



LEGAL ISSUES

RELATING TO COUNTY GOVERNMENT

Short-Term Rental Regulation in Wisconsin Counties

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As short-term rental platforms like VRBO and Airbnb continue to grow, counties must balance key legal principles when opting to regulate short-term rentals. This article discusses Wisconsin’s “right to rent” law and updated lodging licensure rules adopted by the Department of Agriculture, Trade and Consumer Protection, as well as practical guidance for a county to consider when reviewing or adopting a short-term rental ordinance.

▶ Wisconsin’s “right to rent” law and impacts on county regulation of short-term rentals

Wisconsin’s “right to rent” law, set forth in Wis. Stat. § 66.1014, stipulates how counties may regulate short-term rentals in terms of timing.¹ Generally, a county may not prohibit renting a “residential dwelling” for 7 consecutive days or longer.² A county may limit short-term rentals of “more than 6 but fewer than 30 consecutive days” to a consecutive period, and a county may limit the total number of days within a 365-day period in which a residential dwelling may be rented to 180 consecutive days.⁴ However, a county may not specify when that 180-day period will be.⁵ A county’s time limitation must apply to rental periods of more than six but fewer than 30 consecutive days.⁶

The Wisconsin Court of Appeals’ holding in *Wisconsin Realtors Association, Inc. v. City of Neenah*⁷ describes Wis. Stat. § 66.1014’s core rule: political subdivisions may not enact or enforce an ordinance that prohibits renting a residential dwelling for seven consecutive days or longer, and local ordinances that logically conflict with that protection are preempted and void.⁸ This case also illustrates that local restrictions that function as a ban on short-term rentals, such as a requirement that the short-term rental be the owner’s primary residence, are vulnerable to challenges based on the preemption of such regulations by Wis. Stat. § 66.1014. Counties should avoid

“owner-occupancy” conditions until a clear statutory authorization for such regulations is implemented.

▶ DATCP and ATCP 72’s Lodging Rules: Changes in 2026

Operating a short-term rental in Wisconsin often triggers statewide lodging licensure. DATCP is tasked with statewide oversight of lodging establishments, such as hotels/motels and “tourist rooming houses,” which include vacation homes/cabins/cottages rented to tourists or transients as short-term rentals. An owner must obtain a permit to operate a tourist rooming house from DATCP or from a local health department with agent status.⁹

DATCP undertook substantial revisions to Wis. Admin. Code Ch. ATCP 72 in January 2023, with the primary goal of updating safety standards, terminology, and inspection requirements, and updating water supply and testing requirements. The revisions to ATCP 72 became effective Jan. 25, 2026. DATCP has provided helpful information for owners, neighbors and regulating bodies to assist in understanding the revisions to Wis. Admin. Code Ch. ATCP 72, including a “Changes to ATCP 72” fact sheet.¹⁰ The fact sheet is particularly useful for county officials because it notes the material changes affecting county ordinances that use “proof of state licensure,” as well as other points that a county ordinance may model after state standards.

Key updates from the ATCP 72 revisions that may affect county short-term rental programs include:

- License structure and terminology: The revised ATCP 72 groups licensing into three license types: hotel/motel, tourist rooming house, and specialty lodging unit. Each group includes a new fee table and plan review authority for new or altered facilities. For counties, ordinance text should avoid outdated license terms and instead require the appropriate ATCP 72 lodging license applicable to the operation.

