

# Zoning and Conditional Use Permit Survey

Center for Land Use Education, October 2020  
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Center for Land Use Education  
College of Natural Resources  
**University of Wisconsin - Stevens Point**



**Extension**  
UNIVERSITY OF WISCONSIN - MADISON

## Part I: General Questions

Q1 - Who is completing this survey? (N=189)

Planning staff (66) 35%

Zoning staff (56) 30%

Local official (26) 14%

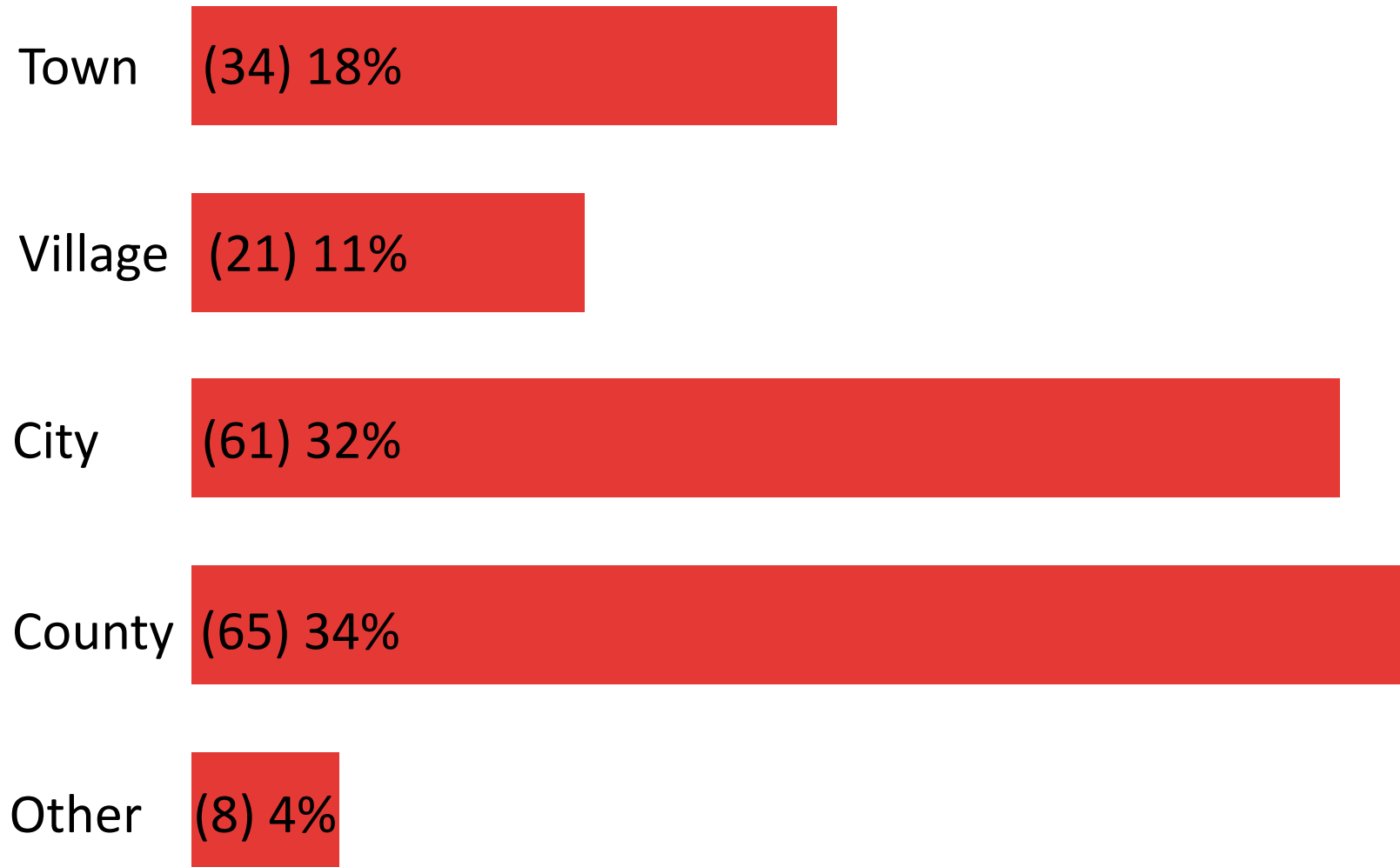
Clerk/  
Administrator (19) 10%

Consultant (10) 5%

Other (12) 6%

Other responses include regional planning commission, zoning committee, attorney, director, zoning administrator, and positions with responsibility for planning and zoning functions.

## Q2 - What level of government do you represent? (N=189)



Other responses include airport, regional planning commission, and consultant representing multiple levels of government.

