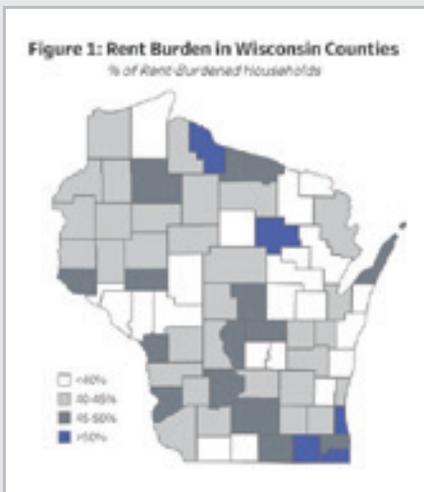
- Persons per household, 2014-2018: 2.40
- Housing units, July 1, 2018: 2,710,723
- Owner-occupied housing unit rate, 2014-2018: 66.9%
- Median household income, 2014-2018: \$59,209
- Median value of owner-occupied housing units, 2014-2018: \$173,600
- Median selected monthly owner costs - with a mortgage, 2014-2018: \$1,418
- Median selected monthly owner costs - without a mortgage, 2014-2018: \$550
- Median gross rent, 2014-2018: \$837



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WISCONSIN POLICY FORUM

Paying the Rent: A Look at Rental Housing Affordability in Wisconsin



Affordable housing can pose a challenge in rural and urban counties throughout Wisconsin. Although each county is different, low incomes – as opposed to high rental prices – appear to be the most common root problem when looking at the problem statewide.

A 30 percent rent-to-income (RTI) ratio is a standard used nationally to define housing affordability. Those spending over 30 percent of income are considered “rent burdened.” Our analysis uses that threshold to define housing affordability, analyzing whether 30 percent of the median monthly income among renter households in each county is sufficient to afford that county’s median rent.

Based on 2016 U.S. Census Bureau estimates, 16 counties in Wisconsin had RTI gaps. Kenosha County, which had a median rent of \$865 in 2016, had the largest RTI gap in the state. The county’s median monthly income among renter households was \$93 short of being able to afford the county’s median rent without becoming rent burdened.

Looking only at renters, Langlade County in northern Wisconsin had the highest percentage of rent-burdened households in the state (55.8 percent). Milwaukee, Kenosha, and Walworth counties in southeast Wisconsin, and Iron County in

northern Wisconsin, round out the top five most rent-burdened counties.

Among the 10 most rent-burdened counties, eight have renter household incomes below the state median. This suggests that low renter incomes, as opposed to high rents, may be the primary factor causing housing affordability challenges in those counties.

This information is a service of the Wisconsin Policy Forum, the state’s leading resource for nonpartisan state and local government research and civic education. Learn more at wispolicyforum.org



West Bend's "Transitional Shutter" Explores Place, History, and Economic Development

John Ehlke, Producer and Jess Wilde, Marketing and Communications Director, West Bend Community TV

It's similar to stepping into the shoes of a photographer 100 years ago and attempting to bring that image back to life. For the past two years, West Bend Community Television (CTV) has been doing just that. Through a partnership with the Washington County Historical Society, CTV uses historical photographs of West Bend – more than 300 to be exact – and recreates the scene, blending it with a present day shot of the same place.

A blend of the two photographs not only shows what used to be, but also the transition to current day. The weekly series is unveiled every Thursday on the City of West Bend social media channels, offering followers a chance to reminisce, respond, and learn. The resulting photograph often draws nostalgia from people who remember working for a business or

playing in a pond that no longer exists. Engagement rates soar every time the Transitional Shutter photograph is released.

The Transitional Shutter is often used as a creative tool to introduce new businesses to the City of West Bend. In some instances, the photos display buildings that have existed in downtown for decades, offering a historical view of the industrial landscape. An example would be a featured photo of the West Bend Pilot building in January. The building has been a staple in downtown West Bend for more than 100 years and was originally home to West Bend Pilot Newspaper and most-recently Sager's Mens Apparel for 87 years. Fast forward to today, the West Bend Pilot Boutique opened in early February and, in an effort to drive awareness to the grand opening celebration, CTV showed the transformation of the

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ADV 0019-1218

old West Bend Pilot Newspaper storefront into the new boutique. The photograph reached thousands of people and helped aid in a hugely successful opening weekend.

The series has provided an opportunity to partner with other municipal departments. In 2019, CTV collaborated with the West Bend Fire Department to recreate a photo from the 1950s of the department crew on a ladder outside of what was previously the high school. Present day firefighters climbed a ladder and posed outside the same building, which is now a middle school. CTV transitioned the photo to have members of both the 1950s and 2019 fire department standing side by side.

Transitional Shutter images have been used in local auctions, as décor in downtown businesses and in City Hall. The Communications Department plans to produce a coffee table book with each of the photographs represented alongside their correlating stories. The ongoing series is a way to utilize an abundance of existing historical artifacts and resources to meaningfully engage with today's residents of West Bend.

