

Rental unit licensing through proactive code enforcement



Summary

Milwaukee has many aging rental units in poor condition. Low quality housing can harm people's health in a number of ways, leading to respiratory problems, injuries, mental health conditions like depression and anxiety, and chronic stress. Proactive code enforcement programs, paired with strong enforcement mechanisms like rental licensing, improve housing quality by systematically inspecting housing for problems that harm health and ensuring that property owners make improvements. In the City of Milwaukee, the Department of Neighborhood Services conducts code enforcement, but the city's program is limited by state laws that prevent municipalities from recouping the cost of proactive programs, and from creating robust rental licensing programs. Changes to state law would allow Milwaukee to establish a comprehensive proactive code enforcement program, in order to systematically improve housing quality and health for renters.

Recommendations:

- **State of Wisconsin:** Repeal restrictions and preemptions on local code inspection and rental licensing programs
- **City of Milwaukee Department of Neighborhood Services:** Establish a proactive code enforcement program for rental housing, prioritizing improvements that will improve health
- **City of Milwaukee:** Establish a licensing program for rental housing, making licensing dependent on rental inspections

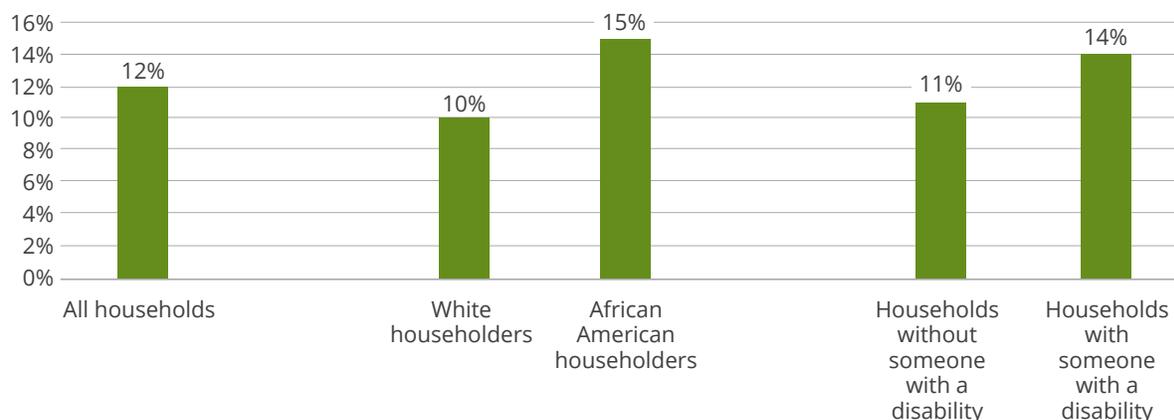
Much of Milwaukee's rental housing stock is in poor condition

The median age of housing that people rent in the City of Milwaukee is nearly 70 years old, making it among the oldest in the state.^{1,2} Aging housing requires maintenance, which can be costly, and Milwaukee County has higher rates of substandard housing than other counties in the region.¹ Thousands of households across the Milwaukee metropolitan region (which includes Milwaukee, Ozaukee, Washington, and Waukesha counties) struggle with low quality housing. An estimated 23,000 rental households in the metropolitan area have housing categorized as "moderately inadequate," with another 5,300 renting "extremely inadequate" housing.^{3,i} Although this data is only available at the regional level, over half the rental housing in the region is located in the City of Milwaukee.⁴ Given the advanced age of Milwaukee's housing stock, the majority of the region's substandard housing is likely located in the city.

Substandard housing affects people of every race in the Milwaukee region, and people with moderate incomes as well as low incomes. But as shown in Figure 1, African Americans and people with disabilities are more likely to live in poor-quality rental housing.

ⁱ The American Housing Survey (AHS) defines housing units as inadequate or severely inadequate based on a combination of factors related to the housing structure, plumbing, heating, and electricity, and upkeep. For full definitions of these terms see <https://www.census.gov/programs-surveys/ahs/tech-documentation/def-errors-changes.html>.