Q3 - Local governments have flexibility to assign decision-making responsibility for conditional use permits to one of three bodies, as described in their local zoning ordinance. Please indicate which body has final authority to decide conditional use permits in your jurisdiction. (N=189)

Zoning Board

(31) 16%

Plan Commission/  
Zoning Committee

(84) 44%

Governing Body

(65) 34%

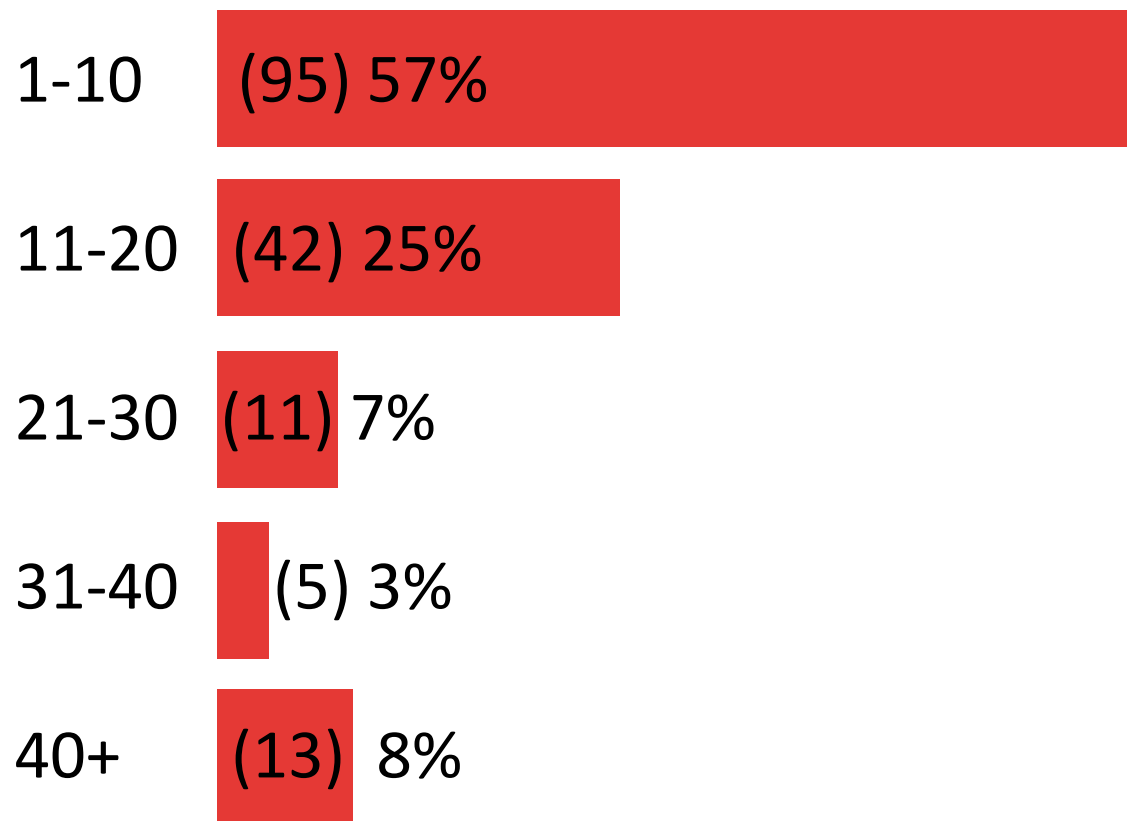
Other

(9) 5%

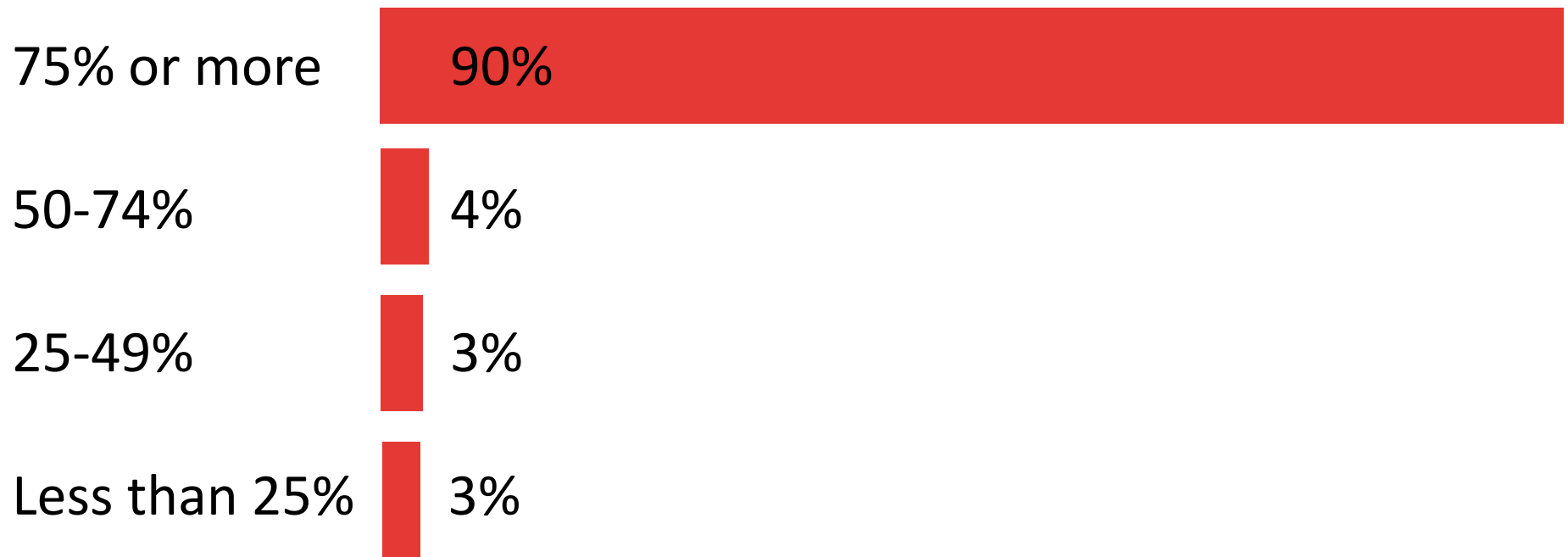
Other responses include tiered assignment to staff/plan commission/city council, plan commission decision with appeal to zoning board, and depends on municipality.