Contact John at ehlkej@ci.west-bend.wi.us and Jess at wildesj@ci.west-bend.wi.us



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Accessory Dwelling Units: A Provocative Alternative to Traditional Housing

Attorneys Abby Busler & James M. Kalny, Attorney, Davis|Kuelthau s.c.

Definition and Introduction

The United States Department of Housing and Urban Development defines an Accessory Dwelling Unit (ADU) as “a habitable living unit added to, created within, or detached from a primary one-unit Single Family dwelling, which together constitute a single interest in real estate. It is a separate additional living unit, including kitchen, sleeping, and bathroom facilities.”¹

As baby boomers age, issues regarding retirement financing and elder care demand more attention and new solutions. Younger generations tend to favor limiting carbon footprints and emphasizing travel and experience over the values of traditional home ownership. Television shows like *A & E’s Tiny House Nation* and *HGTV’s Tiny House Hunters* are running multiple seasons and gaining in popularity, presenting alternative housing options. The number of realtors and construction companies that cater to the smaller, more minimalist dwellings continue to grow. Whether to support children with some sort of affordable housing, provide a cost-efficient place for retirees, or simply to provide housing alternatives, providing an additional living unit accessory to a single-family dwelling is an economical alternative in which the general public has shown interest.

This article discusses some of the pros and cons of ADUs and introduces some of the practical and legal considerations

municipalities are likely to encounter when considering regulating ADUs.

Perceptions of Benefits/ Drawbacks of ADUs

Citizens have voiced fears that ADUs will infringe on many traditional notions of the public peace and good order by overcrowding neighborhoods, exacerbating noise issues, parking, and privacy, and modifying or effectively eliminating single-family districts. Some residents argue the issues raised above will culminate to have a detrimental effect on property values. Others have raised issues such as the negative impact of the proximity of accessory units to neighboring structures on the expected use and enjoyment of private property under the codes in effect when they bought or built their homes.

Opponents also argue that ADUs, specifically when used as short-term rentals, change the nature of neighborhoods by introducing a transient resident population that affects the stability of the neighborhood and opens up the area to the possibility of increased crime and suspicious individuals.

However, other community members view ADUs as an excellent solution to combat the shortage of available, affordable, and sustainable housing. Many communities do not have the space to provide additional housing units and new apartment or condo complexes are frequently out of price range for many residents. Those in favor argue ADUs are

a win-win situation because they provide affordable housing to those seeking alternatives to traditional housing, while also providing the homeowner with extra income.

As stated earlier, the current population is aging and ADUs provide a unique opportunity to have elderly family members downsize and move closer to their support system, yet still have the independence of living alone. Proponents also argue that ADUs accommodate extended families seeking to stay together and live closer.

ADUs provide options for residents who cannot afford high home prices including the significant down payment. ADUs also support those who do not want the responsibility of home ownership. Some argue that the vision of suburbia where every individual owns a house is outdated and newer more flexible housing options should be made available.

Typically, ADUs are much more energy efficient, given their smaller size and availability of environmentally friendly products. ADUs also reduce the amount of land used for a housing option, limiting the impact on additional housing development.

Municipalities must balance the viewpoints of those accustomed to traditional home ownership and those seeking alternative housing options. Municipalities are tasked with determining how and when to regulate.

Authority to Regulate

ADUs are not defined in or directly regulated by state law. The administrative code allows for accessory buildings, subject to fire regulations, leaving considerable leeway to municipalities to regulate accessory structures and dwellings. The state statutes define “dwelling” as any building that contains one or 2 dwelling units and a “dwelling unit” is a structure or that part of a structure which is used or intended to be used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, to the exclusion of all others.² The state law thus allows attached or unattached accessory dwelling units without providing any specific and direct regulation of those units.

The lack of statutory direction provides municipalities significant leeway in defining and customizing ADU regulations to meet the needs of a specific town, village, or city. This can be a blessing and a curse in light of the many different public perceptions and interests on regulating ADUs and the myriad of regulatory considerations a municipality is compelled to consider when composing legislation addressing ADUs. The following reviews the topics that Wisconsin municipalities have addressed in their ADU regulations.

Ownership

Ownership of the principal use serves to emphasize the accessory and incidental nature of the ADU to the principal use and is an important aspect of the use. Wisconsin municipalities that have ADU regulations have considered:

- Requiring the dwelling units to be owned by the same person
- Prohibiting the conveyance of an ADU independent of the principal use

- Requiring the property owner to reside either in the primary dwelling unit or ADU as his/her permanent and legal address

While there is little law in Wisconsin on ADUs at this point, the Utah Supreme Court upheld a zoning ordinance restricting the renting of ADUs to only owner-owned residences.³ A non-residing homeowner challenged the restriction, but the Utah Supreme Court concluded the zoning ordinance was valid because it protected the city’s justifiable and legitimate interest in preserving the character of a single-family residential neighborhood.⁴

Regulating the ADU

As there is little limitation from the state, municipalities can regulate consistent with the intent and purpose of their zoning codes to preserve the public interests normally preserved by zoning codes (public peace, safety, and peaceful repose, etc.). As the most common concerns with ADUs stem from privacy, overcrowding, esthetics, and other issues affecting the use of neighboring properties, municipalities that have regulated ADUs have enacted regulations that include:

