Title 16

HOUSING CODE[1]

Chapters:

16.02 Purpose
16.04 General Provisions

[1] For power to adopt housing codes, see § 62.11(5), Wis. Stats.
Prior ordinance history: Ords. 61-4069 §1, 61-4135, 61-4136, 61-4379
Prior code history: §§21.01—21.12.

Chapter 16.02

PURPOSE

16.02.010 Purpose. (a) The purpose of this section is to protect the public health, safety and welfare and to prevent the continuation, extension and aggravation of urban blight.

(b) This section is adopted for the following purposes:

(1) To prevent the existence of health, safety, or welfare factors that require high levels of municipal services.

(2) To facilitate the identification of environmental contamination of buildings and/or property.

(3) To prevent inadequate maintenance.

(4) To prevent the presence of tall grass or weeds, unauthorized outside storage or accumulation of trash of any kind, the parking of inoperative vehicles, boats, or other machinery.

(5) To lessen uncorrected building, plumbing, or electrical violations.

(6) To lessen the number of properties that have become a place where criminal activity and/or vandalism has taken place as documented by the City of Wausau Police Department.

(7) To lessen the number of properties that are creating substantial risk of interference with the lawful use and enjoyment of other space in the building or other properties within the neighborhood.

(8) To lessen the number of properties that are cited with a violation by the City of Wausau Fire Department.

(Ord. 61-5470 §1, 2011, File No. 11-0305)

Chapter 16.04

GENERAL PROVISIONS

Sections:

16.04.010	Housing code adopted
16.04.011	Maintenance of fences
16.04.015	Section H-104.4 deleted
16.04.016	Section H-301.7 A deleted
16.04.020	Enforcement of BOCA Code by Marathon County
16.04.025	Fees for re-inspection
16.04.030	Appointment and Registration of Agents
16.04.035	Vehicles
16.04.037	Rent Abatement
16.04.039	Residential Rental licensing
16.04.040	Penalty

16.04.010 Housing code adopted. (a) The BOCA Basic Housing-Property Maintenance Code, Third Addition, 1975, Copyright, Building Officials Conference of America, Inc., 1313 East 60th Street, Chicago, Illinois, is adopted by reference and incorporated in this chapter with the exception of the following sections which are deleted from the provisions of this chapter.

(1) Section H-104.4; and

(2) Section H-301.7A.

(b) The provisions of the BOCA Code including but not limited to sections H-104.1 through H-104.3, shall not apply to violations of section 16.04.035 of this chapter. (Ord. 61-5616 §16(part), 2014; Ord. 61-4379 §1, 1978.)

16.04.011 Maintenance of fences. (a) All fences on any property shall be maintained in good condition. Wood materials shall be protected against decay by use of paint which is not lead-based paint or by other preservative material. The permissible height and other characteristics of all fences shall conform to the appropriate statutes, ordinances and regulations of the city and the state of Wisconsin. Wherever an egress from a dwelling open into the fenced area there shall be a means of egress from the premises to any public way adjacent thereto.

(b) All fences shall be built without being a detriment to the health, safety and general welfare of the citizens of the city. (Ord. 61-4900 §1, 1995.)

(Ord. 61-5376, Art. XV (part), 2008; Ord. 61-4915 §1, 1995)

16.04.015 Section H-104.4 deleted. Section H-104.4 of the BOCA Code is deleted from

the provisions of this title. (Ord. 61-4969 §1, 1980.)

16.04.016 Section H-301.7 A deleted. Section H-301.7 A of the BOCA Code is deleted from the provisions of this title. (Ord. 61-5412 §1, 2009, File No. 93-0717)

16.04.020 Enforcement of BOCA Code by Marathon County. This county health officer, or his designee, shall have the power to enforce the provisions of the following provisions of the BOCA Code:

> H-301.2, H-301.5, H-303.6, H-303.7, H-303.7.1, H-303.7.2, H-303.7.3, H-400.5, H-400.6, H-401.2.1, H-500.2, H-500.3, H-500.4, H-310.4, H-302.9, H-302.9.1, H-302.9.2, H-302.2, H-104.1, H-104.2, H-104.3, H-105.1, H-105.2, H-105.3, Article 2, H-302.4, H-302.7, and H-303.8.

(Ord. 61-4802 §1, 1993; Ord. 61-4469 §2, 1980).

16.04.025 Fees for re-inspection. Any person who shall fail or neglect to comply with any lawful order of the chief of inspections or his/her designee issued pursuant to the provisions of this chapter may be assessed a re-inspection fee for compliance inspections in excess of two. The fee shall be as specified in section 3.40.010(a). Re-inspection fees that are not timely paid shall be entered on the tax roll as a special charge against said lot or parcel of land pursuant to the provisions of Section 66.0627 of the Wisconsin Statutes for collection and settlement under Chapter 74 of the Wisconsin Statutes. (Ord. 61-5553 §31 (part), 2013, File No. 13-0309; Ord. 61-5412 §1, 2009, File No. 93-0717)

16.04.030 Appointment and Registration of Agents for Residents and Nonresidents Who Own Rental Dwelling Units in the City. Any person who owns any rental dwelling unit in the City of Wausau shall maintain with the City of Wausau Inspections Department a current listing of his address and telephone number and if the owner lives outside Marathon County, Wisconsin, the name, telephone number and address of an adult person who is empowered to receive service of process as agent for the owner. The owner shall sign a written statement appointing the agent and the agent shall sign the statement accepting the appointment. The statement shall be filed with the City of Wausau Inspections Department. No person may qualify as an agent for an owner unless that person:

(a) Resides in Marathon County Wisconsin; or

(b) Owns a business which that person operates on a full-time basis in the City of Wausau.