Q4 - In an average year, approximately how many conditional use permits are filed in your community? (N=166)

Average = 14 permits



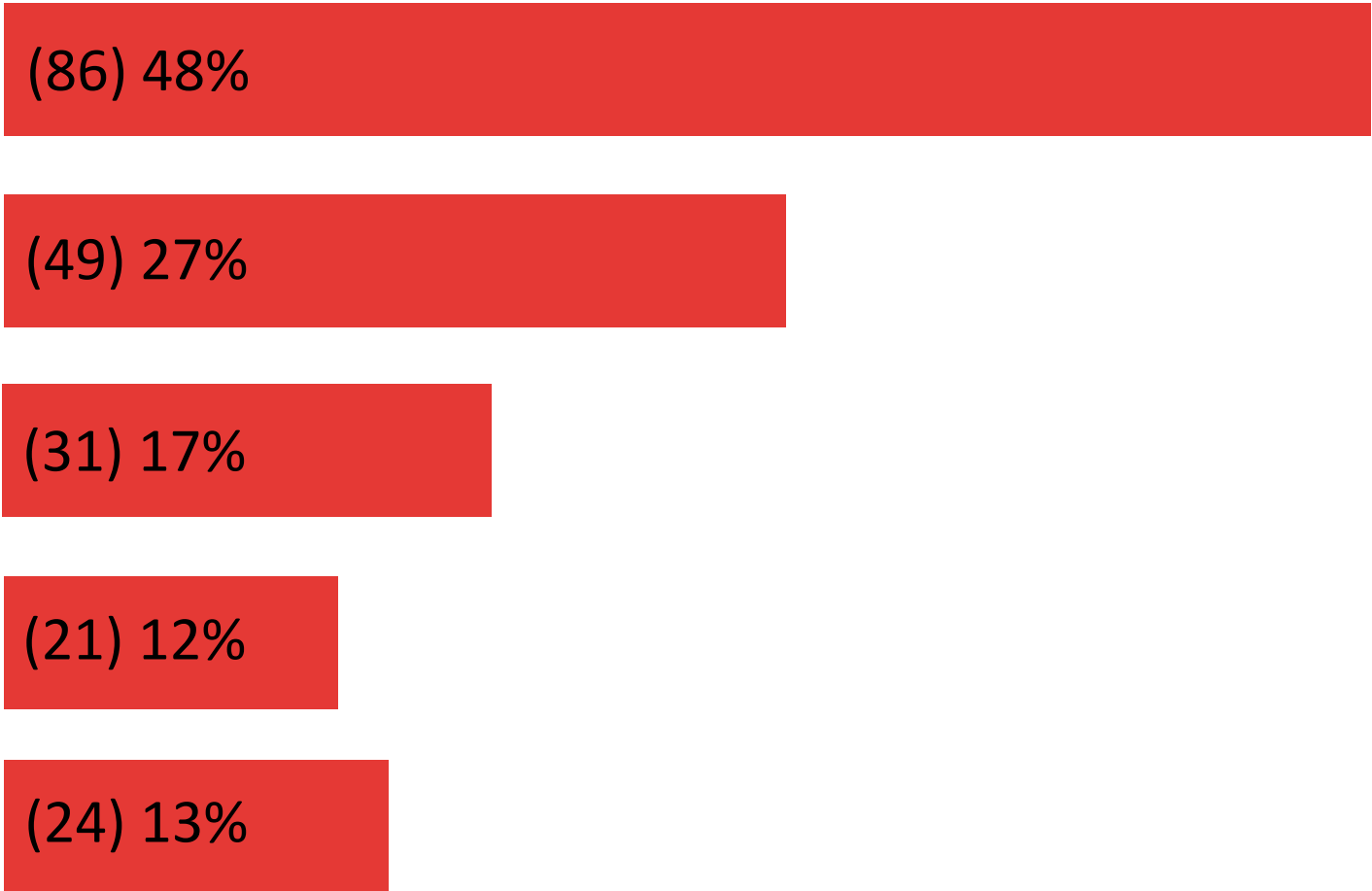
Q5 - Roughly what percent of conditional use permits are approved?  
(N=180)



## Q6 - What are the most common reasons for denying a conditional use permit? (N=180)

Ordinance standards not met

(86) 48%



Applicant unwilling to accept conditions

(49) 27%

Unable to craft conditions that make use suitable

(31) 17%

Incomplete application

(21) 12%

Other

(24) 13%

Other responses include not consistent with comprehensive plan, not consistent with surrounding land use, neighbor objections, recommendation to deny from town, plan commission or staff, applicant did not meet standards and withdrew following discussion with staff. Many noted they have not denied a conditional use permit.