Figure 1: Percent of renter households living in inadequate housing by race and disability status in the Milwaukee region (Milwaukee, Ozaukee, Washington, and Waukesha counties)



Source: US Census Bureau, American Housing Survey, 2015, Housing Quality

Poor quality housing harms health

In focus groups, low-income tenants in Milwaukee reported a wide variety of problems with their housing units that are known to harm health, including:

- Failing heating and electrical systems
- Leaks and mold
- Broken roofs, floors, walls, windows, doors, door locks, and railings
- Insect and/or rodent infestations
- Lead hazards

The evidence that tenants shared feeds into a large body of public health research on how low-quality housing affects health:

- In homes without adequate gas and electric services, people's chronic health conditions can worsen.^{5,6}
- Structural problems like cracks in the wall, holes in the floor, and exposed wiring are linked to an increased risk of injury through falls and burns.^{5,7-9}
- Children who are exposed to pests and mold in their homes have a higher likelihood of experiencing asthma and chronic allergies.^{7,8,10,11}
- Kids are more likely to miss school, adversely affecting their overall school readiness and educational outcomes.¹² Educational attainment in turn is key for supporting good health throughout people's lives.¹³

Problems with housing quality also contribute to stress and anxiety, which can have long-term effects on physical health. Research has found that living with problems like leaks, pests, and broken windows is harmful to mental health, especially for mothers, and that improving these housing conditions is likely to improve mental health.¹⁴ Chronic stress in turn can contribute to chronic medical conditions including heart disease, diabetes, and cancer.¹⁵

Current code enforcement practices in Milwaukee

Residential code enforcement in the City of Milwaukee is led by the Department of Neighborhood Services (DNS) and primarily relies on complaints to trigger an inspection. Repair orders can also be made by inspectors who observe code violations in the course of their work. When inspectors find a violation, they issue an order to the property owner with a deadline for compliance. If the violation has not been addressed upon reinspection, DNS issues a fee, and these fees can escalate over time. Violations that are serious or not addressed for long periods of time can result in court action.¹⁶

Wisconsin state law currently limits cities' ability to recover costs or license units

Milwaukee previously had a proactive code enforcement program targeting specific neighborhoods with high rates of housing problems. The Wisconsin Legislature and governor preempted the ability of local governments to run these programs by enacting 2015 Wisconsin Act 176, which prohibited cities and towns from maintaining or establishing new proactive rental inspection programs.¹⁷ A subsequent law change, 2017 Wisconsin Act 317, re-established local governments' right to enact proactive rental inspection programs in certain districts. However, this law also preempted local rental licensing and certification programs, which are a key mechanism for code enforcement, and placed restraints on inspection fees, making it impossible for a municipality to recover the costs of a proactive program.¹⁸ Building out a robust municipal proactive code enforcement program will require changing these state law preemptions.

Limitations on inspection fees

Prior to 2015 Wisconsin Act 176 and 2017 Wisconsin Act 317, DNS could charge landlords a small fee to proactively inspect housing units for code violations, which was crucial to pay for the cost of running the program. If DNS found a violation, later re-inspected the unit, and the landlord had not fixed it, DNS could charge a non-compliance fee that increased monthly until the problem was addressed, up to \$350, creating a strong incentive for landlords to address problems.

Act 317 prohibits city agencies like DNS from charging a fee for an initial inspection. If a major violation is discovered during an inspection and then corrected, DNS also cannot charge a fee for reinspection to ensure that the problem has been addressed. If the violation has not been addressed, DNS can charge for inspections, but in most cases the maximum fee is limited to \$150.

Proactive code enforcement can prioritize health and protect tenants from retaliation

While tenants are legally protected from landlord retaliation for making complaints to DNS, in focus groups tenants and housing service providers have indicated that in practice tenants do experience retaliation and that it prevents them from contacting DNS regarding even serious quality issues.

