



Apartment Inspection and Landlord Registration Programs

Curt Witynski, JD, Deputy Executive Director, League of Wisconsin Municipalities

Between 2011 and 2017 the Wisconsin state Legislature and Governor Walker enacted four successive bills severely limiting municipal powers to regulate landlords and inspect apartments.¹ As a result, many communities with regularly scheduled rental inspection programs funded by inspection fees were forced to suspend or adjust their programs to comply with state law.

Several communities around the state, such as Racine, Oshkosh, and Eau Claire, have found ways to work within the restrictive parameters of current state law to protect the health and safety of tenants and hold landlords accountable for unsafe conditions. These communities have successfully implemented landlord registration requirements and apartment inspection programs within specified neighborhoods challenged by blight or high rates of building code violations.

Under current state law, as affected by 2017 Act 317, a municipality may establish a rental property inspection program in designated districts where there is evidence of blight, high rates of building code complaints or violations, deteriorating property values, or increases in single-family home conversions to rental units. Communities are prohibited from inspecting rental properties that are less than eight years old as part of such a neighborhood inspection program. Also, no inspection of a rental unit may be conducted if the occupant of the unit does not consent to allow access, unless the inspection is conducted pursuant to a special inspection warrant. State law

also limits when rental properties may be reinspected under such a program. In addition, state law limits when inspection fees may be charged and the maximum amount of such fees.

Current law also allows a municipality to require that residential rental property owners register with the municipality. The registration process may require one name of an owner or authorized contact person and an address, telephone number, and, if available, an email address. Municipalities may charge a one-time registration fee that may not exceed \$10 (the fee cap does not apply to the city of Milwaukee).

Three communities that have implemented rental inspection and registration requirements as allowed under current law are highlighted below.

Racine RENTS Initiative

In late 2019, the Racine common council enacted the Racine Rental Empowerment and Neighborhood Tenant Services (RENTS) Initiative. In Racine, 46% of residents rent their homes. As part of the RENTS initiative the city established a Neighborhood Enhancement and Stabilization District, within which the city plans, once COVID-19 subsides, to conduct scheduled, systematic inspections of rental units. The inspections are aimed at identifying and addressing habitability violations to ensure rental units in the district are safe and healthy places to live. Under 2017 Act 317, habitability violations include:

- Lacking hot or cold running water.

- Heating facilities are not in operating condition or not able to maintain a temperature in the unit of at least 67 degrees.
- No electrical service or electrical wiring and other components of electrical system are not in safe operating condition.
- No plumbing service or plumbing facilities are not in good operating condition.
- Lacking working smoke and carbon monoxide detectors.
- Excessive mold.

The city has hired a part-time Continuous Improvement fellow through a \$20,000 grant from Results for America and What Works Cities to implement the RENTS program and reach out to tenants.

The RENTS initiative also includes a requirement that all owners of rental property register with the city and provide contact information. As an incentive for landlords, the city offered \$50 worth of coupons for free appliance disposal for any rental unit that registered before October 15, 2020.

Other components of the RENTS initiative include:

- Escrow Deposit Program. This program allows tenants whose landlords have failed to address habitability code violations to pay their rent to the city instead of to the landlord. The city will hold the funds in escrow and pay the landlord when the landlord has remedied the code violations.

- **Protection against Landlord Retaliation.** Landlords are prohibited from evicting, threatening, or taking other harmful actions against tenants who have reported code or nuisance violations to the city. The penalty for violating such ordinances are forfeitures up to \$2,000.

More information about Racine's RENTS Initiative is posted on the city's website: <https://racine-rents-cori.hub.arcgis.com/>

Eau Claire City Housing Inspection Program

In 2017, the city of Eau Claire created a new proactive housing inspection program and an apartment owner registration requirement to encourage neighborhood safety and ensure that the city's housing supply meets minimum health and safety standards. According

to Deputy City Attorney Douglas Hoffer, the proactive inspection program was the product of a series of meetings the city held with local landlord groups, UW-Eau Claire staff, and other stakeholders. The resulting compromise ordinance includes findings that probable cause to conduct an interior inspection under the special inspection warrant statute, Wis. Stat. sec. 66.0119, exists if certain criteria (e.g., exterior violations) are met. If the criteria are met, city staff attempts to schedule an interior inspection. If the inspection is refused, city staff seeks a special inspection warrant citing the probable cause language in the ordinance.

The proactive inspection program applies to owner-occupied as well as rental properties. The program is designed to focus inspection resources on those properties most likely to be

in violation of minimum health and safety standards. Under the ordinance, inspection fees are waived if no violations are detected. If violations are detected and the owner corrects them within a certain period, reinspection fees are waived.