- Expressly limiting the number of ADUs per lot
- Creating requirements for lots housing ADUs
 - Minimum lot area
 - Limiting location to a corner lot or lot adjacent to an alley
 - Setting usable open space requirements
 - Setback limitations other than those for other accessory uses
- Limiting maximum floor area size
 - By square footage, or
 - As a percent of the total lot area

- Addressing esthetics
 - Requiring roof pitch consistency
 - Requiring consistency in design with the principal dwelling
 - » Trim and eaves
 - » Window orientation
 - » Exterior finishes
 - » Building height
- Building ingress and egress
 - Location of access
 - Hard surfacing
 - Fire access
- Designated off-street parking
 - Based on occupancy
 - Not permitting increase of on-site parking facilities
 - Requiring parking based on zoning requirements for dwelling units
- Requiring minimum floor size for each dwelling unit
- Specifying occupancy limitations

Current municipal regulations also include provisions limiting detached ADUs to above garage locations and requiring that the mandatory minimum floor size for the single-family dwelling does not go below the minimum floor size in the zoning district as a result of accommodating the ADU.

Where Can They Go?

To the extent that ADUs are accessory to a single-family dwelling use, the appropriate district for the ADU is limited to districts that permit single-family use. That does not mean that ADUs have to be permitted in all districts that permit single-family uses or that they have to be treated the same in each district. Examples of options that have been considered include:

- Limiting detached ADUs to single family residential districts (as the lots are usually larger)
- Allowing detached ADUs in certain residential districts (as accessory to single family uses in that district)
- Allowing detached ADUs only in certain districts and internal ADUs in others
- Requiring conditional use permit (CUP) review in some zones and only plan submission in other zones

Municipalities may customize options, depending on different zoning districts that permit single-family uses and other factors unique to the concerns raised in the municipality and the nature of its zoning districts.

Plan Submission and Conditional Use Permits

ADUs are subject to building and housing code requirements. Consequently, building plans will be submitted and subject to permits before construction. To address some of the concerns up front and allow for public input, a site review process such as a conditional use permit procedure or other committee review is uniformly used to regulate ADUs in Wisconsin.

The use of a conditional use permit (CUP) process provides the opportunity for public hearing and the imposition of project-specific conditions. However, it is not prudent to simply use the HUD definition of a CUP cited at the beginning of this article and state that ADUs are subject to a CUP. Current

law is reasonably read to require that any conditions imposed under a CUP should have their origin in the zoning code. In other words, simply imposing a CUP requirement on all ADUs may not accomplish the desired regulatory reach the community may wish to have. The municipality needs to do its homework and address the issues listed above in its codes to facilitate the effective use of the CUP.

Short-Term Rental Interplay

Section 66.1014, Wis. Stats. provides that a political subdivision may not enact or enforce an ordinance that prohibits the rental of a residential dwelling for seven consecutive days or longer, so long as the owner or operator of the residential dwelling has obtained a permit from the Department of Agriculture, Trade and Consumer Protection and a short-term rental permit from the political subdivision. Such license shall allow the owner/operator to rent the residence for more than seven consecutive days limited to a total of 180 days per year.

Wisconsin Statute sec. 66.1014 defines residential dwelling as 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 person or by two or more persons maintaining a common household, to the exclusion of all others. Hence, an ADU that is approved as a mother-in-law's flat today may be an Airbnb tomorrow. Municipalities should remain cognizant of the applicability of the short-term rental law as they craft ADU regulations.

Conclusion

Wisconsin municipalities that have gone through the regulation process for ADUs have encountered considerable public input and debate. The public attention and tension between traditional housing and housing alternatives such as ADUs presents a complicated topic that requires a patient and cautious approach and close collaboration with planning staff and legal counsel when crafting ADU regulations.

About the Authors:

James Kalny is a shareholder with Davis|Kuelthau s.c. with 40 years of experience in municipal law. Jim began his career as an assistant city attorney in Green Bay, served as De Pere City Attorney, and the City County Human Resource Director for Brown County and Green Bay until moving to Davis|Kuelthau s.c. At Davis, Jim continues to advise counties and municipalities on a broad variety of municipal law issues such as planning and redevelopment, and public records and open meetings issues and zoning appeals, as well as labor and employment matters. Contact James at jkalny@dkattorneys.com

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1. <https://www.hud.gov/sites/dfiles/OCHCO/documents/4000.1hsnghlossry.pdf>
2. Wis. Admin Code SPS § 320.05(4); Wis. Stat. § 101.61(1).
3. *Anderson v. Provo City Corp.*, 2005 UT 5, ¶ 19, 108 P.3d 701, 708.
4. *Id.*



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Short-Term Rentals

Remzy Bitar, Attorney, Municipal Law & Litigation Group, S.C.