Any changes of names, telephone numbers or addresses in such listing shall be reported within 10 days of such change. Any owner who fails to notify the City of Wausau Inspections Department of a change in name, address, or telephone number within such 10-day period shall be subject to a forfeiture as provided in 16.04.025. The addresses for the owner and the agent shall be a street address at which the owner and agent actually reside or at which they are

engaged in full-time employment. A post office box address may not be used, except in conjunction with the actual street address. In this paragraph, a corporation, partnership, limited liability company or other organization shall be deemed a nonresident owner if it does not operate a business office on a full-time basis in the City of Wausau. (Ord. 61-5412 §1, 2009, File No. 93-0717)

16.04.035 Vehicles.

(a) Unregistered and Unlicensed Motor Vehicles

(1) Residence Zones. No person shall park or permit any other person to park any motor vehicle, except a motor vehicle parked in an enclosed building, on any premises in a residential zone, if the vehicle:

(A) Is unregistered; or

(B) Has expired registration; or

(C) Does not have license plates which are currently registered to that vehicle, displayed thereon, including a current registration sticker.

(b) Junk Vehicles

(1) At no time shall any vehicle be in any state of major disassembly, disrepair or shall it be in the process of being stripped or dismantled. At no time shall any vehicle of any type undergo major overhaul, including body work, in a residential district.

(2) In any business, commercial or industrial zone at no time shall any vehicle be in any state of major disassembly, disrepair or shall it be in the process of being stripped or dismantled. At no time shall any vehicle of any type undergo major overhaul, including body work, in a business, commercial or industrial zone, except at an approved automobile establishment. (Ord. 61-5412 §1, 2009, File No. 93-0717)

16.04.037 Rent Abatement. (a) Statement of Intent. The Common Council of the City of Wausau hereby finds that in order to insure the proper repair and maintenance of residential buildings within the City of Wausau, to prevent the deterioration and neglect of such structures for the protection of the health and safety of the people of Wausau and to further enforce compliance with The BOCA Basic Housing-Property Maintenance Code of the City of Wausau and the Wisconsin Administrative Code, Chapter SPS 321 and 362, it is necessary, in the case of uncorrected rent-impairing violations, that tenants residing in the City of Wausau be authorized to abate an appropriate portion of their rental payments under the provisions of this section.

(b) Notice. A list of addresses of rental properties with uncorrected rent-impairing violations shall be published each week on the official City website within ten (10) days of the reinspection which reveals noncompliance. Such notice shall indicate that the tenants may be eligible for rent abatement and shall state that any such tenant must request authorization to abate rent within thirty (30) days of publication of the notice of eligibility by the Inspection and Zoning Division of the Department of Engineering. A copy of the notice shall also be sent by first class mail, addressed to "Occupant" at each rental unit with uncorrected rent-impairing violations, on or before the date of publication of the notice. Together with the copy of the notice there shall be mailed a cover letter including, but not limited to, the following information: Notice of Eligibility to Apply for Rent Abatement – The owner of your residential dwelling has not followed an order from the City of Wausau Inspection and Zoning Division to correct housing code violations. Because the owner has not complied, you may be able to get a portion of your rent back pursuant to Wausau Municipal Code 16.04.037.

(c) Definitions.

(1) "Affected applicant" in rent abatement categories where the percentage of rent abatement is expressed as a certain percentage or a certain dollar amount "per affected applicant", abatement only applies to those dwelling units/lodging rooms affected by the violation and only if a tenant therein has applied for rent abatement.

(2) "Affected dwelling unit or lodging room" means a dwelling unit or lodging room in which a rent impairing violation exists or a dwelling unit or lodging room in a residential building where a common area violation exists.

(3) "Applicant" encompasses the total number of eligible tenants residing in a dwelling unit or lodging room where an eligible tenant has applied for rent abatement and not an individual eligible tenant within the unit or room.

(4) "Common area violation" means a condition constituting a rent impairing violation which exists in any part of a residential building or lot not contained within a dwelling unit or lodging room.

(5) "Eligible tenant(s)" means any current tenant(s) of a landlord of residential premises where the landlord has had a residential rental license denied, revoked, suspended or non-renewed, or fails to comply with an order of the Inspection and Zoning Division of the Department of Engineering to correct a rent impairing violation by the original due date in the orders unless that date is found unreasonable by the Public Health and Safety Committee, provided that the tenant has lived in an affected dwelling unit for some portion of the time period from the date of the initial inspection by the building inspector to the close of the thirty (30) day period during which a request for abatement hearing may be filed. Any tenant, to be an eligible tenant, must have a valid rental contract with the landlord and must have the landlord's authorization to occupy the property.

(6) "Per fixture" means per affected appliance regardless of how many separate rent impairing violations may affect that appliance.

(7) "Only facility" means the only appliance of its kind in the dwelling unit or lodging room.

(8) "Provider agency" means any governmental agency or private social services agency which by contract provides rental assistance on behalf of low-income tenants where such assistance payments are paid directly to the landlord.

(9) "Rent impairing violation" a rent impairing violation within the meaning of this section shall designate a condition in a dwelling unit, lodging room or other area of a residential building or lot which constitutes or, if not properly corrected, will constitute a fire hazard or a threat to the health or safety of occupants thereof. Such conditions include but are not limited to those which involve deficiencies in security, heating, electricity and/or plumbing.

(10) "Successor tenant(s)" means any individual(s) who become(s) a tenant in a dwelling unit or lodging room where a prior tenant was authorized or is in the process of being authorized to abate rent pursuant to this chapter and where, at the time of tenancy of the successor tenant commences, there exists an uncorrected rent impairing violation which was determined or is in the process of being determined by a hearing examiner to be abatable. Anyone who succeeds a successor tenant is also a successor tenant, provided that at the time her/his tenancy commences there exists an uncorrected rent impairing violation for which abatement was authorized. (Ord. 61-5602 §1, 2013, File No. 12-0206)

(d) Authorization of Rent Abatement.

