

Chapter 16.10

ENFORCEMENT, PENALTIES, APPEALS AND VARIANCES

16.10.010 Authority.

The Director, and his/her designees, are the designated enforcement officials with full authority to investigate, conduct inspections, accept registration forms, issue occupancy permits, issue reports, and secure remedies, including but not limited to fines and injunctive relief for any violation of Title 16.

16.10.020 Penalties and Remedies for Violations.

(a) For purposes of Title 16, a violation shall be defined as a violation or failure to comply with:

- (1) Any provision or requirement of Title 16; or
- (2) Any condition, requirement or commitment established with the approval of a variance issued by the Board of Housing and Quality Appeals or the Indiana Fire Prevention and Building Safety Commission; or
- (3) The required elements of the submission on the basis of which any occupancy permit has been rendered hereunder.

(b) Any violation, as defined in Subsection 16.10.020(a) above, shall be subject to the penalties and remedies provided in Chapter 16.10, and the City shall have recourse to any remedy available in law or equity.

(c) Each day that any violation continues shall be considered a separate violation for purposes of the penalties and remedies specified in Chapter 16.10. A violation continues to exist until corrected and verified by the Director, or his/her designees. Correction includes, but is not limited to:

- (1) Cessation of an unlawful practice;
- (2) Remediation of a violation;
- (3) Payment of fees or fines;
- (4) Vacancy of a residential rental unit;
- (5) Vacancy of a lodging establishment; and/or
- (6) Other remedy acceptable to the City.

(d) For purposes of issuing penalties and fines in accordance with this Chapter, the following persons shall be considered responsible parties, with liability for fines and responsibility for the remediation of the violation:

- (1) Property owner;
- (2) Any person with a possessory interest in the property; and/or
- (3) Any person who has caused the violation.

(e) Remediation of a violation of Title 16 shall be made or accomplished in accordance with the procedures and provisions with the codes listed in 16.04.020(a).

(f) The City Legal Department may institute appropriate action to impose and collect fines, fees and/or other penalties; to enforce or defend any action taken pursuant to Section 16.10.050(e); and to prevent, enjoin, abate, remove or correct any violation of or noncompliance with Title 16.

(g) In addition to all other penalties and remedies provided for herein, it shall be a violation of this Title for any owner to bring or threaten to bring an action for possession of the tenant's residential rental unit for the purpose of retaliating against a tenant for requesting an inspection as provided for in this Title.

(h) In addition to all other penalties and remedies provided for herein, it shall be a violation of this Title for any owner to bring or threaten to bring an action for possession of the occupant's lodging establishment for the purpose of retaliating against an occupant for requesting an inspection as provided for in this Title.

(i) In addition to all other penalties and remedies provided for herein, it shall be a violation of this Title for any person to remove batteries from, or in any way render inoperable, a carbon monoxide detector or smoke detector, except as part of a process to inspect, maintain, repair, or replace the detector or alarm or to replace the batteries in the detector or alarm.

(j) The remedies provided for in this Title shall be cumulative, and not exclusive, and shall be in addition to any other remedies available in law or equity.

16.10.030 Penalty.

(a) Any violation that is subject to Chapter 16.10 shall be subject to a civil penalty of not more than two thousand five hundred dollars for each such violation, in addition to any and all other remedies available to the City, except where a lesser fine is specified herein.

(b) The following violations of Title 16 shall be subject to the fines listed in the table below.

Registration Form Violation if not supplied within the compliance period provided for on a unit's Inspection Report.	\$25.00 flat fine
Failure to Provide Required Documentation if not supplied within the compliance period provided for on a unit's Inspection Report.	\$100.00 per unit
Failure to Supply Signed Tenant & Owner Rights and Responsibility Form	\$25.00 flat fine assessed if not supplied within the compliance period provided by HAND
Failure to Supply Signed Inventory & Damage List	\$25.00 flat fine assessed if not supplied within the compliance period provided by HAND
Violation of any of the Codes listed in 16.04.020	\$100.00
Making a smoke detector or carbon monoxide detector inoperable	\$100.00
Failing to appear for a scheduled inspection	\$50.00 flat fine