Proactive code enforcement policies take the burden of responsibility off of tenants and make it possible for code enforcement to prioritize interior housing issues that are most likely to affect health and safety, rather than exterior problems more likely to generate complaints. Several evaluations of proactive code enforcement programs have found reductions in cases of dangerous code violations and an increase in properties brought up to standard.¹⁹ Combining proactive code enforcement with rental licensing provides for clear recordkeeping and greater transparency about landlords and housing conditions, ensuring that as a rule, rental units provide safe and habitable living spaces.

Recommendations and equitable implementation

Based on extensive research about the negative health effects of low-quality housing, we recommend that Wisconsin repeal recent state laws that restrict robust local proactive inspection and rental licensing programs. Milwaukee should then create a strong proactive code enforcement and rental licensing program to ensure that rental housing in Milwaukee supports residents' health.

➤ **State of Wisconsin:**

- Repeal the restrictive fee structure for local code inspection programs
- Repeal the preemption on local rental licensing and certification programs

➤ **City of Milwaukee Department of Neighborhood Services:** Establish a proactive code enforcement program for rental housing, prioritizing improvements that will improve health

➤ **City of Milwaukee:** Establish a licensing program for rental housing, making licensing dependent on rental inspections

To develop and implement effective and equitable proactive code enforcement, the city should:

- Work closely with residents and advocates to create a program that meets community needs
- Prioritize violations that are more likely to harm health (such as mold, pests, and broken structures) and deprioritize aesthetic violations (such as yard maintenance)
- Prevent housing instability through careful rollout and provision of temporary housing
- Prevent or mitigate any additional costs being passed on to tenants
- Expand training programs to grow the pool of certified inspectors and contractors

Examples

➤ **Boulder, Colorado** requires a license for all rental units, which must pass an inspection at registration and then every four years or on change of ownership. Units with code violations that do not pose an immediate threat to health and safety can receive a temporary license while their owners work to bring the unit into compliance.²⁰

➤ **Baltimore, Maryland** requires annual registration of all rental properties. In order to receive a rental license, each unit must be inspected by a licensed inspector registered with the City of Baltimore. After passing an inspection, units are initially licensed for 2 years, and then must be re-inspected every 1 to 3 years, depending on their history of violations.²¹

➤ **Minneapolis, Minnesota** requires all rental units to be licensed and inspected. Fees and frequency of inspections are assessed according to a tiered system based on the units' history and severity of code violations. Inspection cycles can range from every 1 to 8 years.²²

Complementary policies and programs

- **Lead-safe certification:** Lead-safe certification should work in tandem with broader code enforcement policies to identify and remediate any residential lead hazards.
- **Right to counsel in eviction cases:** Guaranteeing tenants legal representation in eviction proceedings would strengthen protection against retaliatory evictions.
- **Transitional jobs programs:** These programs provide limited, subsidized job training and employment for people seeking work. They could be used to train inspectors and contractors for code enforcement and housing quality improvement.

Key Resources

- Change Lab Solutions' [A Guide to Proactive Rental Inspections](#) and [Up to Code: Code Enforcement Strategies for Healthy Housing](#) provide guidance for developing proactive inspection programs focused on health and well-being.
- The Urban Institute report [Strategic Housing Code Enforcement and Public Health](#) shares findings from Memphis, Tennessee, about how code enforcement can prioritize improving resident's health.

Acknowledgements

This policy brief is authored by Human Impact Partners and Community Advocates Public Policy Institute and is a supplement to the report *Home Is Where Our Health Is: Policies to Improve the Health of Renters in Milwaukee and Beyond*. To view the full report and additional briefs in this series, visit ppi.communityadvocates.net/HealthyHousing.html. For additional information, contact Mike Bare at mbare@communityadvocates.net.

This brief was made possible by the generous funding of the Wisconsin Partnership Program at the University of Wisconsin School of Medicine and Public Health and the Joseph and Vera Zilber Charitable Foundation, Inc. The views expressed are those of the authors and do not necessarily reflect the views of these funders.

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