As short-term rentals (STRs) such as Airbnb and VRBO become more popular, local governments face classic issues associated with the influx of new uses that can create adverse side effects for the community. Some communities welcome the trend; others do not. For those questioning STRs, two competing interests arise: NIMBY versus “fundamental right to unfettered use of my property.” For unprepared communities, residential zoning and other public and private land use controls do not adequately address this growing trend. Some communities have tried to adopt amendments to their zoning ordinances to expressly restrict and/or regulate short-term rentals, but those amendments have fallen flat in court.

Seeking to address the competing interests, the Legislature created Wis. Stat. § 66.1014 in the 2017 WI Act 59, Biennial Budget Act. The statute contains one relevant definition for “residential dwelling” (“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 person or by 2 or more persons maintaining a common household, to the exclusion of all others”).¹

Section 66.1014 has several features of note.

First, municipalities cannot prohibit STRs for 7 consecutive days or longer, referred to here as the “prohibition” provision.²

Second, the Legislature addressed regulation of the “durational” aspects of

STRs. If a residential dwelling is rented for periods of more than 6 but fewer than 29 consecutive days, a municipality may limit the total number of days within any consecutive 365-day period to no fewer than 180 days and may require those maximum days to run consecutively. However, it may not specify the period of time during which the residential dwelling may be rented, such as requiring rentals stretch over winter.³

Third, the Legislature unambiguously retained local power – “[n]othing in this subsection limits the authority of a political subdivision to enact an ordinance regulating the rental of a residential dwelling...”⁴ That section leaves local government free to regulate other aspects of STRs in a manner that is “not inconsistent” with the prohibition or durational provisions noted above. Significantly, “[a]ny person who *maintains, manages, or operates*” an STR “shall” obtain a local license, if required by local ordinance.⁵

Fourth, there are non-textual aspects to § 66.1014. The Legislature did not place the law under the city and village zoning enabling statute, Wis. Stat. § 62.23. Moreover, when the Legislature wants to completely regulate an industry and preclude or limit the ability for local regulation, it does so clearly. The Legislature did only two things with this statute: removing the power to prohibit STRs and setting durational provisions on the “total number of days.” Of all the other areas the Legislature could have withdrawn from local government (other than taxation, not discussed here), the Legislature did not address such areas but allowed local control and

licensing. The Legislature’s treatment of STRs stands in stark contrast to the Legislature’s sweeping removal of local power elsewhere, such as cellular tower regulation, wind farms, livestock siting operations, concealed carry, conditional uses, shoreland zoning and alcohol. In these areas, and many others, the Legislature’s regulatory framework has various and extensive subject matter components that are expressly meant to curtail local power.

Until recently, no Wisconsin court had addressed this statute. Just last month, in *Good Neighbors Alliance (GNA) v. Town of Holland*, Case No. 2019CV000269, the Sheboygan County Circuit Court, the Honorable Edward Stengel presiding, issued a decision of first impression in this state, specifically addressing various aspects of Holland’s STR ordinance that were specifically designed to address local concerns, harmonize the statute and address the pre-suit complaints and demands of the plaintiffs. The Town Board worked hard to draft an Ordinance that satisfied competing concerns, followed § 66.1014 and Wis. Admin. Code § ATCP 72 (administrative rules “tourist rooming houses” such as STRs) and could withstand judicial scrutiny.

GNA’s primary claim asserted the statute created a preemptive effect on local regulation, enshrining the right to free and unrestricted use of one’s property. They argued STRs involve private use of homes, not commercial activity. The court, however, found that the Legislature preserved local power due to carve-outs in the statute and that the Town acted comfortably within its powers.

GNA attacked specific features of Holland's Ordinance as conflicting with § 66.1014, such as:

- Property Manager: "Unless the Property Owner resides within thirty-five (35) miles of the short-term rental property, a local Property Manager must be designated for contact purposes and his or her name must be included in the application filed with the Town Clerk. The local Property Manager must reside within thirty-five (35) miles of the short-term rental property and must be available at all times the property is rented. The Property Owner must notify the Town Clerk within three (3) business days of any change in the Property Manager's contact information for the short-term rental and submit the revised contact information to the Town Clerk within the same time period."
- Insurance: "The Property Owner shall have and maintain homeowner's liability or business liability insurance for the premises that are used for short-term rental and shall provide written evidence of such insurance with the license application and renewal application forms."
- Property diagram with application: "A diagram drawn to scale showing the location of buildings and the on-site, off-street parking area(s) designated for tenants and invitees on the premises."
- Revocation for Unpaid Fees, Taxes, Or Forfeitures or For Any Violation of State or Local Laws: "A license may be revoked by the Town Board during the term of a License Year and following a due process hearing for one or more of the following reasons: (1) Failure by the licensee to make payment of delinquent fees, taxes, special charges, forfeitures or other debt owed to the Town. (2) Failure to maintain all required local, county and state licensing requirements.

(3) Any violation of local, county or state laws or regulations which, based upon their number, frequency and/or severity, and their relation to the short-term rental property, its owner(s), tenant(s), occupant(s) or visitor(s), substantially harm or adversely impact the predominantly residential uses and nature of the surrounding neighborhood."