- **Water supply and private wells:** ATCP 72.16 includes provisions for shared wells, minimum hot-water temperature, response to water disruptions, and annual private well testing (bacteriological and nitrate), as well as procedures for waterborne disease outbreaks and prevention steps for Legionella.
- **Building safety and sleeping-room standards:** ATCP 72.18 summarizes requirements including handrails/guards, ceiling height, bed egress aisle clearance, bunk bed standards, exiting requirements from sleeping rooms by floor level, and evacuation diagram requirements, along with maintenance expectations for emergency lighting, extinguishers, ventilation, smoke alarms, and carbon monoxide alarms.
- **Guest registration data fields:** ATCP 72.24 adds contact information fields (phone number, mailing address, or email) to the guest register. If a county ordinance similarly requires guest logs, a county may avoid duplicative or more expansive data collection unless there is a clear local need.
- **“Specialty lodging”:** While counties commonly see nature-based lodging, such as small cabins in large wooded areas, yurts, “glamping,” or accessory lodging on farm properties, the ATCP 72 update signals a regulatory category for “specialty lodging” with exemptions tied to the absence of interior potable plumbing or water-carried fixtures and related operational limits.¹¹ Counties should treat these as potential short-term rentals while ensuring that licensing requirements track the correct ATCP 72 category (“tourist rooming house” vs. “specialty lodging” vs. “hotel/motel”), rather than assuming every listing should be classified as a tourist rooming house.

► **Practical guidance for county ordinances**

A county short-term rental ordinance is easiest to defend — and to administer — when it is written as an integrated system rather than a list of isolated restrictions.

► **What does a Non-Zoning Short-Term Rental Ordinance Look Like?**

Many Wisconsin counties choose to regulate short-term rentals under the zoning authority in Wis. Stat. § 59.69. However, there may be reasons why a county elects to regulate them under a different regulatory scheme.

For example, to achieve greater efficiency and a streamlined process, Sawyer County adopted a short-term rental ordinance that “piggybacks” on the Department of Agriculture, Trade and Consumer Protection licensure process. The ordinance uses the work the county

A county may start by picking the regulatory “framework,” and then follow the required adoption procedures. If the ordinance regulates land use by zoning district and controls the circumstances under which short-term rentals can occur, it is likely a zoning ordinance and must be adopted through the required zoning procedures.

The Wisconsin Court of Appeals’ recent published decision in *Wildwood Estate, LLC v. Village of Summit*¹² illustrates the importance of following the proper procedures in adopting a short-term rental ordinance. In *Wildwood*, the court held that a short-term rental ordinance, which was adopted as a general licensing ordinance but functioned as a zoning ordinance by regulating where and when short-term rentals may occur, was void when adopted outside the required zoning process. By failing to follow the procedural requirements that accompany a zoning ordinance, the village violated the owner’s procedural due process rights, and the ordinance was deemed void and unenforceable as a zoning ordinance.¹³ The *Wildwood* case illustrates the risk of using the general “police power” to adopt a general licensing ordinance when the ordinance is actually a zoning ordinance and requires procedural due process protections to “avoid unduly infringing on individuals’ property rights.”¹⁴

After selecting the framework, a county may focus on mitigating potential negative impacts of a short-term rental, such as excessive noise, occupancy beyond septic design, parking overflow, and excessive trash. While not having been tested in a Wisconsin published case, the following points are likely acceptable subjects for county regulation:

- Proof of ATCP 72 licensure
- Duration requirements, including prohibiting short-term rentals less than seven days and prohibiting rental for more than 180 days within a consecutive 365-day period

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completes as DATCP’s agent under Wis. Stat. § 97.615 and Wis. Admin. Code Ch. ATCP 74, while also addressing specific county conditions, but without going as far as a zoning ordinance that requires additional procedural due process requirements and administrative overlap. The result is appropriate county regulation of short-term rentals that reflects the unique characteristics of Sawyer County, efficient use of county staff time and resources, and a seamless process for owners and operators to secure the DATCP and county licenses.



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- Garbage receptacles and removal
- Compliance with building requirements, such as smoke detectors, fire extinguishers and exit points that are consistent with ATCP 72
- Prohibiting loose dogs or other unattended animals
- “House rules” to be posted indoors on premises
- The designation of an owner or agent, who is located within a reasonable distance, as a contact for renters and neighbors
- Compliance with tax reporting laws
- Application materials showing site plan, floor plan, parking plan, and other general use information
- Property insurance in reasonable amounts
- Inspection protocols, such as those included in the updated ATCP 72 standards

► Conclusion

As the short-term rental market shows no signs of slowing down, Wisconsin counties will continue to face questions regarding regulation. It is imperative to stay informed of the

changes in state law and how those changes may impact your county’s ordinance. Please contact your county corporation counsel with any specific legal questions or reach out to the WCA with additional questions.

