

Legal Issues

Relating to County Government

911 Ordinances

has since been repealed. In addition to authorizing a service charge, an ordinance also ensures clear responsibilities for county personnel and consistent application of a county's policies and procedures for maintaining and operating a county's 911 dispatch system.

Even though many counties already have 911 ordinances in place, many may be out of date and in need of review. Wisconsin's 911 ordinance requirements were previously encompassed by Wis. Stat. § 146.70 prior to being amended and renumbered to Wis. Stat. § 256.35. Moreover, PSC has promulgated rules related to 911 dispatch services that are contained in Wis. Admin Code Ch. PSC 173.

These rules have changed over the years given the statutory changes that have been made.

Counties should review their ordinances and confirm whether they are in compliance with the current statutory and administrative rule landscape. This will ensure that any service charge levied on landline users in the county is properly authorized and help counties fund their 911 dispatch systems. Further, counties that do not have a 911 ordinance in place should consider promulgating such an ordinance in order to establish a service levy and ensure proper implementation and operation of their 911 dispatch systems.

Uniform Naming and Numbering Systems

Counties possess authority under Wis. Stat. §§ 59.54(4) and (4m) to implement uniform naming and numbering systems in unincorporated areas of counties for public health and safety purposes. Sections 59.54(4) and (4m) provide:

- (4) Rural naming or numbering system. The board may establish a rural naming or numbering system in towns for the purpose of aiding in fire protection, emergency services, and civil defense, and appropriate and expend money therefor, under which:
 - (a) Each rural road, home, business, farm or other establishment, may be assigned a name or number.
 - (b) The names or numbers may be displayed on uniform signs posted on rural roads

and intersections, and at each home, business, farm or other establishment.

- (4m) Rural naming or numbering system; town cooperation. The rural naming or numbering system under sub. (4) may be carried out in cooperation with any town or towns in the county.

Marathon County recently implemented an ordinance under this section and required all towns in the county to rename and/or renumber duplicate road names and building numbers. The purpose of the ordinance is to provide a logical naming and numbering system to assist 911 dispatch and first responders to locate the correct homes and buildings in emergency situations.

As indicated above, the Town filed a declaratory judgment action in the Marathon County Circuit Court seeking a declaration that Marathon County did not have the authority to impose its ordinance on towns that are not “rural.” The Town’s argument was that the statute only applies to rural towns because the statute is titled as the “rural naming and numbering system,” the statute references “rural roads,” and the statute provides that it applies “in towns” (*i.e.*, the statute does not explicitly state that it applies in all “unincorporated areas”). The Wisconsin Court of Appeals agreed with the Town, and the case is now being reviewed by the Wisconsin Supreme Court. For this reason, the Association filed an *amicus curiae* brief as it views this issue as an issue of statewide concern for all counties.

Wisconsin Counties Association’s (WCA) position is that Wis. Stat. §§ 59.54(4) and (4m) permit counties to impose uniform naming and numbering systems in all unincorporated areas of counties. The Association’s interpretation relies on well-established principles of statutory construction. For instance, the title of the statute (in this case, “rural naming and numbering system”) should not be relied upon in giving effect to the statute’s operation. *See* Wis. Stat. § 990.001(6); *Wisconsin Valley Imp. Co. v. Public Serv. Comm’n*, 9 Wis. 2d 606, 101 N.W. 2d 798 (1960). Additionally, the term “rural” is merely descriptive in this instance, and as used in the statute only applies to the term “roads.” Subsection (b) of Wis. Stat. § 59.54(4) makes it clear that the term “rural” does not apply to homes, businesses, farms, or other establishments because it refers to such terms separately and distinctly from the term “rural roads.”

Moreover, WCA believes that the Court of Appeals’ construction of Wis. Stat. §§ 59.54(4) and (4m) would lead to absurd results. The Court of Appeals acknowledged that its interpretation means that the meaning of “rural” will “likely vary on a county-by-county basis, as land that might reasonably be

categorized as rural in the context of a more populous county could conceivably be categorized as urban in the context of a less populous county.” No county would be able to determine with any level of certainty what areas are rural under this interpretation.

The Court of Appeals’ interpretation suggests that there would be some percentage of every county that is rural and a percentage that is urban. The purpose of Wis. Stat. §§ 59.54(4) and (4m) is to provide better emergency services in the unincorporated areas of a county. This purpose is entirely frustrated if, for example, a non-populous county isn’t permitted to implement uniform naming and numbering in sparsely populated and less organized areas because as far as that county goes the area is not considered to be “rural.” On the contrary, more populous counties may then be able to impose uniform naming and numbering on towns that are more populous and/or more densely populated than the Town because they are comparatively “rural” in that county.

Further, the Court of Appeals already upheld a Door County ordinance in 2005 that imposed a uniform naming and numbering system on all unincorporated areas of Door County. *Liberty Grove Town Bd. v. Door County Bd. of Supervisors*, 2005 WI App 166, 284 Wis. 2d 814, 702 N.W. 2d 33. The Court of Appeals walked back on its previous holding case by stating that it had not considered the rural vs. urban issue in the *Liberty Grove* case. However, this is not correct because the court was considering whether Door County could impose its ordinance on the town without the town’s cooperation and consent. Given the court’s conclusion in the Marathon County case, it should have undertaken a “ruralness” analysis in *Liberty Grove* because the town may well have been “urban” in Door County (recall that the Court of Appeals concluded that the meaning of the term “rural” would vary on a county by county basis).

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