## Part II: Process and Standards

The following questions ask about the process for granting conditional use permits in your community. There are no right or wrong answers. Please select all answers that apply.

Q7 - How does an applicant learn about your ordinance standards and process? (N=180)

Staff explains (154) 86%

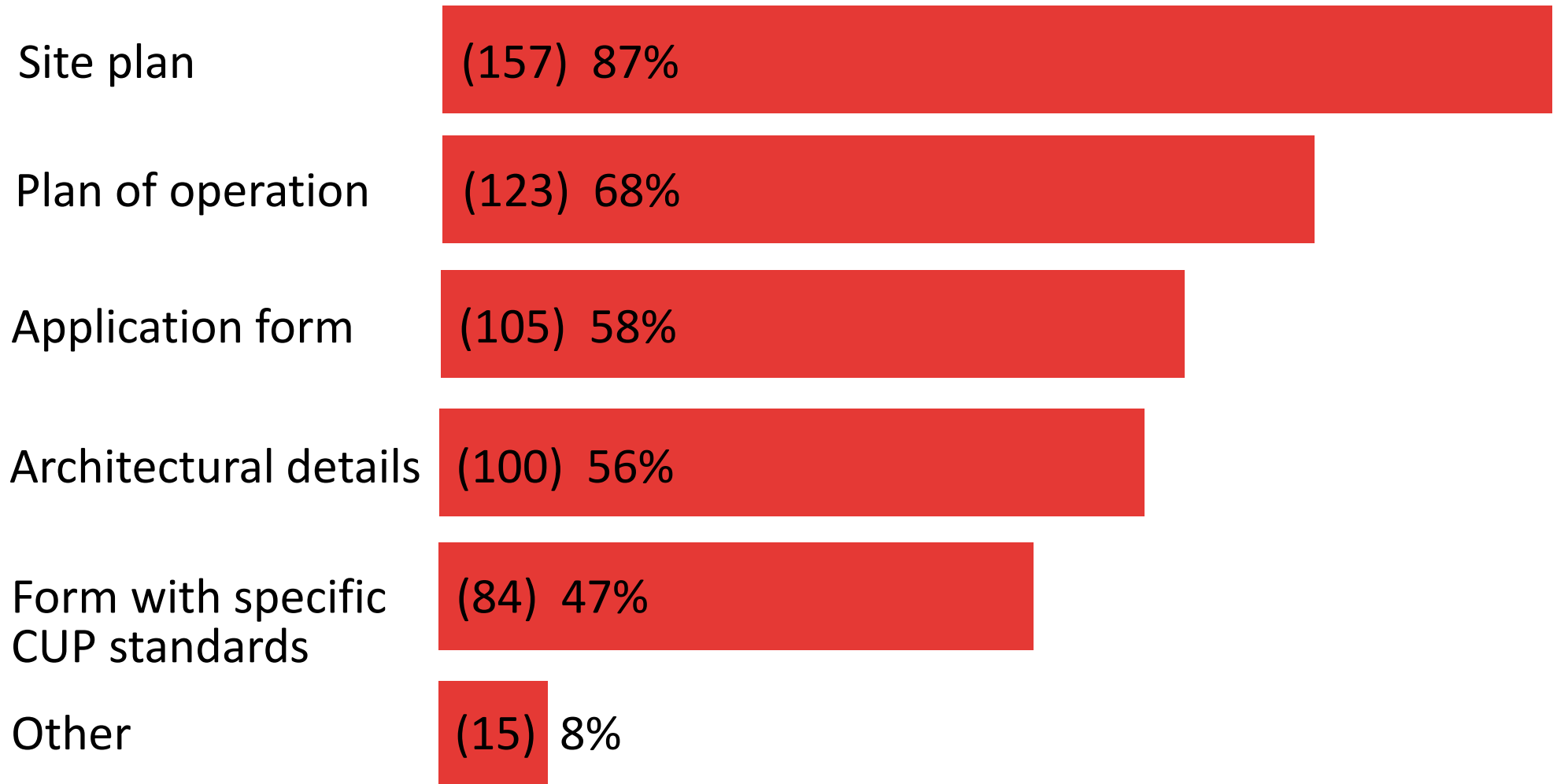
Application form (66) 37%

Supporting materials (63) 35%

Ordinance (61) 34%

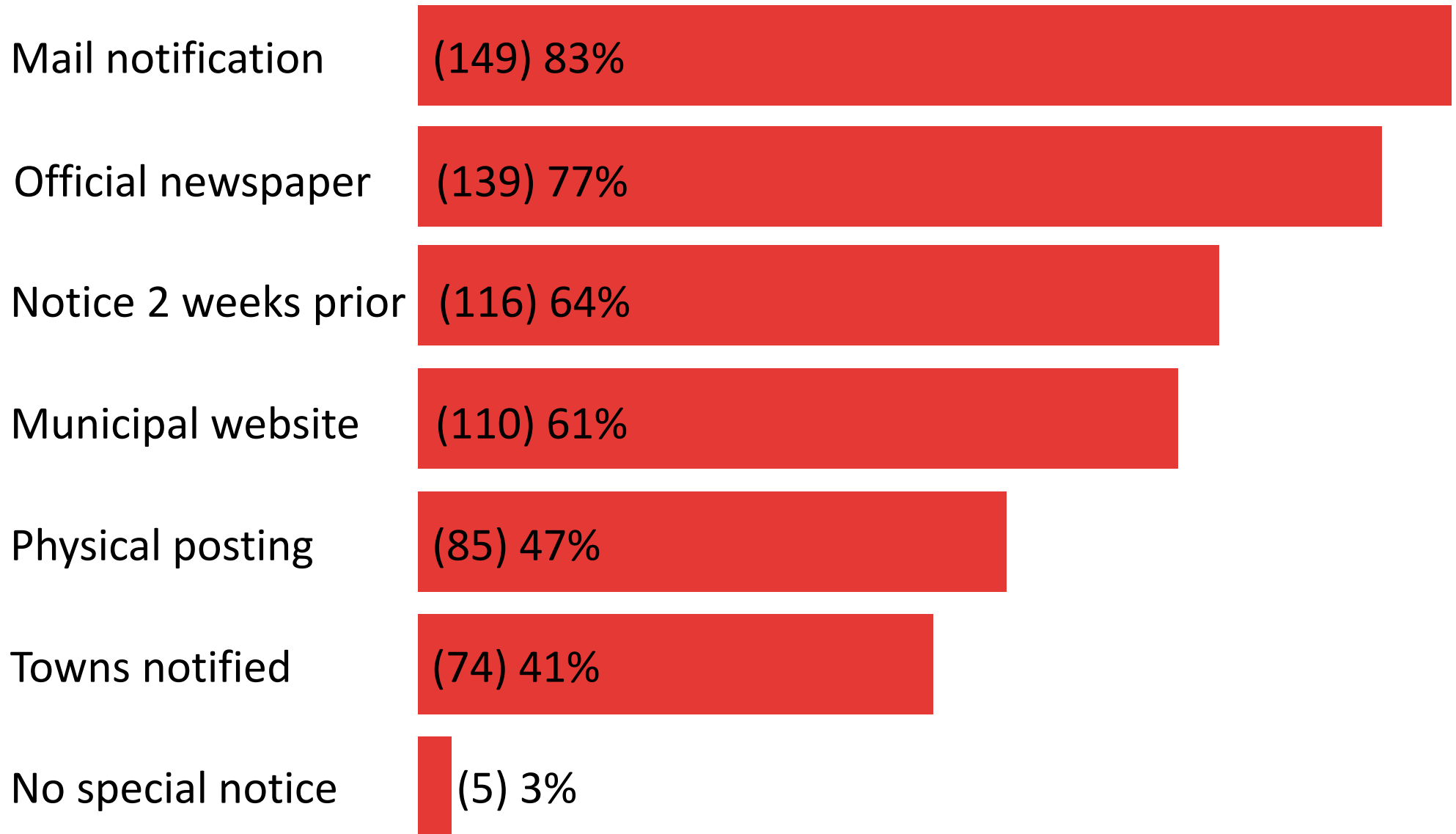


## Q8 - Which of the following materials must be submitted as part of a conditional use application? (N=180)



Other responses include pre-application meeting, documentation of public notice, staff findings of fact, town recommendation form, and information or documentation about proposed use.

Q9 - How is the public notified that a conditional use has been requested in your community? (N=180)



Q10 - Does your ordinance include any of the following standards for conditional uses? (Please focus on the concept described rather than the exact wording of the standard.) (N=160)

Standards ranked: most common – least common

1. No harm to public health or safety	91%
2. Compatible with surrounding uses	86%
3. Adequate site access and traffic safety	81%
4. Consistent with the comprehensive plan	78%
5. Served by adequate utilities and public facilities	71%
6. Proper drainage and stormwater management	67%
7. No harm to the environment (air, water, etc.)	63%
8. Preservation of neighborhood character	55%
9. Maintenance of property values	36%
10. Architectural appeal or aesthetics	29%
11. Other	8%

Q11 - Below are the standards you indicated are included in your ordinance. Which of these standards are the most difficult to apply? Please arrange the items in rank order with 1 being the most difficult.