16.10.040 Enforcement Procedure.

(a) If the Director finds that any violation of Title 16 is occurring, or has occurred, Notice shall be given to the responsible party. For purposes of Title 16 only, a Cycle Inspection Report, Remaining Violations Report or Complaint Inspection Report is considered Notice of a Violation. For purposes of issuing a Notice, the following persons may be considered responsible parties, with liability for fines and responsibility for remediation of the violation:

- (1) The owner of the residential rental unit;

- (2) Persons with any possessory interest in the residential rental unit;
- (3) Any person who, whether as property manager, agent, owner, lessee, tenant, or otherwise who, either individually or in concert with another, causes, maintains, suffers or permits the violation to occur and/or to continue;
- (4) The owner of the lodging establishment; and/or
- (5) Persons with any possessory interest in the lodging establishment.

(b) The Notice shall be in writing and shall be served on all of the responsible parties and shall be in accordance with all of the following:

- (1) Include a description of the residential rental unit or lodging establishment sufficient for identification;
- (2) Include a statement of the violation(s) and why the Notice is being issued;
- (3) Include a correction order allowing a reasonable time to make repairs and improvements required to bring the residential rental unit or accessory structures or lodging establishment into compliance with the provisions of this Title; and
- (4) Inform the owner of the residential rental unit or lodging establishment of his/her right to an appeal;

(c) The Notice shall be deemed properly served if a copy thereof is:

- (1) Delivered personally; or
- (2) Sent by certified or first-class mail addressed to the last known address of the responsible party; or
- (3) If the notice is returned showing that the Notice was not delivered, a copy thereof shall be posted in a conspicuous place in or about the residential rental unit or lodging establishment affected by such Notice; or
- (4) If the owner so designates on his/her registration form as being appropriate, sent by email.

(d) At the end of the time period specified in the Notice described in subsection (b) above, any residential rental unit or its premises found to be in violation of this Title shall be reinspected by the HAND Department at the request of the unit's owner after such owner has affected those corrections required by the City as a result of any previous inspection. If reinspection is not requested by the owner at the end of the time period specified in the Notice described in subsection (b) above, or upon reinspection, the residential rental unit and its premises shall not be issued an occupancy permit.

(e) At the end of the time period specified in the Notice described in subsection (b) above, any lodging establishment or its premises found to be in violation of this Title shall be reinspected by the HAND Department at the request of the establishment's owner after such owner has affected those corrections required by the City as a result of any previous inspection. If reinspection is not requested by the owner at the end of the time period specified in the Notice described in subsection (b) above, or upon reinspection, the lodging establishment and its premises shall be the subject to the penalties of this Chapter.

(f) Fines for all violations of Title 16, except for the violation of allowing a residential rental unit to be occupied without having first been inspected and permitted by the City in accordance with Title 16, shall only accrue from the date the timeline in the first inspection report expires.

(g) In addition to issuing a Notice, the Director may utilize and/or seek through legal proceedings one or more of the following remedies:

- (1) Revoke or withhold issuance of an occupancy permit; and/or
- (2) Any and all penalties and remedies listed in Section 16.09.020.

16.10.050 Appeals.

(a) Any person directly affected by a decision of the Director or a Notice or order issued under this Title, and related to a residential rental unit, shall have the right to appeal to the Board of Housing and Quality Appeals.

(b) An appeal filed with the Board of Housing and Quality Appeals shall be in the manner prescribed in Section 2.19.030 of the Bloomington Municipal Code and the established rules and procedures of the Board.

(c) Any person directly affected by a decision of the Director or a Notice or order issued under this Title, and related to a lodging establishment, shall have the right to file an appeal to the Indiana Fire Prevention and Building Safety Commission.

(d) Fines levied for violations of Title 16 may be challenged in the Monroe County Circuit Court.

16.10.060 Variances.

(a) Any person found to be in violation of any provision of this Title, except for a violation of the codes listed in 16.04.020, may file for a variance with the Board of Housing and Quality Appeals.

(b) Any person found to be in violation of any provision of the codes listed in 16.04.020 may file for a variance with the Indiana Fire Prevention and Building Safety Commission.

SECTION II. If any section, sentence, chapter or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any other section, sentence, chapter, provision or application of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION III. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, approval of the Mayor and publication in accordance with State law, with the exception of Chapters 16.06, 16.08, and 16.09 which shall not and cannot go into effect until said Chapters have been approved by the Indiana State Fire Prevention and Building Safety Commission.