(1) Eligibility. Notwithstanding any other provision of law or any agreement, whether oral or written, tenants and provider agencies shall be eligible to abate a portion of the total rental payments, in accordance with this section and pursuant to the order of the Public Health and Safety Committee or by written agreement of the parties, if the landlord of the residential premises fails to comply with an order of the Inspection and Zoning Division of the Department of Engineering to correct by the original due date, unless such due date is found to be unreasonable upon appeal to the Public Health and Safety Committee, a violation which is "rent impairing" as that term is defined in this chapter. Any such order of the Inspection and Zoning Division shall specifically state that uncorrected violations may be eligible for abatement in addition to any other penalties provided by law. A tenant's eligibility to abate rent shall apply only to the eligible tenant(s) or successor tenant(s) upon whose rented premises the uncorrected rent impairing violation exists or to any eligible tenant(s) or successor tenant(s) in a building with an uncorrected rent impairing violation in a common area. A provider agency's ability to abate rent shall apply only to provider agencies which pay or have paid a portion of an eligible

tenant's rent while an uncorrected rent-impairing violation exists on the premises or common area of the eligible tenant's building. Where an award is made and rent has been paid by both a tenant and a provider agency, the tenant's portion of the award shall be up to but not greater than the amount of rent the tenant has paid. Where the award amount is less than or equal to the amount of rent the tenant paid, the tenant shall receive all of the award. No rent may be abated pursuant to this ordinance until abatement is awarded by the Public Health and Safety Committee or authorized by written agreement of the parties.

(2) Other Remedies. The right of a tenant to abate a portion of the rent as established by this section shall not preclude or affect in any way the tenant's right to abate under Chapter 704 of the Wisconsin Statutes; nor shall it preclude or affect in any way the tenant's or landlord's right to any of the remedies provided by the laws of the State of Wisconsin and the Wausau Municipal Code pertaining to the relationship of landlord and tenant.

(3) Designation of Rent Impairing Violations. The common council shall adopt a list of violations of the provisions of chapter 16 of the Wausau Municipal Code and the Wisconsin Administrative Code Chapter SPS 321 and 362, to be classified as "rent impairing" as above defined. Said list shall contain a brief description of the condition constituting the violation, the section of the ordinances violated and the percentage range of any possible rent abatement. The Public Health and Safety Committee may at any time recommend a change in the number of violations, their descriptions or the percentage of possible rent abatement for a particular violation but no such change shall be made except in the manner set forth above.

(4) Schedule of Rent Impairing Violations. A tenant authorized to abate rent shall do so in accordance with the schedule which follows at the end of this section, with the precise amount to be set by the Public Health and Safety Committee after notice and hearing pursuant to subsection (5). The maximum total abatement authorized pursuant to this ordinance shall not exceed ninety-five percent (95%) of the periodic rental payment, except where the premises have been vacated pursuant to an order of the Inspection and Zoning Division of the Department of Engineering or pursuant to any other tenant right to remove from residential rental premises secured under Wisconsin law.

(5) Procedure.

(A) Application for Authorization for Rent Abatement. An eligible tenant who may be entitled to abate a portion of his/her rental payment under this ordinance shall have thirty (30) days from mailing of the notice of possible eligibility by the Inspection and Zoning Division of the Department of Engineering to file a request for a hearing on authorization for rent abatement. The request shall be in writing on a form approved by the Public Health and Safety Committee, shall state with specificity the name and

address of the landlord and the alleged rent impairing violation(s) and shall be filed with the city clerk. The application shall be accompanied by a fee as provided in section 3.40.010(a) made payable to the City Treasurer, which fee shall be recovered from the landlord if abatement is ordered. The time and place for the hearing shall be the next regularly scheduled meeting of the Public Health and Safety Committee, but not prior to the end of the 30-day filing period. Notice of the hearing including a statement of the time, place and nature of the hearing shall be mailed to the landlord and tenant(s) at least ten (10) days prior to the hearing.

(B) Role of the Public Health and Safety Committee.

(i) The Public Health and Safety Committee shall have the authority to conduct hearings on requests for authorization for rent abatement and to determine the exact amount of rent, if any, which may be abated pursuant to this ordinance.

(ii) The Public Health and Safety Committee shall have the authority to administer oaths and to issue subpoenas pursuant to WI SS 885.01 at the request of the parties and shall be responsible for the fair, orderly and impartial conduct of the rent abatement hearing and the preservation of the exhibits and the record therein.

(C) Conduct of Hearing. The Public Health and Safety Committee shall conduct the hearing on the request for authorization for rent abatement, shall administer oaths to all witnesses and may issue subpoenas upon request of the parties. So far as practicable the rules of evidence in WI SS 227.45 shall be followed. The landlord and the tenant may be represented by counsel or other representative, may call and examine witnesses and cross-examine witnesses of the other party. All proceedings and testimony shall be recorded on tape. If a review is sought of the committee's decision, a copy of the tape recordings shall be supplied to anyone requesting the same at the requester's expense. If either party requests a stenographic recording and transcription, the Committee shall make the necessary arrangements, but the expense shall be borne by the requesting party. In the hearing, the tenant(s) shall have the burden of proving to a reasonable certainty by the greater weight of the credible evidence, i.e. by the preponderance of the evidence, that the landlord failed to correct (a) rent impairing violation(s) by the due date in an order of the Inspection and Zoning Division. It is the landlord's burden to show by the preponderance of the evidence that any rent impairing violations were negligently or willfully caused by the tenant or the tenant's guests or that the tenant's refusal to allow entry prevented the landlord from making the corrections in a timely manner. Thereafter, the tenant has the burden to show that any such refusal was reasonable under the circumstances. Either party may present additional evidence on the nature, extent and seriousness of

violations, the length of time conditions existed and the extent to which the tenant was deprived of the full use of the rented premises, to assist in determining the percent of abatement which should be allowed.