- One On-Site, Off-Street Parking Space: "Not less than one (1) on-site, off-street parking space shall be provided for every four (4) occupants, based upon maximum occupancy."
- Forfeitures: "Any person who violates any provision of this chapter shall be subject upon conviction thereof to a forfeiture of not less than \$250 nor more than \$750 for each offense, together with the costs of prosecution, and in the event of default of payment of such forfeiture and costs shall be imprisoned in the Sheboygan County Jail until such forfeiture and costs are paid, except that the amount owed is reduced at the rate of \$25 for each day of imprisonment and the maximum period of imprisonment is 30 days. Each violation and each day a violation occurs or continues to exist shall constitute a separate offense."

With STRs, there are many side-effects related to the health, safety, and welfare of the public. The goal is to allow such use of the property for rentals yet protect the interests and quality of life for long-term residents. The interests being served include: preserving the character of a neighborhood; eliminating nuisances like noise, parking, and trash problems; ensuring building safety; over-occupancy; and responsiveness to neighbor complaints. Such concerns arose in the town of Holland, where it received complaints over a significant period of time, often occurring weekly during the summer months. Complaints of adverse

impacts caused by STR properties in the town of Holland included lewd behavior, unsafe fires on the beach, dogs running at large, excessive noise, trash left on the beach, traffic and RVs along narrow lake roads, and trespassing. One such trespassing event involved the complainant arriving home at night to find renters from a nearby property in the complainant's hot tub.

The town carefully considered its proposed ordinance over the course of several months, including several drafts to balance the Legislature's new statute, preservation of residential property rights and the local interests in protecting the public health, safety, and welfare. After passage of the Ordinance, GNA sought total repeal. The town passed an amended ordinance accomplishing the following:

- the elimination of any restriction on the number of days a property may be rented,
- elimination of restrictions on outdoor events on rental properties,
- elimination of minimum levels of insurance coverage,
- added a provision to allow short-term rental licensure by the town to proceed with evidence that a Wisconsin tourist rooming house license has been applied for rather than actually received,
- removed the requirement for property managers to be licensed with the town,
- removed insurance requirements for property managers,
- documented the appeal steps and procedures for licensure decisions,
- clarified the vehicle restrictions,
- removed annual building and fire inspections requirement,

- removed requirement to provide a property management agreement,
- removed town access to property without consent or inspection warrant,
- removed minimum bathroom requirement, and
- lowered the maximum forfeiture amount.

The Sheboygan Circuit Court found local government can regulate within the same field as § 66.1014 so long as it does not conflict. Due to its careful development of the STR ordinance, Holland survived four-factor preemption analysis and its ordinance was upheld.⁶

Any community desiring such an ordinance should consult with its legal counsel and should also determine if the Holland case has been reviewed by the Court of Appeals.

Licensing and Regulation 403

About the Author:

Remzy Bitar is an attorney with the Municipal Law & Litigation Group, S.C. and has been practicing in the area of Municipal and Civil Rights Litigation Defense for over 17 years. Remzy handles all aspects of such litigation in both state and federal court including trial and appeals. His experience ranges

from defending civil rights lawsuits against jails and law enforcement, to handling condemnation, zoning and other land use matters, to open records and open meetings law, and to the defense of municipalities and their officials and employees in the areas of First Amendment, Fourth Amendment, and Equal Protection and Due Process.

Remzy began his legal practice after college at Lawrence University, law school at Washington University School of Law in St. Louis, and then completed a judicial clerkship with the Supreme Court of Missouri for the Honorable Laura Denvir Stith. Contact Remzy at rbitar@ammr.net

1. § 66.1014(1)(b).
2. § 66.1014(2)(a).
3. § 66.1014(2)(d)1.

4. § 66.1014(2)(c).
5. § 66.1014(2)(d) & (2)(d)2b.
6. *Wisconsin Carry, Inc. v. City of Madison*, 2017 WI 19, 373 Wis.2d 543, 892 N.W.2d 233.

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use of hate speech, discriminatory comments about coworkers, or discovery that information provided is inaccurate. On the other hand, social media may reveal information employers may not consider, such as a candidate’s religion, sexual orientation, or use of lawful products. A best practice is to use a third party to conduct social media checks to screen out protected class information and pass along only job-related information.

7. The background check should occur after acceptance of a conditional offer. Conducting screens before that time may reveal protected class

information, making an organization more vulnerable to discrimination claims. Further, the law prohibits employers from making medical inquiries about a candidate’s physical ability until after a conditional offer. Also, the federal and state law trend is to ban inquiries about criminal history before a conditional offer.

8. Work with a reputable screening company. A good one provides swift results for a reasonable cost. These companies have access to information sources and technology that many employers do not, and as a result can gather more detailed data. Screening companies can assist with legal

compliance and show employers how to mitigate risks.

Conclusion

Background screening is a best practice to ward off legal problems and practical difficulties of a bad hire. Put the process into writing to ensure consistent application and to avoid discrimination. Ensure that the process complies with all applicable laws and regularly assess it to keep up with ever-changing legal requirements. Invest sufficient money and time, for the cost is minor compared to hiring the wrong person.

