

Dempsey Law

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The Municipal Brief

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Welcome back to the third edition of *The Municipal Brief*. In this edition, we cover two recent changes made by the Legislature: one concerning planning and zoning and the other updating the competitive bidding law.

First, 2025 Wisconsin Act 173 – known as the “Truth in Planning Law” – makes changes to permit application processes and rezoning reviews with the intent of facilitating new housing projects. It reworks several statutes governing comprehensive planning, rezoning approvals, and tax incremental financing. It also treats towns and villages differently: villages are categorized with cities and take on substantial new obligations, while towns are largely carved out of these obligations.

Second, 2025 Wisconsin Act 188 took effect April 5, 2026, and marks the first update to Wisconsin's competitive bidding thresholds in over 25 years.



2025 Act 173: What It Means for Towns and Villages

Act 173 takes effect January 1, 2028, and applies to permit applications and rezoning requests filed on or after that date. It reworks the statutes governing comprehensive planning, rezoning approvals, and tax incremental districts (TIDs), and it draws a sharp line between villages (grouped with cities) and towns (largely carved out).

- **VILLAGES**

Under the Act, villages get the full weight of the new rules:

- **Density mapping in the comp plan.** A village's comprehensive plan land-use element must identify, in 5-year increments spanning 20 years, the areas projected for residential land use and specify the minimum and maximum net density of residences authorized in each. When a village enacts or amends zoning and subdivision ordinances, those ordinances must be consistent with the plan, including its net density standards. An ordinance is "consistent" if it permits a land use expressly identified on the plan's land-use map.
- **A 180-day forced fix if density maps are missing.** If an applicant submits a residential housing development permit application or a rezoning request and the comprehensive plan does not yet include net density requirements for the affected area, the village must amend its plan to add them within 180 days. The application must certify that the land is not in a farmland preservation zoning district or agricultural enterprise area and is not subject to a farmland preservation agreement. For an amendment triggered this way, the village skips the comprehensive planning procedures otherwise required.
- **Mandatory rezoning approval within 90 days.** A village must approve a zoning classification change needed for a residential housing development within 90 days if all of the following are met: the area is designated for residential use on the comprehensive plan; it is adjacent to or close in proximity to existing development; the proposed net density falls within the comprehensive plan's range (or the village missed the 180-day density-mapping deadline, in which case the 90-day clock does not start until that deadline passes); current or 5-year forecasted housing demand exceeds supply per the comprehensive plan; and the requester certifies the farmland preservation exclusions above. The requester can ask for an extension of the 90-day deadline. Notably, this mandatory-approval process does not reach a city or village's extraterritorial zoning jurisdiction.
- **Developer preferences get built in.** A requester may specify preferences on zoning classification, setbacks, lot width/frontage, lot size, and building size/bulk. If the request is granted and the specified classification allows the proposed density, the land must be reclassified into it.

- **Narrow grounds for denial.** A village may deny a qualifying request only by demonstrating that denial is necessary to prevent a shortage in or overburdening of public facilities, or to address a significant threat to public health or safety. Separately, a village may deny requests for one year if it issues an RFP for a qualifying residential development (one expected to receive public sewer and water and not believed to be environmentally contaminated) at the comp plan's density standards and no one responds, with certain exceptions for qualifying non-response.
 - **Appeals.** A requester aggrieved by a village's failure to approve within the deadline (or the extended deadline) may seek a writ of mandamus and may recover court costs including reasonable attorney fees.
 - **TIDs.** The act defines "newly platted residential development" for mixed-use TID purposes as development on a parcel that hasn't previously held permanent structures other than agricultural ones. It also extends the housing-related lifespan extension available to certain TIDs from one year to two.
- **TOWNS: LARGELY EXCLUDED FROM ACT REQUIREMENTS**
The Act expressly states that the density-mapping requirement, the new consistency definition, and the mandatory 90-day rezoning-approval process do not apply to towns. That carve-out extends to the request process generally: it cannot be invoked against a town at all.

For villages, despite the 2028 effective date, planning should begin now. A developer who maps a project to the comp plan's density designations, sits near existing infrastructure, and clears the demand threshold can force a rezoning decision within 90 days, with attorney-fee exposure if the village stalls. Villages should update comp plan land-use elements and density maps now, on their own schedule, rather than under the reactive 180-day clock once an application arrives.

For towns, the act is largely a non-event operationally, though it reflects a broader legislative trend toward reducing local discretion over residential rezoning.

2025 Act 188: Public Bidding Thresholds Get an Update

When a municipality intends to enter into a public construction contract for a project like a new municipal building or a park, state law sets dollar amounts above which certain processes are triggered. Depending on the amount involved, the municipality may be able to enter into a contract without following any formal procedures. In other cases, the municipality must provide notice of its intent to enter into the contract. And in other cases yet, the municipality must follow formal competitive bidding procedures that include advertising for sealed bids and awarding the project to the lowest responsible bidder. Act 188, effective April 5, 2026, raises these thresholds.

The new numbers, for most general construction projects:

	Old threshold	New threshold
Public notice required above	\$5,000	\$10,000
Competitive bidding required above	\$25,000	\$50,000

This means, for example, that a \$30,000 project that used to require full competitive bidding now only requires a public notice. Now, a project has to top \$50,000 before formal bidding procedures apply.

There is one important exception to the increased thresholds. Road work uses the old, lower numbers. The act carves out highway projects, defined as building, improving, repairing, or maintaining a highway, and keeps them at the pre-2026 thresholds: \$5,000 for notice, \$25,000 for bidding. So, a municipality planning a \$30,000 paving project still needs to competitively bid it, even though a \$30,000 building project would not. It's worth checking whether a project counts as "highway work" before assuming the higher thresholds apply.

Finally, the Act says that a town can now accept a privately built improvement that is donated to it after construction is finished, without having to competitively bid it. Cities and villages already had this option; now it's available to towns and counties too.

The rest of the bidding process works exactly as before. A municipality still has to award a bid to the lowest responsible bidder, bonding requirements are the same, and a bidder still cannot fix a mistake in their bid after submitting it (they can only withdraw it, and generally can't rebid unless the project is put out for bid again).

What this means is that municipalities should update the necessary bidding documents to reflect the new \$50,000 and \$10,000 thresholds but keep the old, lower thresholds in mind for any road work.

If you have questions about Act 173, Act 188, or how these changes affect your municipality, please contact us. We are happy to help.

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