(D) Decision.

(i) If, on the evidence at the hearing, the Public Health and Safety Committee finds that the landlord failed to comply with an order of the Inspection and Zoning Division to correct by the original due date a "rent impairing" violation as that term is defined in subsection (c), the Committee shall order that the rent be abated retroactive to the date of the initial inspection in order to effectuate the purpose of this ordinance and to provide fair and equitable compensation to the tenant(s) for the diminished value of the rented premises due to the landlord's continued violation of the City of Wausau's building/housing codes. Any such abatement shall be established in accordance with the Schedule of Rent Impairing Violations referenced in subsection (d) (4). In setting the exact percentage of abatement the Committee shall consider the nature, extent and seriousness of the particular condition(s), the total number of rent impairing violations at issue, the length of time the condition(s) existed and the extent to which the condition(s) deprived the tenant(s) of full use of the rented premises. If the Committee finds that the landlord's failure to comply with the order of the Inspection and Zoning Division by the due date was caused by factors wholly outside the landlord's control and if the Committee further finds that the landlord has taken affirmative steps to minimize the impact of the uncorrected rent-impairing condition(s) on the tenant(s), any sums reasonably expended by the landlord in that regard should be considered in setting the percentage of abatement and may operate to reduce the final abatement percentage below the minimum percentage listed for the item(s) in the Schedule of Rent Impairing Violations in subsection (d) (4). The Committee shall not authorize rent abatement for any condition(s) found to be caused either negligently or willfully by the tenant or his/her guests, nor shall abatement be ordered for any period of time after the tenant has unreasonably refused entry to the landlord for the purpose of correcting the condition(s) giving rise to the violation(s).

(ii) If, after the hearing, the Committee finds that the landlord did not fail to comply with an order of the Inspection and Zoning Division to correct a rent impairing violation by the due date or that the rent impairing violations were caused by the tenant or the tenant's guests or that the tenant unreasonably refused entry for the purpose of correcting a rent impairing violation, the Committee shall enter an

order denying the request for authorization to abate rent for any items negligently or willfully caused by the tenant or guests of the tenant or for any items which remained uncorrected due to the tenant's unreasonable refusal to allow entry for repair purposes.

(iii) The decision and order of the Committee shall contain written findings and shall be mailed to the parties within ten (10) days of completion of the hearing or as soon thereafter as possible. The failure to issue and mail a decision within ten (10) days shall neither deprive the Committee of jurisdiction to render a final decision in the matter nor affect the validity thereof.

(iv) The holder of the landlord's interest in the premises at the time of the decision and order of the Committee is issued and the holder or holders of the landlord's interest during the period of time that the right to continuing abatement remains in effect are bound by the order and by the applicable provisions of this chapter relating to rent abatement.

(6) Petition for Reconsideration. Within ten (10) days after service by first-class mail of the decision of the Committee, either party may file with the city clerk, a written petition for reconsideration specifying in detail the grounds for the relief sought. The Committee may on their own motion reconsider the decision or order a hearing on reconsideration without the filing of a written petition.

(A) Reconsideration will be granted only on the basis of a material error of fact or law or an error in the calculation of an award amount, or

(B) Copies of the petition shall be served by first class mail by the petitioner on all parties, who may file replies within seven (7) days after service by mail of the petition.

(C) Within twenty-one (21) days of the filing of the petition, the Committee shall enter an order denying reconsideration or an order granting reconsideration disposing of the petition without a hearing or shall order a rehearing, which shall be held within twenty (20) days. The failure to issue a decision within the above time period shall not deprive the Committee of jurisdiction to render a decision on reconsideration or affect the validity thereof. If no order is entered within twenty-one (21) days of the filing of the petition, the petition shall be deemed denied.

(D) Upon rehearing, if any, proceedings shall conform to those in Section (d)(5) et seq. relating to an original hearing.

(E) The filing of a petition for rehearing shall not suspend or delay the effective date of the original decision and order, and the order shall take effect on the date fixed by the Committee and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(7) Request for Modification. If, subsequent to a decision by the Committee ordering rent abatement, substantial further deterioration or substantial improvement occurs in any rent impairing conditions which were the subject of the original order, the applicant, landlord or any successor tenant may request modification of the rent abatement amount. Only one such request for modification may be made by each eligible individual, which request shall follow the procedures in Section (d)(5) et seq. relating to the original application.

(8) Enforcement. Whenever, in the judgment of the Public Health and Safety Committee, the judicial enforcement of the ordinance is necessary, the Committee shall in writing request the City Attorney to enforce the ordinance in the name of the City of Wausau.

(9) Appeal. All orders of the Public Health and Safety Committee shall be final administrative determinations and shall be subject to review in court as by law may be provided. Any party to the proceeding may seek review thereof within thirty (30) days of service by first-class mail of the final determination of the Committee. In addition, written notice of any request for judicial review shall be given by the party seeking review to all parties who appeared at the proceeding before the Committee, with said notice to be sent by first class mail to each party's last known address.

The institution of the proceeding for judicial review shall not stay the decision and order of the Committee; however the reviewing court may order a stay upon such terms as it deems proper.

(e) Successor Tenant.

(1) A successor tenant is entitled to abate rent pursuant to the order of the Public Health and Safety Committee issued in accordance with this Chapter, provided that at the time the tenancy commences there exists an uncorrected rent impairing violation which was determined or is in the process of being determined by the Committee to be abatable.

(2) In order to be deemed a successor tenant under this ordinance, an otherwise eligible individual must advise the landlord in writing, with a copy to the Inspection and Zoning Division of her or his intent to exercise his or her rights as a successor tenant, no later than fifteen (15) days after receipt of written notification by the landlord which conforms to the requirements of Section 16.04.037(g). If said written notification is given at or prior to the time the rental agreement is entered into, the

successor tenant's notice of intent must be given no later than fifteen (15) days after the commencement of the successor tenancy.