Attolles Law, s.c. works on behalf of Wisconsin counties, school districts, and other public entities across the state of Wisconsin. Its president & CEO, Andy Phillips, has served as outside general counsel for the Wisconsin Counties Association for more than 20 years.

1. See Wis. Stat. § 66.1014(1)(a).
2. Wis. Stat. § 66.1014(1)(b) defines “residential dwelling” as “any building, structure, or part of a building or structure, that is used or intended to be used as a home, residence, or sleeping place by one person or two or more persons maintaining a common household, to the exclusion of all others.”
3. Wis. Stat. § 66.1014(2)(a).
4. See Wis. Stat. § 66.1014(2)(d)1.
5. *Id.*
6. *Id.*
7. *Wisconsin Realtors Association, Inc. v. City of Neenah*, 2025 WI App 49 ¶13.
8. *See id.*
9. See Wis. Stat. § 97.605; Wis. Stat. § 97.615(2).
10. DATCP’s Fact Sheet may be found at: datcp.wi.gov/Documents2/ChangesATCP72FactSheet.pdf.
11. See Wis. Admin. Code Ch. ATCP 72.27–72.29.
12. See *Wildwood Estate, LLC v. Village of Summit*, 25 WI App 47.
13. *Id.* at ¶ 44; ¶ 38.
14. See *Zwiefelhofer v. Town of Cooks Valley*, 2012 WI 7, ¶¶6–7.

■ CASE STUDY: Polk County

Polk County’s short-term rental framework is useful as a “real-world” case study, combining shoreland zoning conditions, a permit workflow, and active litigation that is shaping how association challenges proceed.

■ Ordinance structure and key provisions

Polk County’s amended Shoreland Protection Zoning Ordinance treats a “tourist rooming house” as a change in use requiring a land use permit and imposes detailed conditions, including occupancy caps tied to septic/bedroom logic (eight overnight; 12 daytime); accessory structures without sleeping accommodations; impervious-surface parking; a 24-hour public contact number; quiet hours; septic inspection; legal-bedroom verification; and advertisement disclosure of permit and health department license numbers.

The county’s current permit application form adds provisions that matter for consistency and defensibility by explicitly referencing terms from Wis. Stat. § 66.1014. For example, it references the 180-day/consecutive-day concept from Wis. Stat. § 66.1014(2)(d). As counties draft ordinances, it is important to keep the ordinance text, application forms, and enforcement policies synchronized. If one document states “24 weeks/174 days” and another states “180 days,” the county should resolve the discrepancy to avoid arbitrary enforcement claims.

■ Enforcement toolbox

Polk County’s broader Comprehensive Land Use Ordinance includes general permit revocation language, authorizes stop-work orders, and references forfeitures and injunctive/nuisance remedies as enforcement pathways. For counties, this is a reminder that short-term rental enforcement works best when it uses the same graduated tools already familiar to zoning staff: corrective notices, permit conditions, permit revocation/nonrenewal, forfeitures, and even injunctive relief in chronic cases.

■ Litigation and lessons learned

In early 2026, the Wisconsin Court of Appeals issued a decision in *Wisconsin Realtors Association, Inc. v. Polk County* that focused on whether the association had standing to sue. The court found that the association can proceed on its challenge to the county’s ordinance amendments that address short-term rentals.¹ Even though the decision is procedural, it signals that county short-term rental amendments can be litigated when challengers can show concrete impacts on their members. It emphasizes the importance of making careful legislative records, clear findings, and consistent administration and enforcement.

1. See *Wisconsin Realtors Association v. Polk County*, Appeal No. 24AP1638, publication decision was still pending at the time this article was drafted.