Employees 360

1. 15 U.S.C. § 1681
 2. https://www.eeoc.gov/laws/practices/financial_information.cfm
 3. 11 U.S. Code § 525.
 4. https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm;
https://www.eeoc.gov/laws/guidance/qa_arrest_conviction.cfm

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How to Preside - Preparation and Techniques to Avoid Meeting Chaos and Discord - Part 2

Daniel Foth, JD, Local Government Specialist, Local Government Center, UW-Madison, Division of Extension

This month’s article covers: Keeping members and discussion on track, on the merits, and what to do when a member is out of order.

Motion Discussion - How to Keep a Member(s) and the Discussion on Track

The chair’s most important role is to keep the meeting on track. The chair can ensure that each member’s focus is on the current agenda item by announcing each agenda item formally. The chair should seek to involve each member on each agenda item discussion, helping each member keep focused, as they may have something to contribute to the discussion.

When a member’s comments appear to be off topic, the chair can ask, “Member X, can you help me understand how your comment is related to the motion on the floor?” The member’s response will determine if her/his comment is related. It may be that the comment relates to a bigger question that no one has considered.

If the member is off topic, the chair could note that the body will consider the

member’s comment at a later discussion, helping the member understand that her/his comment will be heard later and not lost. This approach helps the chair guide the discussion, keeping the focus on problem solving and agreeing to address a specific topic later.¹

If the discussion starts to involve multiple discussion items, treat each discussion like a motion amendment. That is, discuss each item, one at a time. This approach also helps the chair work with the members to find a resolution, maintain order, and move the motion forward.²

Motion Discussion - How to Keep the Discussion to the Merits and not Personal Speaking

In the heat of a discussion, a member may focus their comment(s) on the member making or opposing the motion instead of the motion’s merit. As chair, you control the discussion. Maintaining discussion formalities is a good way to minimize personality conflicts. The chair should insist that each member address his/her questions and comments to the chair. Members should avoid using the names of other members when

speaking. Instead of saying, “I think Joe or Ms. Jones is flat wrong,” the chair could suggest a member say, “I disagree with the member (or previous speaker) because ...”³ Advising members to keep their comments neutral and avoid inflammatory statements will help avoid personal conflicts. For example, if a member responds to another member’s statement saying, “that last point is crazy,” the chair could suggest the member rephrase their comment to “that last point doesn’t make sense to me.” Such suggestions may help avoid conflict between body members and keep the discussion to the merits.⁴

Motion Discussion - How to Handle a Member Who is Out of Order

To expedite business and maintain order, the chair may need to inform a member that s/he is “out of order.” Robert’s Rules of Order Newly Revised (11th ed.) (RONR), p. 449-450. A good practical approach is to take the member aside and discuss their meeting conduct privately. Remind the member, referring to the body’s rules, what their behavior should be. Should the member persist,

then use the body's rules to keep the member in line.

For a minor breach, the chair may tap the gavel, note the fault, then advise the member to avoid it. For further violations, the chair may first warn the member and, next, note the member is out of order. The last resort is for the chair to "name the member" for further discipline by the body.⁵

When ruling a member's comments out of order, the chair should keep the ruling professional and low key and, to maintain civility, kindly explain why the member's comments are out of order. If it is possible, let the member know what they might do to change their comment(s) to remain in order.

For example, during a motion discussion to purchase a computer, a member might state the need to redecorate the office.

The chair should gently interrupt the member and note that the issue at hand is the purchase of a computer. Let the member know if s/he wants to discuss the redecorating of the office that would need a separate discussion. Perhaps then suggest adding that topic to the next month's meeting agenda.

1. Adapted from Nancy Sylvester, "Control the debate, control the meeting." American Bar Association, Leadership Institute, Summer 2011.

2. Adapted from Roger Schwarz, "Five Ways Meetings Get Off Track and How to Prevent Each One."

3. RONR, Pgs. 392-3.

4. RONR *In Brief*, Pgs. 31-32.

5. RONR Pgs. 645-646.



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Did you know? The published Legal FAQs are taken directly from the extensive library of resources on the League's website. Have a question? Try the search function on the website and get an answer. <http://www.lwm-info.org>

Elections FAQ 8

Must municipal election workers be paid at least minimum wage for each hour spent carrying out their duties?

Yes. Municipal election workers are not exempt from the minimum wage requirements imposed by the federal Fair Labor Standards Act or Wisconsin minimum wage law. However, municipal election workers who earn less than \$1,800 in a calendar year are exempt from having Social

Security and Medicare withheld from their earnings. (rev. 2/19)

Licensing & Regulation FAQ 2

Are there any limits on the amount a municipality may charge for a license or permit issued by the municipality?