(3) Failure to provide the landlord with a timely written notice of intent to become a successor tenant forfeits a tenant's right to proceed to abate rent as a successor tenant under this chapter, except where the landlord has failed to provide the written notification of the tenant's right to abate rent pursuant to subsection (2) above. In cases where the landlord fails to provide written notice as required, an otherwise eligible tenant may assert the rights of a successor tenant at any time during the tenancy or in any action relating to or arising out of the tenancy.

(f) Duration of Abatement.

(1) Authorization to abate a portion of the rent pursuant to subsection (d) for failure of a landlord to correct a rent impairing violation ceases upon certification by the Inspection and Zoning Division of the Department of Engineering that said violation has been satisfactorily corrected. Where more than one rent impairing violation has been authorized for rent abatement and partial correction has been certified, authorization to abate continues for the uncorrected rent impairing violations, until such time as their satisfactory correction has been verified.

(2) If abatement is authorized, the landlord must promptly repay any rent previously paid by the tenant, provider agency or successor tenant and apportioned to rent impairing violations from the date of the original inspection by the Inspection and Zoning Division at which said violations were discovered.

(3) If the landlord fails to promptly reimburse the tenant, provider agency or successor tenant as required in subsection (2) above, the tenant, provider agency or successor tenant may enforce the order requiring reimbursement as follows:

(A) The tenant, provider agency or successor tenant may deduct the amount previously paid and subsequently determined to be apportioned to rent impairing violations from future rental payments.

(B) If the total of future rental payments payable for the balance of the tenancy is less than the reimbursement required in subsection (2) above or if the tenant or successor tenant no longer resides at the premises in question, the tenant, provider agency or successor tenant shall recover from the landlord the amount not reimbursed in accordance with the order of the Committee plus costs of collection including reasonable attorney fees. Nothing in this ordinance shall prohibit a tenant from collecting double damages if not being reimbursed for abated rent meets the definition of a security deposit violation under ATCP 134.02 (11) and ATCP 134.06.

(4) The failure of a landlord to promptly reimburse the tenant, provider agency or

successor tenant as required in Subdivision (2) above and the failure of either a landlord, tenant or a provider agency after a decision by the reviewing court on judicial review, to pay monies wrongfully not reimbursed or return monies wrongfully abated shall be deemed a violation of this ordinance and shall be punishable as provided in this section.

(5) Rent abatement awarded in a decision and order of the Public Health and Safety Committee shall accrue during the period when either a tenant or a successor tenant is entitled to the exclusive possession and occupancy of an affected dwelling unit. Under no circumstances shall there be recovery by both a tenant and a successor tenant for the same period of time.

(g) Rent Abatement and Code Violations Disclosure. The landlord or any person authorized to enter into a rental agreement shall exhibit to the prospective tenant, prior to the time a rental agreement is entered into, the following:

(1) A copy of any official notice of outstanding violation(s) of Chapters 16 of the Wausau Municipal Code or Wisconsin Administrative Code Chapter SPS 321 and 326 of which the said landlord or person has actual notice and which affects the subject rental building regardless of the location of the violation(s) or defect(s) therein;

(2) A copy of any Public Health and Safety Committee decision and order which affects the subject rental unit or any common areas of the subject rental building.

(3) The failure by a landlord to comply with the provisions of this subsection regarding written notice of a successor tenant's right to abate rent shall not be subject to the penalties set forth as provided in this section.

In addition, prior to the time a rental agreement is entered into, the landlord shall advise the prospective tenant in writing of a successor tenant's right to abate rent pursuant to the order aforementioned until authorization to abate ceases as provided in subsection (f) above. In cases where the rent abatement request is pending at the time the rental agreement is entered into, the landlord shall provide the successor tenant written notification of a successor tenant's rights when the case has been decided and shall exhibit a copy of the decision and order to the successor tenant upon receipt thereof.

Finally, at the time occupancy commences the landlord shall exhibit to the tenant (formerly, prospective tenant) a copy of all additional official notices referred to in Subdivision (a) above and a copy of all decisions and orders referred to in Subdivision (b) above, if any have been issued since the signing of the rental agreement. Similarly, at the time of occupancy the landlord shall provide the required written notice of a successor tenant's rights with respect to all such additional official notices and decisions.

The written notice of successor tenant's rights shall specifically state in underlined or otherwise emphasized print the following: "If you wish to become a successor tenant and to abate rent in accordance with Section 16.04.037 of the Wausau Municipal Code you must provide your landlord and the Inspection and Zoning Division with written notice of that intent within fifteen (15) days of receiving written notification from your landlord of your right as a successor tenant to abate rent. Failure to provide your landlord with timely written notice forfeits your right to be a "successor tenant" and to abate rent as a successor tenant under Section 16.04.037 of the Wausau Municipal Code."

(h) Prosecution. It is the intent of this section that any use of abatement will not prohibit the Inspection and Zoning Division of the Department of Engineering from prosecuting violations of the code relating to said property.

(i) Penalty.

(1) Any person violating any of the provisions of this section shall upon conviction be subject to a forfeiture of not less than one hundred and fifty dollars ($150) nor more than nine hundred dollars ($900), unless a different penalty is specifically provided, with each separate day of violation to be considered a separate offense.

(2) Any person who shall fail or neglect to comply with any lawful order of the Public Health and Safety Committee issued pursuant to the provisions of this section shall be deemed guilty of a violation of this section, and every day or fraction thereof on which such person shall fail or neglect to comply with such order, shall be deemed a separate offense.

(j) Severability. In the event that any section of this ordinance shall be declared or judged by a court of competent jurisdiction to be invalid or unconstitutional, such adjudication shall in no manner affect the other sections of this ordinance, which shall be in full force and effect as if the said section or said sections were not originally a part thereof.