More information about the Eau Claire City Housing Inspection Program is posted on the city's website: <https://www.eauclairewi.gov/government/our-divisions/health-department/inspections-and-testing/eau-claire-city-housing-inspection-program>

The city also requires landlords to register with the city by providing their contact information. The city charges a one-time registration fee of \$5.00. More information about the landlord registration program is posted on the city's website:

► p.29



DISCOVER THE
COMMUNITY
ADVANTAGE

LOCAL GOVERNMENTS ARE
THE **FOUNDATION** OF OUR
COMMUNITIES.

WE'LL HELP MAKE THEM **STRONGER**.

Community Insurance Corporation provides liability, workers' compensation and property insurance coverage for cities, towns villages and school districts. We offer broad coverage, designed specifically to meet the needs of Wisconsin public entities under ONE single liability policy form.

COVERAGES	VALUE-ADDED SERVICES
<ul style="list-style-type: none"> » General Liability » Automobile Liability » Public Officials Errors & Omissions » Property » Workers' Compensation » Cyber Liability 	<ul style="list-style-type: none"> » Broad-range risk management and loss control services, including on-site training » Online safety training » Community Insurance Care Line - 24/7 nurse triage service for work-related injuries

To learn more, please contact
Josh Dirkse, Aegis Corporation,
1.800.236.6885 or josh@aegis-wi.com



COMMUNITY
INSURANCE
CORPORATION

<https://www.eauclairewi.gov/government/our-divisions/health-department/inspections-and-testing/eau-claire-city-housing-inspection-program/rental-registration-application>

Oshkosh Residential Inspection Program. Following the enactment of 2017 Wisconsin Act 317, the city of Oshkosh established a program of regularly scheduled inspections of residential dwelling units located within four designated neighborhood stabilization and enhancement districts of different sizes. The inspections focus on habitability code violations. The inspection program is currently on hold until the COVID-19 pandemic concludes. Once the program commences, inspections within the districts will only be conducted: 1) In an occupied dwelling unit with consent from an adult tenant or adult designee present at the time of inspection; 2) In a vacant dwelling unit with the consent from the owner or owner’s agent who is present at the time of the inspection; or

3) Upon obtaining a special inspection warrant pursuant to Wis. Stat. sec. 66.0119.

More information about the Oshkosh rental inspection program is posted on the city’s website, including the city’s rental inspection checklist and a map of the four neighborhood stabilization and enhancement districts: <https://www.ci.oshkosh.wi.us/InspectionServices/RentalProgram.aspx#:~:text=The%20City%20of%20Oshkosh%20has,neighborhood%20stabilization%20and%20enhancement%20districts>

Like Racine and Eau Claire, Oshkosh also requires the owners of residential rental units to register their contact information with the city. More information on Oshkosh’s landlord registration process is provided on the city’s website: <https://www.ci.oshkosh.wi.us/InspectionServices/RentalHousingConcerns/RentalRegistrationForm.pdf>

About the Author:

Curt Witynski is the Deputy Executive Director of the League of Wisconsin Municipalities. He manages the League’s lobbying program, representing the League before the Legislature, the governor’s office, and state agencies. He writes the *Legislative Bulletin* and *Capitol Buzz* newsletters and organizes legislative material on the League’s web page. He answers questions from the media and members about legislation, levy limits, state aid programs, and legal issues. Additionally, he helps plan and often presents at League conferences and meetings. Curt has given presentations and written numerous articles on many aspects of municipal law. He is the co-author of several guidebooks for local officials published by the League. Curt joined the League staff as assistant legal counsel in 1987. Before becoming Deputy Executive Director, Curt served as the League’s Legal Counsel for eight years. Contact Curt at witynski@lwm-info.org

Powers of Municipalities 940

1. 2011 Act 108, 2013 Act 76, 2015 Act 176, and 2017 Act 317.

Batterman
engineers surveyors planners
2857 Bartells Drive
Beloit, Wisconsin 53511
608.365.4464
www.rhbatterman.com

DELTA 3
EVERY ANGLE COVERED
Professional Civil, Municipal & Structural Engineering
Architecture • Grant Writing • Land Development • Planning & CADD Services
Phone: (608) 348-5355 ▲ Website: www.delta3eng.biz ▲ Platteville, WI

tc TOWN & COUNTRY ENGINEERING, INC.
CREATIVE SOLUTIONS FOR YOUR COMMUNITY SINCE 1981
water/wastewater • stormwater • municipal • GIS/mapping
Madison (608) 273-3350
Rhinelander (715) 420-0579
Kenosha (262) 925-3210
www.tcengineers.net

GEC
Consulting Engineering
Building Inspection
Building/Structural Design
Cross Connection Control
Environmental Services
Zoning Administration
MEP Design • Land Surveying
Engineers • Consultants • Inspectors
800-955-7896
GeneralEngineering.net