Standards ranked: most difficult – least difficult

1. No harm to public health or safety
2. Compatible with surrounding uses
3. Maintenance of property values
4. Preservation of neighborhood character
5. Consistent with the comprehensive plan
6. No harm to the environment (air, water, etc.)
7. Architectural appeal or aesthetics
8. Served by adequate utilities and public facilities
9. Adequate site access and traffic safety
10. Proper drainage and stormwater management

## Part III: Changes to Conditional Use Law

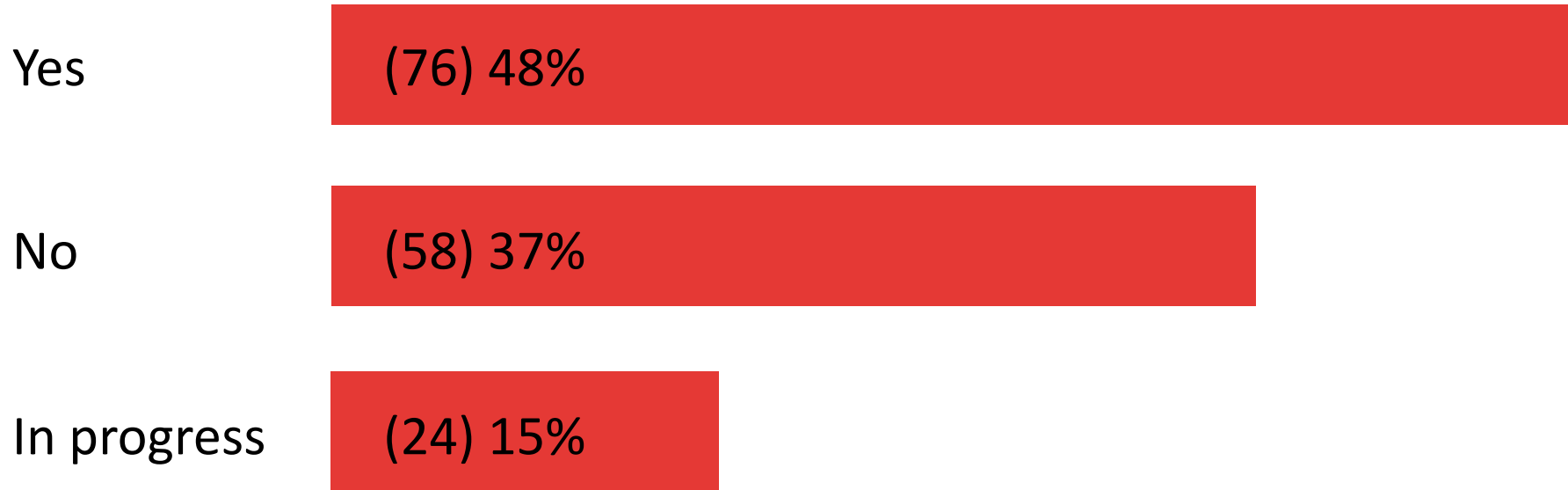
In 2017, Wisconsin Act 67 added new language to state statutes regarding conditional uses. Previously, the term did not appear in state statutes and legal guidance derived primarily from court cases. State statutes now provide a definition and process for considering conditional uses. A class 2 notice and public hearing are required. Local governments must also provide substantial evidence (meaning facts and information) showing that ordinance requirements and conditions are reasonable, measurable, and relate to the ordinance purpose. Likewise, the applicant must provide substantial evidence showing that the ordinance requirements and conditions can be met. If the applicant meets or agrees to meet the requirements, the local government is required to issue the conditional use permit.

Q12 - Is your community aware of these changes? (N=159)