(k) Effective Date of Ordinance. This ordinance shall be effective and apply to all orders written by the Inspection and Zoning Division of the Department of Engineering on or after April 1, 2012. Any amendments to this ordinance relating to rent abatement shall be effective and apply to all orders written by the Inspection and Zoning Division of the Department of Engineering ninety (90) days after the publication of this ordinance as amended.

Violation	Description	% of Abatement

WMC 16.04.039	Rental of a residential dwelling unit after denial, revocation, suspension or non-renewal of residential rental license	100%
H-401.3 H-401.4	Non-functioning kitchen sink and lavatory basin	10-25%
H-401.3 H-401.4	Non-functioning flush water closet	Not only facility 5-10% Only facility 50-75%
H-401.3 H-401.4	Non-functioning bathtub or shower	Not only facility 5-10% Only facility 25-50%
H-400.3	Water pressure/volume 1. None 2. Inadequate	>48 hours 50-95% 10-25%
H-400.3.1	Hot water tank not provided or not functional	5-50%
H-400.5 H-400.6	Garbage and refuse storage facility - inadequate or not provided	
WMC 6.44.040(A)		5%
H-302.7 H-302.8	Required exits 1. Not provided or totally unusable 2. Partially usable	10-25% per exit 5-10% per exit
H-302.9.2	Screens 1. No screens provided or all screens in need of repair 2. Not all screens provided or some screens in need of repair	10-25% 5-10%
H-401.6 H-401.6.1	Electrical services and wiring 1. No electricity 2. Unfused circuits 3. Overfused circuits 4. Exposed wires, damages or bare wires presenting shock hazards	48 hours 50-95% 10-25% 5-10% 25-75%
H-401.6 H-401.6.1 H-403.5	Lighting 1. Required light switches not provided or functioning	5% per switch
H-403.4	Lighting 2. Public halls and/or stairs not lit 3. Outside entrance doors not lit	5-25% 5-25%
H-400.4	Heat 1. Not heated or consistently below 55 degrees 2. Inadequate or occasionally inadequate (55-69 degree)	24-48 hrs 25% >48 hrs 50-95% 10-25%

H-302.0 (ext)	Floors, walls, ceilings, roof 1. Unsafe to the degree the room is unusable 2. Incapable of affording privacy 3. Appropriate floor surfacing not provided, or damaged so that it does not function to provide ease of maintenance	Not a kit, only bath 25-50% Kit or only bath 50-95% 5-10% per room
H-302.0 (ext)	Floors, walls, ceilings, roof (cont.) 4. Unsealed gaps allowing collection of dirt and other matter which creates a cleaning or sanitation problem	5%
H-401.2.1	Chimney 1. Not properly removing combustible products 2. In danger of collapse	50-75% 10-25%
H-302.7 (ext)	Exterior and interior doors, basement hatchway doors 1. Missing and affecting privacy, health, safety, and security 2. Hazardous - unhinged, requiring excessive force to open, door or hardware interfering with egress/ingress	10-50% 10-50%
H-302.7	Windows (one or more) 1. Missing from 1st floor, basement or other window openings accessible by balconies, fire escapes, trees, etc and negating dwelling unit or lodging room security 2. Hazardous - windows which must be propped open, broken windows with glass shards in the frame	25-50% 10-50%
H-302.7.4	Door locks - no lock or not functional	25-75%
H-302.7	Window sash locks - not functional or not provided 1. First floor, basement, and all other windows accessible by balconies, fire escapes, trees, or other existing means 2. All other windows where required	10-25% 5%
H-302.6	Inside and outside stairs and/or porch - hazardous	Egress only 50-95% Not only egress 25-50%

H-302.6	Required appurtenances to any porch or stair such as handrails and guardrails 1. Missing or inadequate when protecting an elevation less than four feet (4') 2. Missing or inadequate when protecting an elevation greater than four feet (4')	5-10% 10-50%
H-401.3 H-401.4	Leaking water supply or drain piping not containing sewage to extent it interferes with tenants full use of all or part of premises 1. In kitchen, bathroom, bedroom or other living areas 2. Other areas	10-25% 5-10%
H-401.3 H-401.4	Leaking or obstructing drain piping containing sewage that causes backup of sewage into fixtures, onto floors, or through ceilings or walls (including basement)	50-90%
H-401.2	Failure to clean and disinfect common area after sewage backup Owner not maintaining common areas in sanitary conditions	10-25% 5-25%
H-401.2.1	Failure to clean and disinfect basement after sewage backup	10-25%
H-307.7	Severe infestation of pests, whether occasional or chronic	10-50%
SPS 321.09 SPS 321.097 SPS 362.0907 SPS 362.1200	Smoke alarms and carbon monoxide detectors not installed where required	5-25% per missing detector
H-303.2	Basement Water and Moisture Problems 1. Basement water violation use in non-habitable area; water, mold and/or mildew accumulation 2. Basement water violation use in habitation: damp, continually wet, standing water, mold and mildew accumulation	5-25% 5-75%

(Ord. 61-5605 §28(part), File No. 13-1109; Ord. 61-5602 §1, 2013, File No. 12-0206; Ord. 61-5504 §1, 2012, File No. 12-0206)

16.04.039 Residential Rental Licensing. (a) Findings. The Wausau City Council has determined that it is necessary to establish a systematic, city-wide program for the inspection and licensing of residential rental dwelling units in the city to ensure that those units provide safe,

decent and sanitary living conditions for residents living in the rental units and to prevent deterioration of those units. The City Council finds that a significant percentage of housing code complaints occur at residential rental dwelling units and that the conditions which exist at these units adversely affect the neighborhoods in which they are located and the residents living nearby. This ordinance is enacted to encourage property owners who rent residential dwelling units to exercise their responsibility to ensure that the city ordinances governing the condition and maintenance of housing are followed to prevent blighted conditions in city neighborhoods and to protect the health, safety and welfare of the public.