Yes. If the state legislature has not established a specific charge or fee for a license or permit issued by a municipality, the license charge or fee established by the municipality must bear a reasonable relation to the service for which the fee is imposed. Wis. Stat. § 66.0628(1)-(2). Accordingly, a fee may reflect the cost of granting the license or permit (e.g., clerk's and issuing authority's time) and of investigating, inspecting, and enforcement. Where the legislature has set a range for fees (e.g., the fee for a "Class B" liquor license has a minimum of \$50 and a maximum of \$500), a municipality may set the fee anywhere within the statutory range, without justifying the particular fee. *Sluggys Lake Front Inn, Inc. v. Delavan*, 125 Wis. 2d 199, 372 N.W.2d 174 (Ct. App. 1985). If the charge or fee for a license or permit is not reasonably related to the expenses incurred by the municipality under the regulation, the charge or fee may be deemed an unlawful tax. (rev. 1/20)

Legal Captions

*Correction: The caption for the March edition of HR Matters, "THC at Work," was listed incorrectly as Employees 358. The correct caption is Employees 359.

Employees 360

HR Matters column by Lisa Bergersen discusses best practices for conducting background checks, including what a background check should include and legal and practical considerations in performing background checks such as obtaining signed consent, credit checks, criminal records, social media inquiries, and working with screening companies.

Housing 22

Legal comment by Attorneys Abby Busler and James Kalny, Davis|Kuelthau, s.c., discusses Accessory Dwelling Units (ADUs) and their perceived benefits and drawbacks, municipal authority to regulate ADUs, and specific things some Wisconsin municipalities have addressed in ADU regulations such as ownership requirements, zoning regulations, permitted locations, plan submission and conditional use permits, and also the interplay between ADUs and short-term rentals.

Licensing and Regulation 403

Article by Attorney Remzy D. Bitar of Municipal Law & Litigation Group, S.C., addresses municipal authority to regulate and license short-term rentals under Wis. Stat. sec. 66.1014 and highlights a recent Sheboygan County circuit court decision concluding a town ordinance enacted pursuant to sec. 66.1014 was not preempted by that statute.



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2020 Local Government 101

Please check the League website for any date/time updates: www.lwm-info.org

Date	City	Location
May 8	Pewaukee	Holiday Inn Pewaukee West
May 15	Eau Claire	Lismore Hotel
May 29	Oshkosh	Best Western Premier Waterfront
June 5	Madison	To Be Determined
June 26	Oconto Falls	City of Oconto Falls Admin. Building
September 11	Waupaca	Par 4 Resort

\$100 Member Tuition, \$125 Non-Member Tuition (Staff and officials from cities and villages that are currently members of the League and League Business Partners may register as members.)

Hotel Information: This is a one day workshop, which usually does not require an overnight stay, but small hotel blocks are available in some locations. Check our website for details. Please make reservations directly with hotels.

Agenda and Registration Online at: <http://lwm-info.org>



2020 Clerks, Treasurers, & Finance Officers Institute June 10-12, 2020 *Best Western Premier Waterfront, Oshkosh*

Please check the League website for any date/time updates: www.lwm-info.org

\$135 Member Tuition, \$160 Non-Member Tuition (Staff and officials from cities and villages that are currently members of the League and League Business Partners may register as members.)

Hotel Information: Make reservations directly with Best Western Premier Waterfront at 920-230-1900. \$82 single or double. Use booking ID *WI Clerks, Treasurers, Finance Officers* to receive the block room rate. Deadline for room reservations at the block rate is May 19, 2020, or until group block is sold out, whichever comes first. 72-hour cancellation policy. Check-in is at 4:00 p.m. Check-out is at 11:00 a.m.

Agenda and Registration Online at: <http://lwm-info.org>

Registration Deadline: June 3, 2020





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Registration is complimentary for staff and officials from cities and villages that are insured by League Mutual.

Staff and officials from cities and villages that are members of the League may register at the reduced rate.

Hotel Information: This is a one day workshop, which usually does not require an overnight stay. If needed, a list of hotels is available on our website. Please make reservations directly with hotels.

Agenda and Registration Online at: <http://lwm-info.org>

Date	City	Location
March 6	Waukesha	R&R Insurance
May 14	Wisconsin Dells	Chula Vista Resort
July 8	Rice Lake	Rice Lake City Hall
September 10	Waupaca	Par 4 Resort

This meeting is postponed, please check the League website for new date and time: www.lwm-info.org



2020 Building Inspectors Institute

April 15-17, 2020

Lake Lawn Resort, Delavan

\$205 Member Tuition, \$230 Non-Member Tuition (Staff and officials from cities and villages that are currently members of the League and League Business Partners may register as members.)

Hotel Information: Make reservations directly with Lake Lawn Resort at 800-338-5253. \$82 single or double. Use booking ID *WI Building Inspectors Institute* to receive the block room rate. Deadline for room reservations at the block rate is March 25, 2020, or until group block is sold out, whichever comes first. 72-hour cancellation policy. Check-in is at 4:00 p.m. Check-out is at 11:00 a.m.