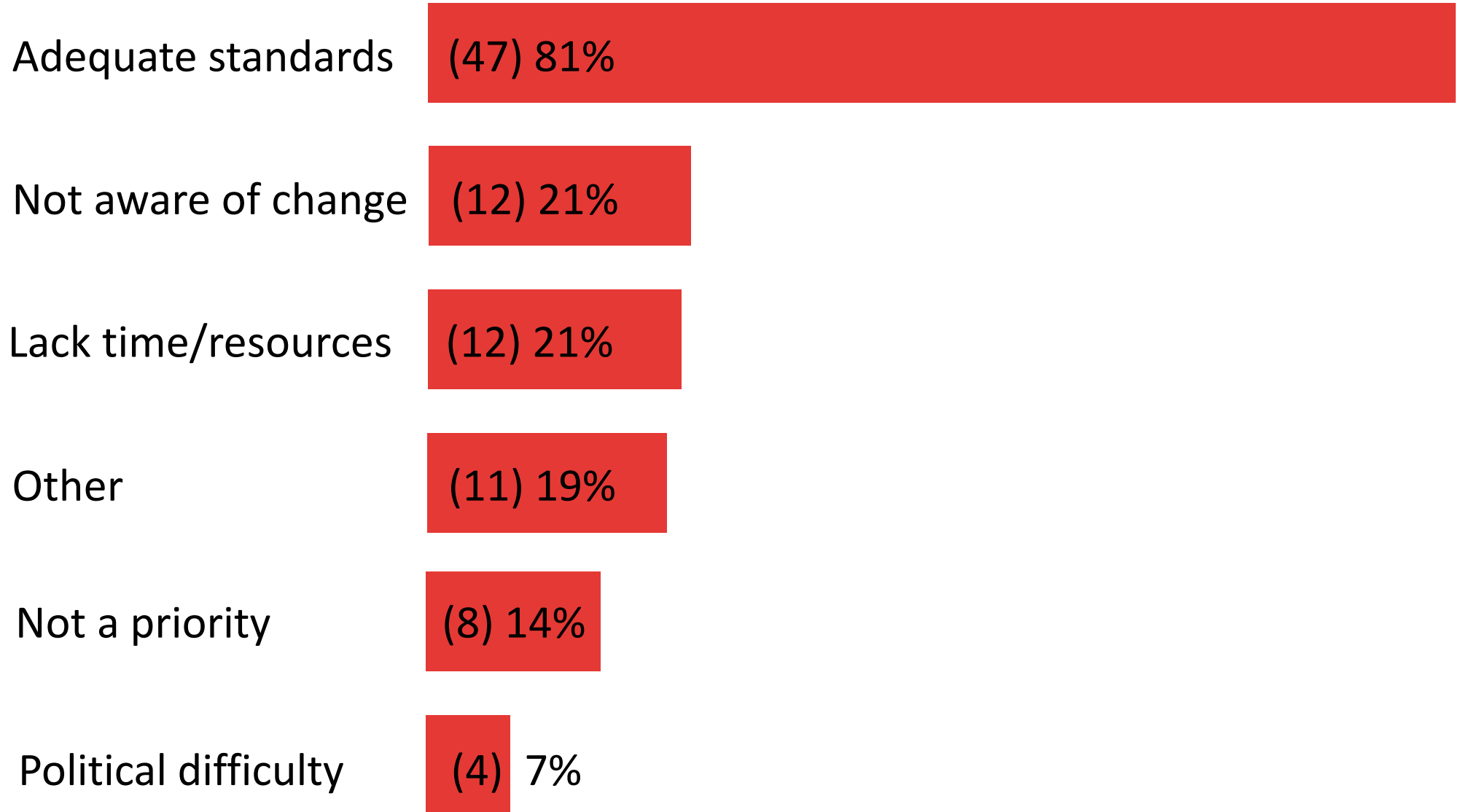
No (20) 13%

Yes (139) 87%

Q13 - Have you made changes to how you handle conditional uses as a result of these changes? (N=158)



## Q14 - If you did not make any changes, why? (N=58)



## Q15 - What changes did you already make, or do you think you need to make?

### Changes ranked: most common – least common

1. Review standards or conditions to make sure they are reasonable and measurable (88)
2. Review ordinance purpose statements to make sure they provide justification for standards and conditions (64)
3. Allow certain types of uses through a different process (i.e. permitted use, rezone, or planned unit development) (49)
4. Review and reduce number of conditional uses allowed in ordinance (47)
5. Add specific standards or conditions for uses that are frequently granted or high impact (40)
6. Require class 2 notice (34)
7. Require public hearing (20)
8. Other responses include insert language from Act 67, update definitions and terminology, improve application forms and handouts, and change body responsible for making conditional use permit decisions (25)



Q16 - The Center for Land Use Education is looking for examples of recently updated ordinances, processes, forms, handouts and websites that can serve as examples for other communities. If you have resources that you would like to share, please provide us with a link and brief description.

- Door County <https://www.co.door.wi.gov/493/Zoning-Other-Ordinances>
- St Croix County <http://online.encodeplus.com/regs/stcroixcounty-wi/index.aspx>
- Trempealeau County [https://co.trempealeau.wi.us/government/county\\_ordinances.php](https://co.trempealeau.wi.us/government/county_ordinances.php)
- City of Madison <https://www.cityofmadison.com/development-services-center/land-development/private-property/conditional-use>
- City of Wausau <https://library.municode.com/wi/wausau/codes/>
- Village of Kronenwetter [https://www.kronenwetter.org/departement/zoning\\_forms.php](https://www.kronenwetter.org/departement/zoning_forms.php)
- <https://ecode360.com/31342798>
- Village of Mount Pleasant <https://ecode360.com/36326935>
- Village of West Baraboo <https://villageofwestbaraboo.com/village-ordinances/>

The **Center for Land Use Education (CLUE)** is surveying Wisconsin planning and zoning staff, local elected and appointed officials, and others involved in local government to understand best practices and challenges related to zoning.

Please participate! We ask that you forward this survey to individuals in your community that are most familiar with the practice of zoning, conditional use permits, and ordinance updates. All levels of government are invited to participate, including counties, towns, cities, and villages.

In this survey, the term **conditional use** means a use allowed under a conditional use permit, special exception, or other special zoning permit issued by the local government. A conditional use is not the same as a variance.

The survey should take approximately 15 minutes to complete. You may answer anonymously or share your contact information. Please complete by **Wednesday, September 23, 2020**.