(b) Definitions. The following definitions shall apply in the interpretation and enforcement of this section.

(1) "Chief Inspector" shall include the designee of the Chief Inspector.

(2) "Department" means the City of Wausau Division of Inspection and Zoning.

(3) "Dwelling" means a building which includes one or more distinct living units. It does not include rest homes, convalescent homes, nursing homes, hospitals, assisted living centers, community based residential facilities, adult home and other facilities licensed or certified by the Wisconsin Department of Health Services, hotels, motels, or properties owned or operated by the City of Wausau or its Community Development Authority.

(4) "Certificate of Compliance" means a written and signed statement prepared by the Chief Inspector of the Department after an inspection has been made pursuant to this section that the condition of a dwelling or dwelling unit is in compliance with the provisions of this municipal code.

(5) "Owner" means any person who alone or jointly or severally with others is the recorded or beneficial owner or has legal or equitable title to any dwelling or dwelling unit, or has charge, care or control of any dwelling or dwelling unit as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.

(6) "Person" includes an individual, a partnership, domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal or commercial entity.

(7) "Sale, transfer or conveyance" means to transfer any ownership interest in a dwelling except by mortgage. The sale or transfer shall be deemed to occur upon the transfer of an ownership interest, the recording of a land contract or the exercise of an option to purchase property.

(8) "Unit" means any independently rented living space whose term of lease is 30 days or greater.

(c) Residential Rental License Required.

(1) No owner shall lease any dwelling unit to another person unless, at the time the dwelling unit is let, the owner possesses a valid residential rental license issued by the city for the operation of that dwelling unit. Unless a dwelling unit has a valid residential rental license or a provisional residential rental license, no owner of a dwelling or dwelling unit shall permit any person to occupy the dwelling or dwelling unit as a tenant or otherwise.

(2) A residential rental license may be issued upon proof and compliance with the following:

(A) Completion of an application for a residential rental license.

(B) Issuance by the Department of a valid Certificate of Compliance for the dwelling unit to be let.

(C) Payment of the fees as set forth in section 3.40.010(a). All fees are non-refundable and are not pro-rated for any partial license year.

(D) Completion of the city's Landlord Education Assistance Program (LEAP) by an owner who has been designated a chronic nuisance landlord under section 9.24.070 or has any dwelling or dwelling unit that has been designated as a chronic nuisance premises under section 9.24.070.

(3) Each residential rental license is valid from July 1st until the following June 30th. Residential rental licenses are not transferable.

(4) Any person selling, transferring or conveying an ownership interest in a dwelling or dwelling unit shall expressly inform any person acquiring or receiving an ownership interest in a dwelling or dwelling unit that a residential rental license is required by the city.

(5) The issuance of a residential rental license does not warrant that the dwelling or dwelling unit to which it is issued is free of ordinance violations or otherwise fit for human habitation.

(6) A residential rental license may be denied if the owner of the dwelling or dwelling unit has:

(A) Failed to provide all information required by the application form or has failed to sign the application form.

(B) Has provided false or incorrect information on the application form.

(C) Has refused to allow a Department representative to inspect the dwelling or dwelling unit or has failed to otherwise comply with the inspection provisions of subsection (e).

(D) Has failed to comply with an order to correct any condition in the dwelling or dwelling unit which violates any provision of the municipal code.

(E) Has failed to pay any delinquent charge specified in section 3.06.010.

(d) Application.

(1) An application for a residential rental license shall be filed with the Department on forms provided by the Department within 30 days of July 1 and in the case of any sale, transfer or conveyance of a dwelling unit within 30 days of any such sale, transfer or conveyance. The application shall be signed by the owner and the owner shall provide all information requested on the form which will enable the Department to contact the owner, or at the option of the owner, an agent of the owner, including the street address of the dwelling or dwelling unit to be inspected and the owner's legal name and shall be accompanied by the fee required in this section.

(2) After review of the application and the past code violation history of a dwelling or dwelling unit and the owner, the Department may issue, at its discretion, a provisional residential rental license pending inspection and issuance of a Certificate of Compliance and residential rental license as provided in this section.

(3) Any application filed after the time provided herein shall be assessed an additional late fee as set forth in section 3.40.010(a).

(e) Inspection.

(1) Upon receipt of an application and payment of the required fee, the department will conduct an inspection of the dwelling or dwelling unit for compliance with the provisions of the municipal code. If a provisional license is not issued for a dwelling unit, the Department shall make the inspection within 30

days of the date of the completed application unless another date is mutually agreed upon by the Department and owner.

(2) Appointments for inspections shall be scheduled by the department. The Department shall provide notice of the time and date of the inspection by first class mail to the address provided in the application at least 21 days before the scheduled inspection date.

(3) The owner shall arrange for access to the dwelling unit and all portions the property affected by the rental of the dwelling unit and shall notify all tenants of the inspection in accordance with Wisconsin law and the lease agreement between the owner and the tenant. Failure to provide access to the property and dwelling unit on the agreed inspection date will subject the owner to the fees specified in section 16.04.025 and denial of the residential rental license.

(4) Inspections shall not be conducted:

(A) With a minor as the sole representative of the owner.

(B) Against the will of the tenant without the owner or the owner's agent present.

(C) Without prior notice to the tenant by the owner as required by state law or the lease agreement.

(D) In an occupied dwelling unit without the owner or owner's agent or tenant being present.

(5) Any municipal code violations identified in the inspection for a residential rental license shall be abated within the time ordered by the Department.

(6) The first inspection of a newly constructed dwelling unit intended for lease may be waived by the Chief Inspector of the Department for a period of up to 5 years after the issuance of the initial Certificate of Occupancy by the Department. Such waiver does not relieve the owner of any other obligations of this section or the municipal code.

(f) Issuance of Certificate of Compliance.

