

**ORDINANCE OF COMMITTEE OF THE WHOLE**

Creating Section 16.04.039 Residential Rental Licensing

Committee Action:

**Ordinance Number:** 61-5601

Fiscal Impact:

**File Number:** 13-1115

**Date Introduced:** November 26, 2013

The Common Council of the City of Wausau do ordain as follows:

Section 1. That Section 16.04.039 Residential Rental Licensing, is hereby created to read as follows:

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.

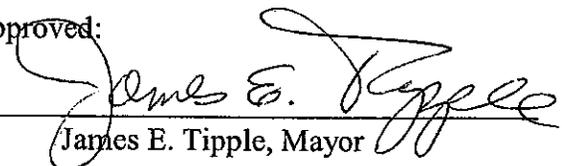
(m) Repeal. The authorization of this program and ordinance shall expire on January 1, 2020, unless reauthorized by the common council.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

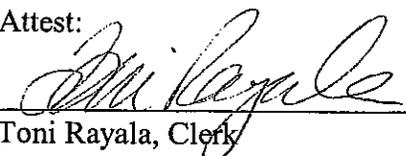
Section 3. This ordinance shall be in full force and effect from and after its date of publication.

Adopted: 11/26/13  
Approved 12/03/13  
Published: 12/05/13  
Attest: 12/03.13

Approved:

  
James E. Tipple, Mayor

Attest:

  
Toni Rayala, Clerk

**CITY OF WAUSAU**

**RESIDENTIAL RENTAL LICENSING FEE SCHEDULE**

Category	Fee
Landlord Education Assistance Program (LEAP)	\$25.00
Annual residential rental license fees:	
■ Per dwelling unit	\$20.00
■ Late fee per dwelling unit	\$100.00
Reinstatement fee	\$150.00
Residential rental license inspection fees:	
■ First inspection	No charge
■ Second inspection	No charge if violation corrected
	\$60.00 if not corrected
■ Missed inspection appointments/failure to allow access	\$35.00