Questions? Please contact:

Becky Roberts [rroberts@uwsp.edu](mailto:rroberts@uwsp.edu)

Lynn Markham [lmarkham@uwsp.edu](mailto:lmarkham@uwsp.edu)

## Part I: General Questions

1. Who is completing this survey?

Planning staff

Zoning staff

Elected or appointed official

Clerk or administrator

Consultant

Other: \_\_\_\_\_

2. What level of government do you represent?

Town

Village

City

County

Other: \_\_\_\_\_

3. Local governments have flexibility to assign decision-making responsibility for conditional use permits to one of three bodies, as described in their local zoning ordinance. Please indicate which body has *final* authority to decide conditional use permits in your jurisdiction.

Zoning board of adjustment or appeals

Plan commission or zoning committee

Governing body

Other: \_\_\_\_\_

4. In an average year, approximately how many conditional use permit applications are filed in your community?

\_\_\_\_\_ #

5. Roughly what percent of conditional use permits are approved?

\_\_\_\_\_ less than 25%

\_\_\_\_\_ 25–49%

\_\_\_\_\_ 50–74 %

\_\_\_\_\_ 75% or more

6. What are the most common reasons for denying a conditional use permit?

\_\_\_\_\_ Application is not complete

\_\_\_\_\_ Applicant does not meet one or more standards found in the ordinance

\_\_\_\_\_ Local government is unable to craft conditions that make the use acceptable

\_\_\_\_\_ Applicant is unwilling to meet ordinance standards or conditions

\_\_\_\_\_ Other, please describe:

## Part II: Process and Standards

The following questions ask about the process for granting conditional use permits in your community. There are no right or wrong answers. Please select all answers that apply.

7. How does an applicant learn about your ordinance standards and process?

- The applicant is required to look at the ordinance and familiarize themselves with the standards
- A handout or checklist explains the process and ordinance standards
- Designated staff or officials are available to review the process and standards
- The application form prompts the applicant to describe how they meet each standard

8. Which of the following materials must be submitted as part of a conditional use application?

- A general application form that applies to all zoning and land use approvals
- A special application form that lists the standards for granting a conditional use
- A site plan showing the physical layout of the site including buildings, drainage, etc.
- A plan of operation describing operating hours and other business details
- Architectural plans, drawings or renderings
- Other, please specify:

9. How is the public notified that a conditional use has been requested in your community?

- Notice is posted on our municipal website
- Notice is posted in several physical locations throughout our community
- Notice is published in our official newspaper
- A sign is posted directly on the property describing the proposed use
- Notice is sent to property owners within a specified distance
- Notice is sent to impacted towns (for towns that participate in county zoning)
- Notice is provided at least two weeks before the public hearing
- We do not provide any specialized form of notice

10. Does your ordinance include any of the following standards for conditional uses? (Please focus on the concept described rather than the exact wording of your standards).

- No harm to public health or safety
- Compatible with surrounding uses
- Served by adequate utilities and public facilities
- Adequate site access and traffic safety
- Proper drainage and stormwater management
- No harm to the environment (air, water, etc.)
- Maintenance of property values
- Preservation of neighborhood character
- Architectural appeal or aesthetics
- Consistent with the comprehensive plan
- Other, please describe:

11. Below are the standards you indicated are included in your ordinance. Which of these standards are the most difficult to apply? Please arrange the items in rank order with 1 being the most difficult.

### Part III. Changes to Conditional Use Law

In 2017, Wisconsin Act 67 added new language to state statutes regarding conditional uses. Previously, the term did not appear in state statutes and legal guidance derived primarily from court cases. State statutes now provide a definition and process for considering conditional uses. A class 2 notice and public hearing are required. Local governments must also provide substantial evidence (meaning facts and information) showing that ordinance requirements and conditions are reasonable, measurable, and relate to the ordinance purpose. Likewise, the applicant must provide substantial evidence showing that the ordinance requirements and conditions can be met. If the applicant meets or agrees to meet the requirements, the local government is required to issue the conditional use permit.

12. Is your community aware of these changes?

Yes

No

13. Have you made changes to how you handle conditional uses as a result of these changes?

Yes

No

We are in the process of making changes

14. If you did not make any changes, why?

I was not aware of the statutory changes

Our process and standards are adequate

We do not have the time or resources to make changes

Changes are not a priority

Changes are politically difficult to make

Other, please describe:

15. What changes did you already make, or do you think you need to make?

Require class 2 notice

Require public hearing

Review standards or conditions to make sure they are reasonable and measurable

Review ordinance purpose statements to make sure they provide justification for our standards and conditions

Review and reduce the number of conditional uses allowed in our ordinance

Add specific standards or conditions for uses that are frequently granted or high impact

Allow certain types of uses through a different process (i.e. permitted use, rezone, planned unit development)

Change the body responsible for making conditional use permit decisions

Other, please describe:

16. The Center for Land Use Education is looking for examples of recently updated ordinances, processes, forms, handouts and websites that can serve as examples for other communities. If you have resources that you would like to share, please provide us with a link and brief description. Alternately, please provide contact information if you would like for us to contact you to share lessons learned or other information.

Thank you for completing this survey!