(1) After inspection, the Department shall issue a Certificate of Compliance upon making a determination that the observable conditions of the dwelling or dwelling unit conform to the requirements of the municipal code. The certificate shall specify the date of issuance, the address of the dwelling unit to which it applies and the name of the owner. A certificate is not transferable. The certificate does not grant the owner the privilege of letting the dwelling unit for

residential occupancy, but must be accompanied by a valid residential rental license. All violations of the municipal code shall be corrected prior to issuance of a Certificate of Compliance.

(2) A certificate shall be valid for three (3) years. If after issuance of a Certificate of Compliance, the Department subsequently finds the dwelling or unit has conditions which affect safe, decent and sanitary living conditions of persons occupying a dwelling unit or violate the provisions of the housing, plumbing, electrical, fire, or zoning code, the Department may revoke the Certificate of Compliance.

(g) Waiver. A waiver may be given from the provisions of this section for the rental of a single family residence that is to be leased on a one time basis for a period of one (1) year or less upon the written request of the owner to the Public Health and Safety Committee and as may be approved by the Public Health and Safety Committee and the common council in its sole discretion. Such single family residence continues to be subject to all other provisions of the municipal code including the housing, plumbing, electrical, fire and zoning codes.

(h) Revocation, Suspension, or Non-renewal of Residential Rental License.

(1) The Chief Inspector of the Department may revoke, suspend, or non-renew a residential rental license for violations of this section including:

(A) Failure to comply with an order of the Department to correct any condition in the dwelling or dwelling unit which violates any provision of the municipal code.

(B) Revocation of the Certificate of Compliance.

(C) Fraud, misrepresentation, or false statement contained in the residential rental license application.

(D) Failure to pay any fees required to be paid under this section.

(E) Refusal to allow a Department representative to inspect the dwelling or dwelling unit, or other failure to comply with the inspection provisions of subsection (e).

(F) Designation of the dwelling or dwelling unit as a chronic nuisance premises under section 9.24.070.

(G) Designation of the owner as a chronic nuisance landlord under section 9.24.070.

(2) No owner shall lease a dwelling unit to another person after the residential rental license is revoked, suspended, or non-renewed. Upon revocation, suspension, or non-renewal of a residential rental license, the Department shall immediately notify the tenant(s) of the affected dwelling unit that the owner does not have a rental license and that the tenant may be eligible for rent abatement under section 16.04.037.

(3) Whenever an owner wishes to appeal the decision of the Chief Inspector of the Department to revoke, suspend, or non-renew a residential rental license the owner shall, within ten business (10) days of the notice of the revocation, suspension, or non-renewal, deliver to the city clerk, a written objection, addressed to the Public Health and Safety Committee, stating specific reasons for contesting the decision. Upon receipt of the written objection, the matter shall be placed on the agenda for the Public Health and Safety Committee for a review hearing at the next regular meeting, unless the appeal is filed within four (4) days of the next meeting in which case it shall be heard at the following meeting. The decision of the Public Health and Safety Committee shall constitute a final decision. The city elects not to be bound by Chapter 68, Wisconsin Statutes with respect to administrative procedure in this regard.

(4) If the owner wishes to further contest the determination, he or she may, within thirty (30) days of receiving the written decision of the Public Health and Safety Committee seek a review of the decision by certiorari.

(i) Reinstatement of Residential Rental License.

(1) Where a residential rental license has been denied, revoked, or non-renewed, an owner may seek reinstatement of the residential rental license as follows:

(A) For failure to comply with an order of the Department to correct any condition in the dwelling or dwelling unit which violates any provision of the municipal code, immediately upon compliance with the requirements of the municipal code and order of the Chief Inspector of the Department;

(B) For a violation of subsection (c)(6)(B) or subsection (h)(1)(C) after thirty (30) days, provided the violation of such subsection has been corrected;

(C) For any reason other than as provided in this subsection, after one hundred eighty (180) days. An application to reinstate a residential rental license that has been denied, revoked, or non-renewed by the Department shall be accompanied by the payment of a reinstatement fee as set forth in section 3.40.010(a) in addition to the application fee.

(2) A residential rental license that has been suspended may be reinstated upon compliance with the requirements of the Chief Inspector of the Department which formed the basis of the suspension and payment of the reinstatement fee.

(j) Remedies and Application of Other Provisions.

(1) The remedies provided in this section are not to be construed to be exclusive of any other remedy under the municipal code, and the Department may take further actions to ensure compliance with this section including but not limited to seeking injunctive relief, obtaining inspection warrants.

(2) Nothing in this section limits, impairs, alters or extends the rights and remedies of persons in the relationship of landlord and tenant that exists under applicable law.

(3) Nothing in this section shall be construed to limit the authority of the Department to perform housing inspections in accordance with this code or enforcing any other provision of state or federal law.

(k) Penalty.

(1) Any owner failing to apply for a residential rental license for a dwelling unit or who lets a dwelling unit to another person after the residential rental license is revoked, suspended, non-renewed or expired, shall be subject to a forfeiture of not less than $100.00 nor more than $1,500.00 for the first violation; not less than $500.00 nor more than $2,000.00 for the second offense; and not less than $750.00 nor more than $3,000.00 for the third or subsequent offense. Each day that a violation continues to exist constitutes a separate offense.

(2) An owner failing to comply with any other provisions of this section shall be subject to the penalties provided in section 16.04.040.

(l) Severability. If any provision or portion of this section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected thereby.

(m) Repeal. The authorization of this program and ordinance shall expire on January 1, 2020, unless reauthorized by the common council. (Ord. 61-5601 §1, 2013, File No. 13-1115)

16.04.040 Penalty. Any person who willfully violates any provisions of this title shall for each such violation forfeit not less than twenty-five nor more then two hundred dollars. Each day such violation continues shall constitute a separate offense. (Ord. 61-4469 §3, 1980.)