Agenda and Registration Online at: <http://lwm-info.org>

Registration Deadline: April 8, 2020

Please check the League website to verify all dates and times:
www.lwm-info.org

2020 League Workshops, Institutes, and Conferences

EVENT	DATES	LOCATION	LODGING	REGISTRATION FEE
POSTPONED! Will be rescheduled at a later date *Building Inspectors Institute	April 15-17	Delavan	Lake Lawn Resort 262-728-7950 \$82 Single/ double ID: WI Bldg Insp. Inst.	\$205 Member \$230 Non-Member
*Local Government 101	May 8	Pewaukee	Holiday Inn Pewaukee - West 262-506-6300 Usually does not require overnight stay but small block is available	\$100 Member \$125 Non-Member
*Local Government 101	May 15	Eau Claire	Lismore Hotel Eau Claire 715-835-8888 Usually does not require overnight stay but small block is available	\$100 Member \$125 Non-Member
*Local Government 101	May 29	Oshkosh	Best Western Premier Waterfront 920-230-1900 Usually does not require overnight stay but small block is available	\$100 Member \$125 Non-Member
*Local Government 101	June 5	Madison	Hilton Garden Inn Madison West/Middleton Usually does not require overnight stay but small block is available	\$100 Member \$125 Non-Member
*Clerks, Treasurers & Finance Officers Institute	June 10-12	Oshkosh	Best Western Premier Waterfront 920-230-1900 \$82/single double ID: Clerks, Treasurers, Finance Officers	\$135 Member \$160 Non-Member
Municipal Attorneys Institute	June 17-19	Sturgeon Bay	Stone Harbor Resort 877-746-0700 \$135 single/double ID: League of WI Muni Attorneys Institute	\$295 Member \$320 Non-Member
*Local Government 101	June 26	Oconto Falls	City of Oconto Falls Administration Building Usually does not require overnight stay	\$100 Member \$125 Non-Member
Chief Executives Workshop	August 19-21	Wausau	City Grill at Jefferson St. Inn 866-855-6500 \$128 single/double ID: Chief Execs Workshop	\$200 Member \$225 Non-Member
*Local Government 101	September 11	Waupaca	Par 4 Resort 715-256-9000 Usually does not require overnight stay but small block is available	\$100 Member \$125 Non-Member
Municipal Assessors Institute	September 15-17	Stevens Point	Holiday Inn Hotel & Convention Center 715-344-0200 • \$82 single/\$109 double ID: Municipal Assessors Institute	\$190 Member \$215 Non-Member
Plumbing Inspectors Institute	September 23-25 *Date may change	Eau Claire	Lismore 715-835-8888 \$82 single/double ID: League of WI Muni's - Plumbing Insp Institute	\$165 Member \$190 Non-Member
Annual Conference and Engineering & Public Works Institute	October 7-9	La Crosse	Radisson 608-784-6680 \$119 single/\$129 double ID: League of WI Municipalities Several overflow hotels. Room block open July 1.	\$270 Member \$295 Non-Member
Police & Fire Commission Workshop	November 13	Wisconsin Dells	Usually does not require overnight stay but small block is available	\$130 Member \$155 Non-Member

* Online Registration Available

Transitions

City Administrator: Algoma - Jared Heyn

Fire Chief: Sauk City - James Kirch

Community Development Director: Little Chute - David Kittel

Police Chief: Two Rivers - Brian Kohlmeier

Council Member: Two Rivers - John Casavant

Waukesha - Daniel Neumer

Director of Public Works: Weston - Dan Raczowski

RETIREMENT



Eau Claire. City Manager Dale Peters is retiring in May. During his time as city manager, Dale has overseen the renovation of the historic City Hall, dramatic changes in the makeup of the City Council, the opening of the Pablo Center at the Confluence, and – most recently – a decision by the city to partner with UW-Eau Claire on the Sonnentag Event and Recreation Complex.



Madison. City Attorney Mike May is retiring June 1. “May acted as parliamentarian for roughly 384 Common Council meetings, played a lead role transitioning and preserving Overture Center, defended the city’s minimum wage ordinance until it was preempted by the state, and helped negotiate an end to many controversies, including the resolution of the Judge Doyle Square issue,” Mayor Conway-Rhodes said in an interview with the *Wisconsin State Journal*.



Village of Little Chute. Congratulations to Community Development Director Jim Moes on his recent retirement. Thank you for your 30+ years of service to the village of Little Chute, Jim!

CONDOLENCES



Two Rivers. City Council President Patrick Gagnon passed away in February. He served on the Two Rivers City Council from 2015 to 2020. Patrick’s love for Two Rivers ran as deep as his roots in this special city on the lake. He studied and celebrated the history of this place and respected the sensibilities of its people.



Glendale. Richard Maslowski, who served as Glendale’s city administrator for 36 years, died in February. Maslowski worked in local government for 44 years. After working as an administrator in Butler and West Bend, he was hired by Glendale in 1980. Todd Schmidt of Waunakee said, “[He was] one of my mentors. While I only spent one summer working for Dick, he taught me management lessons that have lasted my entire career.” Russ Van Gompel of Oshkosh said, “[Dick was] a true colleague, mentor, and friend, who always worked behind the scenes for the betterment of his communities. He was a wonderful person.”



- ✓ **Celebrate your Clerk!** Municipal Clerks Week is May 3-9.
- ✓ **Creative Economy Week** is May 9-16. Check artswisconsin.org for information on how you can get involved

✓ May is **Clean Air Month**. What are you doing to raise awareness?

Have an update?

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